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Date: 24 July 2025

TRIAL CHAMBER V

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

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

**IN THE CASE OF *THE PROSECUTOR* v. *ALFRED YEKATOM* AND
*PATRICE-EDOUARD NGAÏSSONA***

**Public redacted version of
with public Annexes A and B**

JUDGMENT

Decision to be notified in accordance with regulation 31 of the Regulations of the Court to:

☒ **The Office of the Prosecutor**

☒ **Counsel for the Defence**

Yekatom Defence

Ngaïssona Defence

☒ **Legal Representatives of the Victims**

Common Legal Representative of the Former
Child Soldiers

Common Legal Representatives of Victims of
Other Crimes

☐ **Legal Representatives of the Applicants**

☐ **Unrepresented Victims**

☐ **Unrepresented Applicants
(Participation/Reparation)**

☐ **The Office of Public Counsel for Victims**

☐ **The Office of Public Counsel for the
Defence**

☐ **States' Representatives**

☐ **Amicus Curiae**

REGISTRY

Registrar

Mr Osvaldo Zavala Giler

☐ **Counsel Support Section**

☒ **Victims and Witnesses Unit**

☒ **Detention Section**

☒ **Victims Participation and Reparations
Section**

☐ **Other**

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Trial Chamber V (the ‘Chamber’) of the International Criminal Court (the ‘Court’) hereby renders its judgment pursuant to Articles 74-78 of the Rome Statute and Rules 145-147 of the Rules of Procedure and Evidence (the ‘Rules’) in the case of *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*.¹

I. OVERVIEW

A. The accused

1. Alfred Rombhot Yekatom (hereinafter: ‘Mr Yekatom’), a national of the Central African Republic (the ‘CAR’), was born on 23 February 1975 in Bangui, the CAR.²
2. Patrice-Edouard Ngaïssona (hereinafter: ‘Mr Ngaïssona’) is a national of the CAR and was born on 30 June 1967 in Bégoua, the CAR.³
3. Given that the roles of the two accused at the period relevant to the charges are contested, the Chamber will discuss them below as relevant facts of the case.⁴

B. Brief procedural history

4. On 30 May 2014, the CAR authorities referred the situation in the CAR since 1 August 2012 to the Office of the Prosecutor (the ‘Prosecution’).⁵

¹ In the present judgment, and to the extent that this is required by its duty to provide a full and reasoned statement of its findings and conclusions under Article 74(5) of the Statute, the Chamber refers to some information, including identifying information of a number of protected witnesses, the confidentiality of which is still considered proportionate and justified. This demands that the present judgment, in the version that is made available to the parties and participants, be classified as ‘confidential’. In its public version, which is filed simultaneously, the confidential information is redacted.

² Passport, CAR-D29-0015-0004, at 0005.

³ Joint Submission on Agreed Facts, 11 January 2021, ICC-01/14-01/18-811-Conf-Corr (with confidential Annexes A-C) (public redacted version notified on 2 February 2021, ICC-01/14-01/18-811-Corr), para. 18, i (the ‘[Joint Submission on Agreed Facts](#)’).

⁴ See section IV. below.

⁵ Presidency, [Annex 1 to the Decision Assigning the Situation in the Central African Republic II to Pre-Trial Chamber II](#), 18 June 2014, ICC-01/14-1-Anx1, p. 4.

5. On 11 November 2018, Pre-Trial Chamber II (the ‘Pre-Trial Chamber’) issued a warrant of arrest against Mr Yekatom.⁶ He was surrendered to the Court by the CAR authorities on 17 November 2018⁷ and his initial appearance took place on 23 November 2018.⁸
6. On 7 December 2018, the Pre-Trial Chamber issued a warrant of arrest against Mr Ngaïssona on 7 December 2018.⁹ He was surrendered to the Court by the French authorities on 23 January 2019¹⁰ and his initial appearance took place on 25 January 2019.¹¹
7. On 20 February 2019, the two cases against the two accused were joined.¹²
8. On 11 December 2019, the Pre-Trial Chamber issued the ‘Decision on the confirmation of charges against Alfred Yekatom and Patrice-Edouard Ngaïssona’ (the ‘Confirmation Decision’), committing the two accused for trial on the charges as confirmed.¹³
9. On 16 March 2020, the case was referred to this Chamber.¹⁴

⁶ Pre-Trial Chamber II, Warrant of Arrest for Alfred Yekatom, 11 November 2018, ICC-01/14-01/18-1-Conf-Exp, confidential *ex parte*, only available to the Prosecution and the Yekatom Defence (public redacted version notified on 17 November 2018, ICC-01/14-01/18-1-Red) (the ‘[Arrest Warrant against Mr Yekatom](#)’).

⁷ Registry, Rapport du Greffe sur l’Arrestation et la Remise de M. Alfred Yekatom, 22 November 2018, ICC-01/14-01/18-17-US-Exp (lesser redacted version notified on 5 August 2024, ICC-01/14-01/18-17-US-Exp-Red2) (the ‘Report on Mr Yekatom’s Arrest and Surrender’), paras 19-24.

⁸ Pre-Trial Chamber II, *The Prosecutor v. Alfred Yekatom*, Transcript of hearing, 23 November 2018, ICC-01/14-01/18-T-001-ENG.

⁹ Pre-Trial Chamber II, Warrant of Arrest for Patrice-Edouard Ngaïssona, 7 December 2018, ICC-01/14-01/18-89-Conf-Exp, confidential *ex parte*, only available to the Prosecution and the Ngaïssona Defence (public redacted version notified on 13 December 2018, ICC-01/14-01/18-89-Red) (the ‘[Arrest Warrant against Mr Ngaïssona](#)’).

¹⁰ Registry, Rapport du Greffe sur l’Arrestation et la Remise de Patrice-Edouard Ngaïssona, 25 January 2019, ICC-01/14-01/18-101-US-Exp (the ‘Report on Mr Ngaïssona’s Arrest and Surrender’), paras 5-14.

¹¹ Pre-Trial Chamber II, *The Prosecutor v. Patrice-Edouard Ngaïssona*, Transcript of hearing, 25 January 2019, ICC-01/14-02/18-T-001-ENG.

¹² Pre-Trial Chamber II, *The Prosecutor v. Alfred Yekatom*, Decision on the joinder of the cases against Alfred Yekatom and Patrice-Edouard Ngaïssona and other related matters, 20 February 2019, ICC-01/14-01/18-87 (the ‘[Decision on Joinder](#)’), para. 14.

¹³ Pre-Trial Chamber II, Corrected version of ‘Decision on the confirmation of charges against Alfred Yekatom and Patrice-Edouard Ngaïssona’, 11 December 2019, ICC-01/14-01/18-403-Conf-Corr (corrected version and corrected public redacted version notified on 14 May 2020, ICC-01/14-01/18-403-Red-Corr) (lesser redacted version issued by the Single Judge on 29 June 2021, ICC-01/14-01/18-403-Corr-Red) (the ‘[Confirmation Decision](#)’).

¹⁴ Presidency, [Decision constituting Trial Chamber V and referring to it the case of *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*](#), 16 March 2020, ICC-01/14-01/18-451, p. 4.

10. On 29 October 2020, the Chamber issued a decision concerning the scope of the charges and of the evidence at trial.¹⁵
11. On 9 November 2020, the Prosecution filed its trial brief (the ‘Prosecution Trial Brief’).¹⁶
12. The opening statements of the Prosecution, the Common Legal Representative of the Former Child Soldiers (the ‘CLR V1’) the Common Legal Representatives of Victims of Other Crimes (the ‘CLR V2’) (jointly, the ‘CLR V’), and the defence for Mr Ngaïssona (the ‘Ngaïssona Defence’) were heard between 16 and 18 February 2021.¹⁷
13. The Prosecution called its first witness on 15 March 2021 and completed its evidence presentation on 11 September 2023.¹⁸ The Prosecution brought forward a total of 114 witnesses. This includes 75 who appeared before the Chamber, either at the seat of the Court or via video-link,¹⁹ of whom 53 had their prior recorded testimony introduced under Rule 68(3) of the Rules. Additionally, 39 witnesses had their testimony introduced in writing pursuant to Rule 68(2)(b) and (c) of the Rules.
14. Between 21 September 2023 and 12 February 2024, after receiving the Chamber’s permission to do so,²⁰ the CLR V called three witnesses.²¹
15. The Chamber called one witness, who testified from 24 to 27 October 2023.²²

¹⁵ [Decision on Motions on the Scope of the Charges and the Scope of the Evidence at Trial](#), 29 October 2020, ICC-01/14-01/18-703-Conf (public redacted version notified on 30 October 2020, ICC-01/14-01/18-703-Red).

¹⁶ Prosecution’s Trial Brief, 9 November 2020, ICC-01/14-01/18-723-Conf (with confidential Annexes A-E) (public redacted version notified on 4 March 2021, ICC-01/14-01/18-723-Red).

¹⁷ Prosecution Opening Statements, 16 and 17 February 2020, T-014, T-015; Opening Statements of the Common Legal Representative of the Former Child Soldiers, 17 February 2020, T-015 (the ‘CLR V1 Opening Statements’); Opening Statements of the Common Legal Representatives of Victims of Other Crimes, 17 February 2020, T-015 (the ‘CLR V2 Opening Statements’); Ngaïssona Defence Opening Statements, 18 February 2020, T-016. The Chamber notes that throughout this decision, transcripts are referred to without specification of the case number. At times, transcripts may specify the version language referenced, as appropriate.

¹⁸ P-0974: T-244; [Prosecution’s Notice of the Close of its Case-in-Chief](#), 11 September 2023, ICC-01/14-01/18-2089.

¹⁹ The prior recorded testimony of one of these witnesses was subsequently introduced pursuant to Rule 68(2)(d) of the Rules.

²⁰ Decision on the Common Legal Representatives of Victims Requests for Leave to Present Evidence and Further Order on the Remainder of the Prosecution Presentation of Evidence, 3 August 2023, ICC-01/14-01/18-2016-Conf (public redacted version notified on 6 September 2023, ICC-01/14-01/18-2016-Red) (the ‘[Decision on the CLR V Leave to Present Evidence](#)’).

²¹ V44-0001: T-267; V45-0001: T-245; T-246; V45-0002: T-247; T-248.

²² P-0952: T-249; T-250; T-251; T-252.

16. On 28 November 2023, the Defence for Mr Yekatom (the ‘Yekatom Defence’) made its opening statement.²³ The Ngaïssona Defence and the Yekatom Defence (together, the ‘Defence’) called their first witness on 11 December 2023²⁴ and completed their presentation of evidence on 13 September 2024,²⁵ with an unsworn statement given by Mr Ngaïssona on 27 and 28 August 2024.²⁶ In total, the Defence teams for both accused brought forward 56 witnesses (19 appeared before the Chamber – either at the seat of the Court or via video-link –, and a further 37 had their testimony introduced in writing pursuant to Rule 68(2) of the Rules).
17. On 18 July 2024, the Chamber decided to render any potential decision on sentencing pursuant to Article 76 of the Statute simultaneously with its judgment under Article 74 of the Statute.²⁷
18. On 18 September 2024, the Presiding Judge declared the submission of evidence closed.²⁸
19. The parties and participants filed their closing briefs on 15 November 2024²⁹ and presented their closing statements from 9 to 12 December 2024.³⁰

²³ Yekatom Defence Opening Statements, 28 November 2023, T-253.

²⁴ D29-5015: T-254. The first Defence witness was called by the Yekatom Defence.

²⁵ [Ngaïssona Defence Notice of the Conclusion of its Presentation of Evidence](#), 13 September 2024, ICC-01/14-01/18-2690; [Yekatom Defence Notice of the End of Defence Presentation of Evidence](#), 13 September 2024, ICC-01/14-01/18-2691.

²⁶ Unsworn Statement of Mr Ngaïssona, 27 and 28 August 2024, T-304.

²⁷ [Decision on the Sentencing Procedure and Amended Directions on the Conduct of the Proceedings](#), 18 July 2024, ICC-01/14-01/18-2600.

²⁸ [Declaration on the Closure of the Submission of Evidence](#), 18 September 2024, ICC-01/14-01/18-2697.

²⁹ Prosecution’s Closing Brief, 15 November 2024, ICC-01/14-01/18-2738-Conf (public redacted version notified on 22 November 2024, ICC-01/14-01/18-2738-Red) (the ‘[Prosecution Closing Brief](#)’); [Ngaïssona Defence Closing Brief](#), 15 November 2024, ICC-01/14-01/18-2736 (with confidential Annexes A.03-A.07, A.09-A.14, and A.16-A.21 and public Annexes [A.01](#), [A.02](#), [A.08](#), [A.15](#), and [B](#)) (the Ngaïssona Defence’s submissions are contained in [Annex A](#), ICC-01/14-01/18-2736-Conf-AnxA-Corr, notified on 22 November 2024, and the public redacted version thereof was notified on 11 December 2024, ICC-01/14-01/18-2736-AnxA-Corr-Red) (the ‘Ngaïssona Defence Closing Brief’); Corrected version of the Yekatom Defence Final Trial Brief, 6 December 2024, ICC-01/14-01/18-2737-Conf-Corr, notified on 6 December 2024 (public redacted version notified the same day, ICC-01/14-01/18-2737-Corr-Red) (the ‘[Yekatom Defence Closing Brief](#)’); Closing Brief of the Common Legal Representative of the Former Child Soldiers, 15 November 2024, ICC-01/14-01/18-2735-Conf (public redacted version notified on 22 November 2024, ICC-01/14-01/18-2735-Red) (the ‘[CLRV1 Closing Brief](#)’); Closing Brief of the Common Legal Representatives of Victims of Other Crimes, 15 November 2024, ICC-01/14-01/18-2734-Conf (public redacted version notified on 22 November 2024, ICC-01/14-01/18-2734-Red) (the ‘[CLRV2 Closing Brief](#)’).

³⁰ Prosecution Closing Statements, 9 December 2024, T-306, T-307 (the ‘Prosecution Closing Statements’); CLRV1 Closing Statements, 10 December 2024, T-307; CLRV2 Closing Statements, 10 December 2024, T-307; Yekatom

20. On 13 and 16 December 2024, the parties and participants filed their submissions on potential sentencing.³¹
21. On 8 and 9 January 2025, the Chamber held a hearing under Article 76(2) of the Statute.³²
22. In the course of the trial, 19,590 items were recognised as formally submitted into evidence by the Chamber. In addition, it recognised 19 items as formally submitted for purposes of potential sentencing.³³ Furthermore, 1,965 victims participate at the time of this decision in the proceedings through two teams of legal representatives.³⁴ In the course of the proceedings, and excluding the present decision, the Chamber rendered 447 written decisions by way of a formal filing and 60 oral decisions. It also rendered 936 decisions by email, which were then published in the record of the case as part of periodic reports filed by the Registry.³⁵

Defence Closing Statements, 11 December 2024, T-308 (the ‘Yekatom Defence Closing Statements’); Ngaïssona Defence Closing Statements, 11 December 2024, T-308 (the ‘Ngaïssona Defence Closing Statements’).

³¹ Sentencing Submissions of the Common Legal Representative of the Former Child Soldiers regarding Alfred RHOMBOT YEKATOM, 13 December 2024, ICC-01/14-01/18-2744-Conf (public redacted version notified on 18 December 2024, ICC-01/14-01/18-2744-Red) (the ‘[CLRV1 Sentencing Brief](#)’); Submissions relevant to potential sentencing on behalf of the Victims of Other Crimes, 13 December 2024, ICC-01/14-01/18-2745-Conf (public redacted version notified on 16 December 2024, ICC-01/14-01/18-2745-Red) (the ‘[CLRV2 Sentencing Brief](#)’); Prosecution’s sentencing submissions, 13 December 2024, ICC-01/14-01/18-2747-Conf (public redacted version notified on 31 December 2024, ICC-01/14-01/18-2747-Red) (the ‘[Prosecution Sentencing Brief](#)’); Yekatom Defence Written Submissions Relevant to Sentencing, 13 December 2024, ICC-01/14-01/18-2746-Conf (public redacted version notified the same day, ICC-01/14-01/18-2746-Red) (the ‘[Yekatom Defence Sentencing Brief](#)’); Ngaïssona Defence Written Submissions on Potential Sentencing, 13 December 2024, ICC-01/14-01/18-2748 (with public [Annex 1](#); confidential, *ex parte* Annexes 2 and 3, only available to the Ngaïssona Defence; and confidential redacted versions of Annexes 2 and 3) (the ‘[Ngaïssona Defence Sentencing Brief](#)’).

³² Prosecution Oral Sentencing Submissions, 8 January 2025, T-310 (the ‘Prosecution Oral Sentencing Submissions’); Oral Sentencing Submissions of the Common Legal Representative of the Former Child Soldiers, 8 January 2025, T-310 (the ‘CLRV1 Oral Sentencing Submissions’); Oral Sentencing Submissions on behalf of the Common Legal Representatives of Victims of Other Crimes, 8 January 2025, T-310 (the ‘CLRV2 Oral Sentencing Submissions’); Yekatom Defence Oral Sentencing Submissions, 9 January 2025, T-311 (the ‘Yekatom Defence Oral Sentencing Submissions’); Ngaïssona Defence Oral Sentencing Submissions, 9 January 2025, T-311 (the ‘Ngaïssona Defence Oral Sentencing Submissions’).

³³ Decision on the Requests to Present Additional Evidence for Potential Sentencing, 11 November 2024, ICC-01/14-01/18-2733-Conf (public redacted version notified on 18 July 2025, [ICC-01/14-01/18-2733-Red](#)), p. 43.

³⁴ [Consolidated list of victims admitted to participate in the proceedings](#), 4 April 2025, ICC-01/14-01/18-2768 (with one confidential annex), para. 13; [Tenth Periodic Report on the Victims Admitted to Participate in the Proceedings](#), 11 April 2024, ICC-01/14-01/18-2443 (with one confidential *ex parte* annex, only available to the Registry and the CLRV), paras 15-21.

³⁵ This includes decisions issued by email included in periodic reports, and decisions relating to the submission of evidence. In accordance with the Initial Directions, the latter were not included in the periodic reports (see Initial Directions on the Conduct of the Proceedings, 26 August 2020, ICC-01/14-01/18-631 (the ‘[Initial Directions](#)’), para. 76, n. 58). For an overview of the decisions issued by the Chamber via email, see the reports filed by the Registry and

C. The charges

23. The charges in the present case read as follows:³⁶

Alfred YEKATOM, a national of the CAR, born on 23 January 1975 in Bimbo, the CAR, also known as ‘Alfred SARAGBA’, ‘ROMBHOT’, ‘RAMBO’, ‘RAMBOT’, ‘ROMBOT’, ‘RHOMBOT’, ‘ROMBO’ or ‘ROMBOHT’, is criminally responsible for the war crimes of:

- (i) **directing attacks against the civilian population**, pursuant to and prohibited by article 8(2)(e)(i) of the Statute, in Bangui, including Cattin and the Boeing market, starting on 5 December 2013, on the basis of the conduct pertaining to Counts 2 to 6 and 8 (Count 1);
- (ii) **murder**, pursuant to and prohibited by article 8(2)(c)(i) of the Statute, for:
 - a. the killing of between five and 13 persons, including Hassan Mahamat, at the Boeing market, four Muslim persons in Cattin, and Nina Pascal at the Boeing market, in the context of the attack on Bangui, including Cattin and Boeing, on 5 December 2013 (Count 3);
 - b. the killing of Lapo N’Gomat at the Yamwara School Base on or about 24 December 2013 (Count 16);
 - c. the killing of Deputy Mayor Saleh on or about 28 February 2014 in Mbaïki, in the context of the Anti-Balaka’s advance through and takeover of villages along the PK9-

their corresponding annexes: [Registry Report Filing on the Case Record Decisions issued by way of e-mail from 27 March 2020 to 3 September 2020](#), 16 December 2020, ICC-01/14-01/18-775; [Second Registry Report on Email Decisions, Filing on the Case Record Decisions issued by way of e-mail from 17 September 2020 to 7 December 2020](#), 17 December 2020, ICC-01/14-01/18-783; [Third Registry Quarterly Report Filing on the Case Record Decisions issued by way of e-mail from 8 December 2020 to 14 March 2021](#), 15 March 2021, ICC-01/14-01/18-914; [Fourth Registry Report on Decisions issued by way of e-mail from 15 March 2021 to 10 June 2021](#), 14 June 2021, ICC-01/14-01/18-1026; [Fifth Registry Quarterly Report on Decisions issued by way of e-mail from 11 June to 31 October 2021](#), 4 November 2021, ICC-01/14-01/18-1167; [Sixth Registry Quarterly Report on Decisions issued by way of e-mail from 1 November 2021 to 31 January 2022](#), 21 February 2022, ICC-01/14-01/18-1287; [Seventh Registry Quarterly Report on Decisions issued by way of e-mail from 1 February 2022 to 31 April 2022](#), 23 May 2022, ICC-01/14-01/18-1425; [Eighth Registry Quarterly Report on Decisions issued by way of e-mail from 1 May 2022 to 31 July 2022](#), 24 August 2022, ICC-01/14-01/18-1557; [Ninth Registry Quarterly Report on Decisions issued by way of e-mail from 1 August 2022 to 31 October 2022](#), 13 January 2023, ICC-01/14-01/18-1723; [Tenth Registry Quarterly Report on Decisions issued by way of e-mail from 1 November 2022 to 31 January 2023](#), 23 February 2023, ICC-01/14-01/18-1770; [Eleventh Registry Quarterly Report on Decisions issued by way of e-mail from 1 February to 30 April 2023](#), 25 May 2023, ICC-01/14-01/18-1888; [Twelfth Registry Quarterly Report on Decisions issued by way of e-mail from 1 May to 31 July 2023](#), 25 August 2023, ICC-01/14-01/18-2056; [Thirteenth Registry Quarterly Report on Decisions issued by way of e-mail from 1 August to 31 October 2023](#), 24 November 2023, ICC-01/14-01/18-2225; [Fourteenth Registry Quarterly Report on Decisions issued by way of e-mail from 1 November 2023 to 31 January 2024](#), 15 February 2024, ICC-01/14-01/18-2365; [Fifteenth Registry Quarterly Report on Decisions issued by way of e-mail from 1 February 2024 to 30 April 2024](#), 13 May 2024, ICC-01/14-01/18-2491; [Sixteenth Registry Quarterly Report on Decisions issued by way of e-mail from 1 May to 31 July 2024](#), 22 August 2024, ICC-01/14-01/18-2648; [Seventeenth Registry Quarterly Report on Decisions issued by way of e-mail from 1 August to 31 October 2024](#), 26 November 2024, ICC-01/14-01/18-2470; [Eighteenth Registry Quarterly Report on Decisions issued by way of e-mail from 1 November 2024 to 31 January 2025](#), 21 February 2025, ICC-01/14-01/18-2762; [Nineteenth Registry Quarterly Report on Decisions issued by way of e-mail from 1 February to 30 April 2025](#), 27 May 2025, ICC-01/14-01/18-2769; [Twentieth Registry Quarterly Report on Decisions issued by way of e-mail from 01 May to 15 July 2025](#), 22 July 2025, ICC-01/14-01/18-2783.

³⁶ See [Confirmation Decision](#), ICC-01/14-01/18-403-Corr-Red, pp. 103-111.

Mbaïki Axis (including Sekia, Ndangala, Bimon, Kapou, Bossongo, Pissa, Mbaïki) (Count 27);

(iii) **displacement**, pursuant to and prohibited by article 8(2)(e)(viii) of the Statute, for:

a. the dislocation of nearly all Muslim persons residing in Cattin and Boeing to PK5, a predominantly Muslim neighbourhood in Bangui, other parts of the CAR or neighbouring countries, starting from 5 December 2013 in the context of the attack on Bangui, including Cattin and Boeing, on 5 December 2013 (Count 5);

b. the dislocation of the majority of the Muslim population from their towns and villages between on or about 10 January 2014 and on or about 6 February 2014, in the context of the Anti-Balaka's advance through and takeover of villages along the PK9-Mbaïki Axis (including Sekia, Ndangala, Bimon, Kapou, Bossongo, Pissa, Mbaïki) (Count 25);

(iv) **directing an attack against a building dedicated to religion**, pursuant to and prohibited by article 8(2)(e)(iv) of the Statute, for the destruction of the Boeing mosque by 20 December 2013 at the latest (Count 6);

(v) **cruel treatment**, pursuant to and prohibited by article 8(2)(c)(i) of the Statute, for the abduction of seven persons, including three Muslim women, in or around Cattin and their transfer to the Yamwara School Base on or about 24 December 2013, where six of them were subjected to severe physical and mental injury, including by threatening them with death or otherwise, forcing them to undress, and/or beating them (Count 13);

(vi) **torture**, pursuant to and prohibited by article 8(2)(c)(i) of the Statute, for the abduction of seven persons, including three Muslim women, in or around Cattin and their transfer to the Yamwara School Base on or about 24 December 2013, where Lapo N'Gomat was subjected to severe physical and mental injury, including by threatening him with death, tying him up, beating him, cutting of his ear, and stabbing him (Count 13);

(vii) **conscription, enlistment and use of children under the age of fifteen years to participate actively in hostilities**, pursuant to and prohibited by article 8(2)(e)(vii) of the Statute, for the conscription and/or enlistment of children into his group at various locations, including Boeing, Sekia and Pissa along the PK9-Mbaïki axis and in Batalimo along the Pissa-Mongoumba axis, and the assignment of a variety of tasks to them, such as, inter alia, participating in hostilities, including the 5 December 2013 Attack, between at least December 2013 and August 2014 (Count 29);

all committed in the context of and associated with an armed conflict not of an international character ongoing in the territory of the CAR from September 2013 until at least December 2014 between the Seleka and the Anti-Balaka, including Yekatom's group.

Yekatom is also criminally responsible for the crimes against humanity of:

(i) **murder**, pursuant to and prohibited by article 7(1)(a) of the Statute, for:

a. the killing of between five and 13 persons, including Hassan Mahamat, at the Boeing market, four Muslim persons in Cattin, and Nina Pascal at the Boeing market, in the context of the attack on Bangui, including Cattin and Boeing, on 5 December 2013 (Count 2);

b. the killing of Lapo N'Gomat at the Yamwara School Base on or about 24 December 2013 (Count 15);

c. the killing of Deputy Mayor Saleh on or about 28 February 2014 in Mbaïki, in the context of the Anti-Balaka's advance through and takeover of villages along the PK9-

Mbaïki Axis (including Sekia, Ndangala, Bimon, Kapou, Bossongo, Pissa, Mbaïki) (Count 26);

(ii) **forcible transfer and deportation**, pursuant to and prohibited by article 7(1)(d) of the Statute, for:

a. the dislocation of nearly all Muslim persons residing in Cattin and Boeing to PK5, a predominantly Muslim neighbourhood in Bangui, other parts of the CAR or neighbouring countries, starting from 5 December 2013 in the context of the attack on Bangui, including Cattin and Boeing, on 5 December 2013 (Count 4);

b. the dislocation of the majority of the Muslim population from their towns and villages between on or about 10 January 2014 and on or about 6 February 2014, in the context of the Anti-Balaka's advance through and takeover of villages along the PK9-Mbaïki Axis (including Sekia, Ndangala, Bimon, Kapou, Bossongo, Pissa, Mbaïki) (Count 24);

(iii) **other inhumane acts**, pursuant to and prohibited by article 7(1)(k) of the Statute, for the abduction of seven persons, including three Muslim women, in or around Cattin and their transfer to the Yamwara School Base on or about 24 December 2013, where six of them were subjected to severe physical and mental injury, including by threatening them with death or otherwise, forcing them to undress, and/or beating them (Count 11);

(iv) **torture**, pursuant to and prohibited by article 7(1)(f) of the Statute, for the abduction of seven persons, including three Muslim women, in or around Cattin and their transfer to the Yamwara School Base on or about 24 December 2013, where Lapo N'Gomat was subjected to severe physical and mental injury, including by threatening him with death, tying him up, beating him, cutting of his ear, and stabbing him (Count 12);

(v) **imprisonment and other forms of severe deprivation of physical liberty**, pursuant to and prohibited by article 7(1)(e) of the Statute, for the abduction of seven persons, including three Muslim women, in or around Cattin and their transfer to the Yamwara School Base on or about 24 December 2013 and the transfer of six of them to other locations until their release on or about 27 December 2013 (Count 14);

(vi) **persecution**, pursuant to and prohibited by article 7(1)(h) of the Statute, for the severe deprivation of the fundamental rights of persons in Bangui, including Cattin and Boeing, the Yamwara School Base, and the villages along the PK9-Mbaïki Axis, by targeting them on the basis of political, ethnic and/or religious grounds by virtue of the conduct pertaining to counts 1-7, 11-16, 24-27 (Counts 8, 17, 28);

all committed as part of a widespread attack conducted by the Anti-Balaka, including Yekatom's group, between September 2013 and December 2014, against the Muslim civilian population and those perceived as collectively responsible for, complicit with, or supportive of the Seleka, pursuant to or in furtherance of a criminal policy to primarily target the Muslim population in Bangui and in western CAR Prefectures in retribution for Seleka exactions.

Yekatom's contribution to the charged crimes consisted in:

- (i) structuring, training and equipping his Anti-Balaka elements;
- (ii) preparing the Anti-Balaka attacks and advances, and participating and leading his group in the execution of these attacks and advances;
- (iii) issuing orders to Anti-Balaka members, including patently illegal instructions; and

(iv) conscripting and/or enlisting children under the age of fifteen years into his group and using them to assist him in the camp-bases, giving orders for them to be stationed at barriers and checkpoints as well as to actively participate in hostilities.

Accordingly, Yekatom is criminally responsible under the following modes of liability:

- (i) committing the aforementioned crimes jointly with another or through another under article 25(3)(a) of the Statute; or
- (ii) ordering the commission of the aforementioned crimes under article 25(3)(b) of the Statute.

Patrice-Edouard Ngaïssona, a national of the CAR, born on 30 June 1967 in Bégoua, the CAR, is criminally responsible for the war crimes of:

(i) **directing attacks against the civilian population**, pursuant to and prohibited by article 8(2)(e)(i) of the Statute, at the following locations and times:

- a. in Bangui, including Cattin and the Boeing market, starting on 5 December 2013, on the basis of the conduct pertaining to Counts 2 to 6 and 8 (Count 1);
- b. in Bossangoa, on 5 December 2013, approximately from 13:00 to between 17:00 and 18:30, on the basis of the conduct pertaining to Counts 31-33, 35, 37 and 39-42 (Count 30);

(ii) **murder**, pursuant to and prohibited by article 8(2)(c)(i) of the Statute, for:

- a. the killing of between five and 13 persons, including Hassan Mahamat, at the Boeing market, four Muslim persons in Cattin, and Nina Pascal at the Boeing market, in the context of the attack on Bangui, including Cattin and Boeing, on 5 December 2013 (Count 3);
- b. the killing of 28 persons, including Khadidja Adjaro; Adaye Abakar; Atahir Abou; Atahir Djime (or Djimet); Halima Hisseini; Amadou (or Hamadou) Bouba; Salamatou Madji; Ismael Madji; Abakar Moussa; Koursi Abdelrahim; Koursi Mahamat; Abdallah Mahamat; Mariam Yamwha; Amadou Oumarou; Ila Adj; Sali Adj; Hamid Ali; Ahamat Zakaria; Mahamat Adam; Abdasamat Mounin; Ibrahim Hassan; Sale Adim; Adef Mahamat; Atahir Mahamat; a person known by his nickname, 'C-17', probably named Abakar Moussa and taxi-driver by profession; a certain Abdelkadir, a certain Abdaye and a certain Abakar, in the context of the attack on Bossangoa on 5 December 2013 (Count 32);
- c. the killing of Lapo N'Gomat at the Yamwara School Base on or about 24 December 2013 (Count 16);
- d. the killing of Deputy Mayor Saleh on or about 28 February 2014 in Mbaïki, in the context of the Anti-Balaka's advance through and takeover of villages along the PK9-Mbaïki Axis (including Sekia, Ndangala, Bimon, Kapou, Bossongo, Pissa, Mbaïki) (Count 27);

(iii) **displacement**, pursuant to and prohibited by article 8(2)(e)(viii) of the Statute, for:

- a. the dislocation of nearly all Muslim persons residing in Cattin and Boeing to PK5, a predominantly Muslim neighbourhood in Bangui, other parts of the CAR or neighbouring countries, starting from 5 December 2013 in the context of the attack on Bangui, including Cattin and Boeing, on 5 December 2013 (Count 5);

b. the dislocation of Bossangoa's Muslim population to the *École de la Liberté*, before being evacuated to other locations, in the context of the attack on Bossangoa on 5 December 2013 and in the days following the attack (Count 38);

c. the dislocation of the majority of the Muslim population from their towns and villages between on or about 10 January 2014 and on or about 6 February 2014, in the context of the Anti-Balaka's advance through and takeover of villages along the PK9-Mbaïki Axis (including Sekia, Ndangala, Bimon, Kapou, Bossongo, Pissa, Mbaïki) (Count 25);

(iv) **directing attacks against buildings dedicated to religion**, pursuant to and prohibited by article 8(2)(e)(iv) of the Statute, for:

a. the destruction of the Boeing mosque by 20 December 2013 at the latest (Count 6);

b. the destruction of the central mosque of Bossangoa, in the context of the attack on Bossangoa on 5 December 2013 and in the week following the attack (Count 35);

(v) **cruel treatment**, pursuant to and prohibited by article 8(2)(c)(i) of the Statute, for the abduction of seven persons, including three Muslim women, in or around Cattin and their transfer to the Yamwara School Base on or about 24 December 2013, where six of them were subjected to severe physical and mental injury, including by threatening them with death or otherwise, forcing them to undress, and/or beating them (Count 13);

(vi) **torture**, pursuant to and prohibited by article 8(2)(c)(i) of the Statute, for the abduction of seven persons, including three Muslim women, in or around Cattin and their transfer to the Yamwara School Base on or about 24 December 2013, where Lapo N'Gomat was subjected to severe physical and mental injury, including by threatening him with death, tying him up, beating him, cutting of his ear, and stabbing him (Count 13);

(vii) **destruction of the adversary's property**, pursuant to and prohibited by article 8(2)(e)(xii) of the Statute, for the destruction of Muslim houses, especially in the predominantly Muslim neighbourhoods of Boro, Arabe and Fulbe, in the context of the attack on Bossangoa on 5 December 2013 and in the days after the attack (Count 33);

(viii) **pillaging**, pursuant to and prohibited by article 8(2)(e)(v) of the Statute, for the pillaging and looting of the houses of Muslims, particularly in the Boro, Arabe and Fulbe neighbourhoods, sometimes writing the words 'Anti-Balaka' on the rubble, in the context of the attack on Bossangoa on 5 December 2013 (Count 34);

(ix) **rape**, pursuant to and prohibited by article 8(2)(e)(vi) of the Statute, for the rape of a 19-year-old woman, in the context of the attack on Bossangoa on 5 December 2013 (Count 41);

all committed in the context of and associated with an armed conflict not of an international character ongoing in the territory of the CAR from September 2013 until at least December 2014 between the Seleka and the Anti-Balaka, including Yekatom's group.

Ngaïssona is also criminally responsible for the crimes against humanity of:

(i) **murder**, pursuant to and prohibited by article 7(1)(a) of the Statute, for:

a. the killing of between five and 13 persons, including Hassan Mahamat, at the Boeing market, four Muslim persons in Cattin, and Nina Pascal at the Boeing market, in the context of the attack on Bangui, including Cattin and Boeing, on 5 December 2013 (Count 2);

b. the killing of 28 persons, including Khadidja Adjaro; Adaye Abakar; Atahir Abou; Atahir Djime (or Djimet); Halima Hisseini; Amadou (or Hamadou) Bouba; Salamatou

Madji; Ismael Madji; Abakar Moussa; Koursi Abdelrahim; Koursi Mahamat; Abdallah Mahamat; Mariam Yamwha; Amadou Oumarou; Ila Adj; Sali Adj; Hamid Ali; Ahamat Zakaria; Mahamat Adam; Abdasamat Mounin; Ibrahim Hassan; Sale Adim; Adef Mahamat; Atahir Mahamat; a person known by his nickname, 'C-17', probably named Abakar Moussa and taxi-driver by profession; a certain Abdelkadir, a certain Abdaye and a certain Abakar, in the context of the attack on Bossangoa on 5 December 2013 (Count 31);

c. the killing of Lapo N'Gomat at the Yamwara School Base on or about 24 December 2013 (Count 15);

d. the killing of Deputy Mayor Saleh on or about 28 February 2014 in Mbaïki, in the context of the Anti-Balaka's advance through and takeover of villages along the PK9-Mbaïki Axis (including Sekia, Ndangala, Bimon, Kapou, Bossongo, Pissa, Mbaïki) (Count 26);

(ii) **forcible transfer and deportation**, pursuant to and prohibited by article 7(1)(d) of the Statute, for:

a. the dislocation of nearly all Muslim persons residing in Cattin and Boeing to PK5, a predominantly Muslim neighbourhood in Bangui, other parts of the CAR or neighbouring countries, starting from 5 December 2013 in the context of the attack on Bangui, including Cattin and Boeing, on 5 December 2013 (Count 4);

b. the dislocation of Bossangoa's Muslim population to the *École de la Liberté*, before being evacuated to other locations, in the context of the attack on Bossangoa on 5 December 2013 and in the days following the attack (Count 37);

c. the dislocation of the majority of the Muslim population from their towns and villages between on or about 10 January 2014 and on or about 6 February 2014, in the context of the Anti-Balaka's advance through and takeover of villages along the PK9-Mbaïki Axis (including Sekia, Ndangala, Bimon, Kapou, Bossongo, Pissa, Mbaïki) (Count 24);

(iii) **other inhumane acts**, pursuant to and prohibited by article 7(1)(k) of the Statute, for the abduction of seven persons, including three Muslim women, in or around Cattin and their transfer to the Yamwara School Base on or about 24 December 2013, where six of them were subjected to severe physical and mental injury, including by threatening them with death or otherwise, forcing them to undress, and/or beating them (Count 11);

(iv) **torture**, pursuant to and prohibited by article 7(1)(f) of the Statute, for the abduction of seven persons, including three Muslim women, in or around Cattin and their transfer to the Yamwara School Base on or about 24 December 2013, where Lapo N'Gomat was subjected to severe physical and mental injury, including by threatening him with death, tying him up, beating him, cutting of his ear, and stabbing him (Count 12);

(v) **imprisonment and other forms of severe deprivation of physical liberty**, pursuant to and prohibited by article 7(1)(e) of the Statute, for:

a. the abduction of seven persons, including three Muslim women, in or around Cattin and their transfer to the Yamwara School Base on or about 24 December 2013 and the transfer of six of them to other locations until their release on or about 27 December 2013 (Count 14);

b. maintaining the Muslims at *École de la Liberté* by preventing them from leaving, including by shouting threats towards the families inside the compound, in the context

of the attack on Bossangoa on 5 December 2013 and the weeks following the attack (Count 39);

(vi) **rape**, pursuant to and prohibited by article 7(1)(g) of the Statute, for the rape of a 19-year-old woman, in the context of the attack on Bossangoa on 5 December 2013 (Count 40);

(vii) **persecution**, pursuant to and prohibited by article 7(1)(h) of the Statute for the severe deprivation of fundamental rights of persons in Bangui, including Cattin and Boeing, Bossangoa, the Yamwara School Base, and the villages along the PK9-Mbaïki Axis of their fundamental rights by targeting them on the basis of political, ethnic and/or religious grounds by virtue of the conduct pertaining to Counts 1-7, 11-16, 24-27, 30-41 (Counts 8, 17, 28, 42);

all committed as part of a widespread attack carried out by the Anti-Balaka, including Yekatom's group, between September 2013 and December 2014, against the Muslim civilian population and those perceived as collectively responsible for, complicit with, or supportive of the Seleka, pursuant to or in furtherance of a criminal policy to primarily target the Muslim population in Bangui and in western CAR Prefectures in retribution for Seleka exactions.

Ngaïssona's contribution to the charged crimes consisted in:

- (i) taking steps to structure the Anti-Balaka;
- (ii) financing the Anti-Balaka, including for the purchase of weapons;
- (iii) issuing instructions to Anti-Balaka members, including with regard to the 5 December 2013 Attack and attacks preceding it; and
- (iv) liaising with Anti-Balaka members exercising key functions, including Bernard Mokom and Maxime Mokom.

Accordingly, Ngaïssona is criminally responsible under the following modes of liability:

- (i) facilitating the commission of the crimes as set out in the confirmed charges by aiding, abetting or otherwise assisting in their commission under article 25(3)(c) of the Statute; or
- (ii) contributing in any other way to the commission of those crimes by a group of persons acting with a common purpose under article 25(3)(d)(i) or (ii) of the Statute.

II. FINDINGS OF FACT

24. In this section, the Chamber sets out the material facts and circumstances of this case as they have been established to the requisite threshold upon its assessment of the evidence submitted and discussed before it at trial. They are the facts and circumstances which form the basis for the Chamber's decision under Article 74 of the Statute. The reasoning for the Chamber's determination in this regard is provided below, in Section IV ('Factual findings and evidentiary analysis'). In that section, the Chamber discusses, also in light of the arguments made at trial, the evidence which, directly or by way of inference (thus, through additional facts of a subsidiary nature), supports each of these findings on the facts and circumstances described in the charges.

25. The legal characterisation of these facts and circumstances, in light of the charges brought against the accused, is made in Section V.B ('Legal characterisation of facts').
26. The Chamber clarifies that, pursuant to Article 74(2) of the Statute, it has ensured that its findings of fact do not exceed the facts and circumstances described in the charges as confirmed by the Pre-Trial Chamber.

A. The conflict in the Central African Republic between 2012 and 2014

1. *The formation of the Seleka, its advance to and takeover of Bangui, and ensuing violence*
27. Around August 2012, a coalition of armed groups opposing then-President François Bozizé emerged in the Central African Republic (CAR) under the name of the 'Seleka', led by CAR citizens and including elements from Chad and Sudan. Michel Djotodia became the leader of the Seleka.
28. Starting in late 2012, the Seleka advanced towards Bangui. The Libreville agreement, concluded in January 2013, presented an attempt to end the crisis, leading to a government including representatives of various factions, with François Bozizé remaining president and Nicolas Tiangaye as prime minister, Michel Djotodia as deputy prime minister and minister of defence, and Mr Ngaïssona as minister of youth, sports, arts and culture.
29. At the same time, the widely reported advance of the Seleka, and violent acts and abuses committed in this context, including against civilians, sparked reactions within the civilian and political sphere: '*Coalition citoyenne d'opposition aux rébellions armées*' (COCORA) and '*Comité d'organisation des actions citoyennes*' (COAC) were two organisations which were active in mobilising support for François Bozizé in light of the Seleka advance. They erected checkpoints or roadblocks at which passers-by and vehicles were checked, with the objective of identifying Seleka infiltrators and people deemed to be associated with or in support of them, including Muslims. The individuals manning these checkpoints were armed with bladed weapons and, in some cases, with AK-47s.

30. On 24 March 2013, the Seleka took control of Bangui. Michel Djotodia proclaimed himself President of the CAR.
31. After the Seleka took control of Bangui on 24 March 2013, they committed violence and abuses in various localities across the CAR, in particular against individuals considered to be associated with François Bozizé, his Gbaya ethnic group, his government's security forces, and non-Muslims. Mr Ngaïssona's properties in Bangui were looted. However, the Muslim civilian population was not entirely spared from this violence.
32. The Seleka included fighters in particular from Chad and Sudan. It was led by Central African Muslims. Due to the violence and abuses committed by the Seleka and in light of its perceived composition, tensions in particular between Muslim and non-Muslim communities increased.
33. The number of Seleka elements varied greatly in the course of 2013. While counting several thousand elements at the time of the take-over in March 2013, their numbers grew significantly until the end of that year.

2. Individuals and their activities in Cameroon and the Democratic Republic of the Congo

34. Following the Seleka taking over Bangui and control in the CAR, François Bozizé, Mr Ngaïssona, Bernard Mokom and others fled to Cameroon. Maxime Mokom, Mr Yekatom and others fled to Zongo, Democratic Republic of the Congo (DRC). Through meetings in Cameroon and communications with individuals in Zongo, in particular Maxime Mokom, who in turn liaised with persons and groups in Bangui and in the provinces, François Bozizé, Mr Ngaïssona, Bernard Mokom and others planned steps to respond to the Seleka violence in the CAR as well as to ensure François Bozizé's return to power, by all means possible, including through armed violence.
35. During his time outside of the CAR in 2013, Mr Ngaïssona was actively involved in planning steps to respond to the Seleka violence in the CAR and to ensure François Bozizé's return to power by meeting and liaising with François Bozizé, Bernard Mokom and others to discuss strategies and plans, reaching out to individuals within and outside of the CAR with a view

to gathering support for their cause, and providing financial assistance to those willing to assist in their activities. In this context, Mr Ngaïssona travelled to the border between Cameroon and the CAR with a view to liaising with groups meant to assist their efforts. Mr Ngaïssona continued providing financial assistance also after the coordinated attacks of 5 December 2013.

36. At the same time, Mr Yekatom briefly went to Zongo in 2013 and then started forming a group, over which he assumed control, with Freddy Ouandjio, also known as Cœur de Lion, and Habib Beina, with a view to planning a response to the Seleka violence and removing Michel Djotodia and the Seleka from power.
37. Maxime Mokom liaised with individuals and groups in Cameroon, Zongo and within the CAR, including his father Bernard Mokom, Mr Yekatom, and groups forming in the provinces, with a view to coordinating the activities and eventual advance onto Bangui.
38. Mr Ngaïssona provided financial contributions and engaged in activities pertaining to the organisation and coordination of groups for the purpose of facilitating the commission of criminal acts targeting the Muslim population, including the crimes found below.

3. *Front pour le retour à l'ordre constitutionnel en Centrafrique (FROCCA)*

39. As part of the efforts to counter the Seleka offensive and to ensure François Bozizé's return to power, in August 2013, François Bozizé, Mr Ngaïssona and others met in Paris to create the '*Front pour le retour à l'ordre constitutionnel en Centrafrique*' (FROCCA). Lin Banoukepa was the executive director of FROCCA, while Mr Ngaïssona was one of its members. The group's objective was to advocate for the return to 'the constitutional order', which signified the return of François Bozizé to power. As such, FROCCA was one of the initiatives to achieve this stated goal on a political level, which co-existed with other efforts in this regard, specifically the galvanisation of groups eventually known collectively as the Anti-Balaka.

4. *Formation of groups in different localities and emergence of the Anti-Balaka*

40. Against the backdrop of the violence committed by the Seleka, and in parallel to the activities in Cameroon and Zongo, self-defence groups in various localities across the CAR formed or re-activated from previous existence very quickly following the take-over of power by the Seleka. Individuals within those groups also obtained amulets or *gris-gris*. Some of these individuals and local groups converged onto and joined together in Gobere, north-east of Bossangoa.
41. In Gobere, civilians and former members of the Central African armed forces (FACA) and Presidential Guard gathered, and (i) organised into various sub-groups with a leader each; (ii) set up or maintained contacts with groups and individuals in other locations, including Maxime Mokom in Zongo, who was considered to be a coordinator of operations; (iii) organised trainings in weapon handling and combat by FACA members; and (iv) made further plans with a view to descending onto Bangui and removing the Seleka and Michel Djotodia from power.
42. At the same time, former members of the FACA and Presidential Guard also in other localities created new or joined pre-existing self-defence groups, organising themselves into military-like structures and assuming or sharing command over them.
43. Initially having formed separately, these groups started out with a common enemy and increasingly coordinated their activities, thereby essentially forming one movement. This movement came to be known as 'Anti-Balaka'.
44. The armed groups forming at the time were armed mainly with makeshift and bladed weapons, hunting rifles, service weapons retained by members of the FACA, and weapons they seized from the members of the Seleka after engaging them in hostilities.

5. *Objectives and policies of the Anti-Balaka*

45. The self-defence groups initially forming in the provinces aimed at defending against the abuses and violence committed by the Seleka, within which framework some considered necessary to remove Michel Djotodia and the Seleka from power. Due to the religious and

ethnic commonalities between the Muslims in the CAR and the Seleka, the Anti-Balaka perceived the former as collectively responsible for, complicit in, or supportive of the violence and abuses committed by the Seleka. On this basis, as the Anti-Balaka emerged and coalesced in pursuit of its core objective, its elements targeted the Muslim civilian population, specifically in the west of the CAR, killing and dislocating them.

46. The implementation and execution of the Anti-Balaka's core objective was primed by anti-foreign sentiments and inflammatory rhetoric openly expressed by François Bozizé and others, which incited vigilance against those perceived to support the Seleka, in particular Muslim civilians.
47. Such rhetoric was reflected in meetings of François Bozizé, Mr Ngaïssona and others in Cameroon and repeated in a radio statement issued by FROCCA on 5 December 2013 in relation to the attack on Bangui, which referred to the attack as '*[l]e rétablissement de l'ordre fonctionnel*' and further stated that the Anti-Balaka '*sont des Centrafricains pour aller libérer leur pays des jougs des djihadistes venus du D[arfour], du T[chad], du S[oudan]*'.
48. Mr Yekatom knew that the Anti-Balaka perceived, and himself perceived, the Muslims in the CAR as collectively responsible for, complicit in, or supportive of the violence and abuses committed by the Seleka and that the Anti-Balaka targeted the Muslim civilian population, specifically in the west of the CAR, on this basis.
49. Mr Ngaïssona knew that the Anti-Balaka perceived, and himself perceived, the Muslims in the CAR as collectively responsible for, complicit in, or supportive of the violence and abuses committed by the Seleka and that the Anti-Balaka targeted the Muslim civilian population, specifically in the west of the CAR, on this basis. Mr Ngaïssona made his contributions fully aware that the Anti-Balaka would violently target the Muslim civilian population in the west of the CAR, committing the widespread attack that ultimately took place from September 2013 through February 2014, including the seminal coordinated Anti-Balaka attacks of Bangui and Bossangoa on 5 December 2013.

6. *Hostilities during the advance towards Bangui*

50. The Anti-Balaka groups, which had formed in the provinces and in part gathered together at Gobere, started their advance towards Bangui, with the ultimate objective to attack the capital in order to remove Michel Djotodia from power and oust the Seleka from the CAR. In this advance, various Anti-Balaka groups started engaging in attacks against the Seleka from September 2013 onwards. Such attacks were not limited to Seleka forces, but included attacking localities with Muslim civilians.
51. These groups going into different localities communicated with each other and individuals abroad, including Maxime Mokom, with a view to coordinating such attacks.
52. Attacks were launched around Bossangoa and in Bouca (Ouham prefecture), in Ndjo, Bossembélé, Boali and Gaga (Ombella-M'Poko prefecture), as well as in Bouar (Nana-Mambéré prefecture). As part of these attacks, Anti-Balaka elements attacked Bossangoa on 17 September 2013.
53. Throughout the advance and during these attacks, Anti-Balaka groups targeted Muslim civilians. This information was widely known across the CAR and abroad, including in Cameroon.
54. The advance of the Anti-Balaka groups and hostilities on the way culminated in coordinated attacks in Bangui and Bossangoa on 5 December 2013.
55. From his involvement in coordinating his own group's advance through the provinces towards Bangui for purposes of the attack on Bangui on 5 December 2013, Mr Yekatom knew of the advance of the Anti-Balaka groups through the provinces towards Bangui, including the hostilities, as well as killings and dislocation of Muslim civilians, taking place in this context.
56. Mr Ngaïssona knew and was informed of the advance of the groups towards Bangui as well as of the hostilities during this advance, including the killings and dislocation of Muslim civilians from the locations mentioned above.

7. Anti-Balaka in the aftermath of the attacks on 5 December 2013

57. Between the coordinated attacks on Bangui and Bossangoa of 5 December 2013 and his return to Bangui on 14 January 2014, Mr Ngaïssona remained informed of the continued activities related to the Anti-Balaka, and continued liaising with various individuals in this regard.
58. On 10 January 2014, Michel Djotodia resigned, leading to the end of his government, following which the Seleka forces started to withdraw from Bangui, in particular towards the north and north-east of the CAR.
59. On 20 January 2014, Catherine Samba-Panza was elected as new transitional head of state of the CAR. André Nzapayéké was chosen as prime minister, Léopold Narcisse Bara was appointed minister for youth, sports, arts and culture, and Jean-Jacques Demafouth, Charles Ngremangou and Joachim Kokaté also received position within this new government.
60. Immediately following his return to Bangui on 14 January 2014, Mr Ngaïssona was installed as general coordinator of the Anti-Balaka.
61. As such, Mr Ngaïssona represented the entirety of the Anti-Balaka towards the CAR transition government and international authorities.
62. With a view to engaging with the transition government and international authorities, the Anti-Balaka structure started being further formalised with the return of Mr Ngaïssona and his appointment as general coordinator. Other individuals within this formalised structure included Maxime Mokom as operations coordinator and zone commanders, or 'ComZones' as group leaders. Mr Ngaïssona continued to provide financial assistance to the Anti-Balaka and actively engaged in formalising the structure of the Anti-Balaka.
63. Throughout the period relevant to the charges, Mr Yekatom retained and exercised control over an active group of elements which was seen as and understood to be part of the Anti-Balaka. Mr Yekatom was the uncontested leader of this group which first set up at Yamwara in Boeing after 5 December 2013, and moved down the PK9-Mbaïki axis following Michel Djotodia's resignation.

64. The structure of the Anti-Balaka evolved during the period relevant to the charges, and was subject to various leadership tussles. However, it always remained represented towards the national and international authorities as one entity through Mr Ngaïssona.
65. Anti-Balaka groups set up bases in different neighbourhoods across Bangui. Meetings were held at variable intervals at Mr Ngaïssona's concessions or at the Azimut hotel. In February 2014, the Anti-Balaka itself estimated counting about 50,000 elements in Bangui and the provinces. The Anti-Balaka coordination also issued identity cards or badges to some of the Anti-Balaka elements.

8. The continuation of hostilities

66. Notwithstanding the retreat of the Seleka following the resignation of Michel Djotodia and the setting up of a new transition government in January 2014, the main hostilities between the Anti-Balaka and the Seleka which had started in earnest in September 2013 continued largely unabated until the end of February 2014. Hostilities thereafter did continue, but subsided considerably.
67. The UN Security Council recurrently dedicated attention to the security situation in the CAR in 2013 and 2014. Several attempts to bring about the cessation of hostilities failed, including the 16 June 2014 PARETO mediation agreement, the 23 July 2014 peace agreement signed by the Seleka and the Anti-Balaka in Brazzaville, Republic of the Congo, and the agreement signed in Nairobi in April 2015. The number of internally displaced persons and refugees outside of the CAR decreased in the course of 2014, but overall remained in the hundreds of thousands throughout the year.
68. As part of the Anti-Balaka's pursuit of its core objective, in the context of which its elements targeted the Muslim civilian population, specifically in the west of the CAR, due to the Anti-Balaka perceiving the Muslims in the CAR as collectively responsible for, complicit in, or supportive of the violence and abuses committed by the Seleka, the Anti-Balaka continued to target the Muslim civilian population in 2014 across the western CAR prefectures, including in the second half of January and early February 2014 in Ombella-M'Poko (Gaga, Zawa, Yaloké), Ouham-Pendé (Bossemptélé), Nana-Mambéré (Baoro), Mambéré-Kadéï

(Guen, Carnot, Berbérati) and Lobaye (Boda). The attacks followed a pattern with Anti-Balaka groups killing and injuring Muslim civilians, looting and destroying their belongings, and often placing them in enclaved positions under difficult circumstances, eventually leading to many Muslims having to leave the respective areas.

B. The attack on Bangui, including Boeing and Cattin, on 5 December 2013

1. Coordination of the attack

69. In the early morning hours of 5 December 2013, the Anti-Balaka mounted a coordinated attack on Bangui, including in Boeing and Cattin. The plan to mount an attack on Bangui existed at least as of 30 November 2013. Anti-Balaka elements and groups travelled from the provinces to arrive close to Bangui before 5 December 2013.
70. During their move from the provinces to Bangui, Anti-Balaka chiefs communicated across their groups, kept and maintained records or lists of elements, armed themselves, and waited at common locations and prepared for an attack on Bangui. Mr Ngaïssona provided funds to Anti-Balaka elements that participated in the attack on Bangui on 5 December 2013. By the beginning of December 2013, several thousand Anti-Balaka elements had arrived at the outskirts of Bangui to participate in an attack. News about an impending attack on Bangui circulated in various circles within the Anti-Balaka leadership. Mr Ngaïssona knew that an attack would take place on Bangui.
71. The Anti-Balaka participating in the attack on Bangui on 5 December 2013 shared the same goal, which was to target Seleka positions in Bangui with a view to ‘getting rid of Djotodia’ and ‘chasing out the Seleka’, which included systematic targeting of Muslim civilians. Various Anti-Balaka groups that participated in the attack on Bangui on 5 December 2013 had common leaders, who coordinated their actions and instructed them. Anti-Balaka groups that reassembled close to Bangui prior to the attack on Bangui on 5 December 2013 were each assigned a specific target within Bangui and instructed to begin the attack on the respective targets at 05:00 on 5 December 2013. The attack was carried out as planned, resulting in clashes between the Anti-Balaka and the Seleka in several locations in Bangui, including Boeing, with the Anti-Balaka beginning to retreat around 10:00 the same day.

Later that day, FROCCA issued a radio statement in relation to the attack on Bangui, referring to it as ‘[l]e rétablissement de l’ordre fonctionnel’ and stating that the Anti-Balaka ‘sont des Centrafricains pour aller libérer leur pays des jougs des djihadistes venus du D[arfour], du T[chad], du S[oudan]’.

72. The attacks on Bangui and Bossangoa on 5 December 2013 were coordinated with each other.

2. *Involvement of Mr Yekatom*

73. Mr Yekatom’s group coordinated with other Anti-Balaka groups to participate in the attack on Bangui on 5 December 2013. In the months leading up to this attack, Mr Yekatom and his group armed and trained in the bush. The movement of Mr Yekatom’s group in the bush, when superimposed onto those from other groups who proceeded towards Bangui along the same time frame, shows that this coordination had begun well before November 2013.
74. In the afternoon of 4 December 2013, Mr Yekatom chose some of his elements and instructed them to move towards Bangui. The same day, the group arrived in Projet, situated near the M’Poko airport in Bangui. Mr Yekatom’s instructions to his elements concerning the attack on 5 December 2013 were to fight the Seleka and included targeting sectors where ‘Muslims’ were to be found. Mr Yekatom’s instructions were understood by the elements to accept that Muslim civilians would be killed as a result of the fighting based on his elements not having been trained or instructed to apply the principle of distinction during combat and bearing strong anti-Muslim sentiment and feelings of vengeance against the Seleka.

3. *Attack on Boeing*

75. On the night of 4 December 2013, Mr Yekatom and some of his elements visited the market in Boeing to assess its precise geographical location and conduct reconnaissance. The same night, Mr Yekatom instructed his elements to target Seleka positions along the Boeing-Cattin-PK5 direction. These instructions encompassed attacking the Muslim traders at the market in Boeing before moving along the route to PK5.

76. In the early morning of 5 December 2013, Mr Yekatom launched the attack on Boeing by firing an automatic pistol in the air when his group reached the market in Boeing. The armed elements in the front continued and advanced together and fired at the Muslim traders who were present there. During this time, Mr Yekatom's elements shot in all directions. Those that were inside the shops fled. Mr Yekatom's group attacked the market in Boeing during their advance towards PK5 following Mr Yekatom's orders.
77. Elements in Mr Yekatom's group killed Hassan Mahamat in the morning of 5 December 2013 during the attack on the market in Boeing. Hassan personally interacted with certain Seleka officials prior to 5 December 2013 in his role as delegate of the male Muslim traders at the market in Boeing. Hassan had at least one weapon in his shop with which he fired in self-defence during the attack of 5 December 2013 carried out by Mr Yekatom's elements. Further, Mr Yekatom's elements killed two unnamed Muslim traders at the market in Boeing during this attack. Traders at the market in Boeing and the Seleka personally interacted with each other at the market and were seen by others as associating with each other. There is no indication that any of the two unnamed Muslim traders were armed during the attack or otherwise engaged in combat at that time.
78. On 5 December 2013, and following Mr Yekatom's instructions, Mr Yekatom's elements attacked the mosque in Boeing, which was the main mosque serving the communities of both Boeing and Cattin, by firing a 'rocket' at it. Mr Yekatom's elements also torched the mosque in Boeing with gasoline. On the same day and in the days that followed, the local population took it apart.

4. Attack on Cattin

79. Following the attack on the market and the mosque in Boeing, elements of Mr Yekatom's group moved on to attack Cattin, where they clashed with the Seleka. During the attack on Cattin, elements of Mr Yekatom's group killed at least one Muslim man, who was not armed, nor engaged in combat, at the time of his death. The elements targeted this Muslim man on the basis that he was an 'Arab' and the victim eventually succumbed to the injuries inflicted on him.

5. *Dislocation of Muslims from Boeing and Cattin*

80. From 5 December 2013 onwards, the majority of Muslims of Boeing and Cattin, including Salehou Ndiaye and P-2682, fled to PK5 in Bangui, while some others fled to other parts of the CAR, in the context of the attack by Mr Yekatom's group on Boeing and Cattin. Muslim persons who fled to PK5 continued to fear for their security because of the presence of the Anti-Balaka around PK5 and Bangui generally. With the influx of Muslims fleeing the attack on Bangui on 5 December 2013, PK5 became overcrowded, practically uninhabitable, and unsafe. As a result, some Muslims, including Salehou Ndiaye and P-2682, then fled to neighbouring countries fearing for their safety.

C. The attack on Bossangoa on 5 December 2013

1. Unfolding of the attack on Bossangoa on 5 December 2013

81. On 5 December 2013, in coordination with the Anti-Balaka attack on Bangui on the same day, Anti-Balaka elements, divided into two groups led by Florent Kema and Théophile Ndangba, respectively, carried out an attack on the town of Bossangoa. The attack started at approximately 13:00 and lasted until the late afternoon or early evening.
82. During the attack, the Anti-Balaka targeted residential areas, including the Boro neighbourhood, generally known as the Muslim neighbourhood in Bossangoa, with the intention of showing that the Anti-Balaka were attacking not only Bangui but also in the provinces, and to 'free' the town from Seleka and all Muslims, thereby targeting Muslim civilians and drawing no distinction between them and the Seleka. During the attack, the Anti-Balaka was well armed, with some AK-47s and RPGs, as well as hunting weapons.
83. During the attack on Bossangoa on 5 December 2013, Batoul Naffi and several other individuals were injured. An Anti-Balaka element forced P-2462 into sexual intercourse, having blindfolded and undressed her, and after the group of five Anti-Balaka he was in had threatened her with their weapons.
84. In the course of the attack on Bossangoa on 5 December 2013, the Anti-Balaka killed at least the following 18 persons who were not armed or taking part in hostilities: Khadidja Adjaro;

Koursi Abdelrahim; Abdel, also known as Adaye, Abakar; Atahir Abou; ‘C-17’, a taxi driver; Atahir Djime (or Djimet); Halima Hisseini; Hamadou Bouba; Ousman Abacar; Ousman Abacar’s mother; Abdallah Mahamat; Abdelkhadir; Mariam Yamwha; Amadou Oumarou; Abakar; Ismael; Salamatou, a Peuhl; Sale Adim.

2. *Events during and in the aftermath of the attack on Bossangoa on 5 December 2013*

85. At some point between 5 and 8 December 2013, the Anti-Balaka burned and destroyed residential structures, lived in by Muslims at the time of the attack, in the immediate vicinity of the imam’s residence.
86. During the attack on Bossangoa on 5 December 2013, the Muslim civilian population of Bossangoa fled the attacked neighbourhoods to seek shelter at the *École de la Liberté*, where their numbers rose into several thousands.
87. The Muslim civilians that had sought refuge at the *École de la Liberté* remained confined to the school premises for fear of threats by the Anti-Balaka, staying there in cramped and generally dire conditions. The Muslim civilians at the *École de la Liberté* were dependent on the protection of international forces for their safety and could not leave the school premises venturing into Bossangoa without risk to their person.
88. Eventually, in light of the prevailing insecurity as well as the dire and cramped living conditions at the *École de la Liberté*, all Muslims staying at the school were transported away from Bossangoa to Chad in two separate convoys, leaving in February and April 2014, respectively, following which Bossangoa was emptied of its Muslim population.

D. The events at Yamwara on and around 24 December 2013

1. *Elements and structure at Yamwara*

89. Mr Yekatom’s group established a base at Yamwara at one point in December 2013 following the attack on Bangui on 5 December 2013. Elements who had not participated in this attack joined Mr Yekatom’s group at Yamwara after 5 December 2013. Considerable

number of elements received accommodation in the school buildings or in provisory shelters around the premises of Yamwara, including Cœur de Lion.

90. Mr Yekatom did not live at Yamwara and slept elsewhere close to the airport. Mr Yekatom did regularly visit Yamwara and maintained a constant presence there through his elements.
91. When the base at Yamwara was established, Mr Yekatom's group set up checkpoints along its perimeter to monitor passage of vehicles and people, including, at least, one set up by Alkanto close to Yamwara.
92. Mr Yekatom was in charge of Yamwara with Cœur de Lion as his deputy. All witnesses who were at Yamwara during the relevant time considered Mr Yekatom to be the 'chief' of all activities at Yamwara. Mr Yekatom was also the overall chief on matters of punishment and enforcing discipline at Yamwara, and his section chiefs also had a responsibility to discipline elements. Mr Yekatom maintained overall control over the activities at Yamwara at all times, including through Cœur de Lion. Mr Yekatom had undisputed authority over Cœur de Lion, Alkanto and Bojos, among others.
93. At some point in mid-December 2013, Mr Yekatom's group at Yamwara was joined by elements from Bossangoa, referred to as the 'Gobere group'. Elements within the Gobere group at Yamwara followed the orders from their own chiefs, who would, in turn, wait for the orders of Mr Yekatom.

2. Training at Yamwara

94. At Yamwara, Mr Yekatom's group, including civilian elements, received training of military nature. There was no training in international humanitarian law at Yamwara.

3. Yamwara Incident

95. On 24 December 2013, following the death of a member of the Lapo N'Gomat family, Saint Cyr's older brother, three women related to the family were to be escorted back to their home before dark because of the security situation in Bangui at the time. The four men, namely P-1704, P-1705, P-1716 and Saint Cyr, who were relatives and friends of the Lapo N'Gomat

family, escorted the three women, namely, P-0967, P-1811 and another (together, seven persons), to the main road to find them a taxi.

96. Elements from Mr Yekatom's group apprehended these seven persons at a checkpoint led by Alkanto close to the Lapo N'Gomat family house and to Yamwara. Alkanto pointed to the women as belonging to the family of Mamour and Michel Djotodia in the presence of the elements in his group. Alkanto's identification of the women being related to Djotodia and Mamour as well as being Muslims, combined with Alkanto's negative feelings centred around a desire for revenge against the women, predisposed Alkanto's group to perceive the seven persons as 'Muslims'.
97. Following Alkanto's identification of the women, his elements started to threaten the group with death, telling the group that they would be 'skinned like a papaya'. The expression 'peeling' or 'skinning' the 'papaya' was used by elements in Mr Yekatom's group in relation to the treatment of captured persons suspected of being Seleka.
98. Alkanto ordered his elements to search the male captives at the checkpoint. Alkanto's elements beat P-1704 and P-1716 and accused them of being traitors. Following this search, no arms were found on any of the captives. An element searched Saint Cyr and found a 'Seleka card' on him. None of the seven persons posed a threat to Yamwara or the security of the elements placed there. In fact, the nature and the purpose of them being together and close to Yamwara was linked to the funeral of Saint Cyr's older brother.
99. After threatening them with death and accusing them of being traitors, Alkanto ordered his elements to take the seven persons, including Saint Cyr Lapo N'Gomat, P-1704, P-1705, P-1716, P-0967 and P-1811, to Yamwara.
100. Elements in Mr Yekatom's group, namely Alkanto and others, brought the captives to Cœur de Lion's house at Yamwara. There, in Cœur de Lion's presence, elements in Mr Yekatom's group, including Bojos, interrogated the four men individually on their identity, ethnicity, and reasons for being there with the women, also demanding the captive men to speak in the dialect associated with their respective ethnicities. Saint Cyr and another captive, who were Boffi from their father's side and Goula from their mother's side, gave their ethnicity but

neither could speak their dialect. Saint Cyr said that he was ‘Boffi’ but could not speak in this language. When Saint Cyr was unable to do so, elements in Mr Yekatom’s group accused him of being ‘Goula’, and therefore associated with Djotodia. The elements in Mr Yekatom’s group kept the women apart from the male captives but close by, under the veranda of Cœur de Lion’s house. Mr Yekatom was not present at Yamwara during the group’s arrival there or during the said interrogation at Cœur de Lion’s house.

101. Following the men’s interrogation, the elements in Mr Yekatom’s group forced them to undress, searched them again, threatened them with death, and found no weapons on any of them. Upon another search of the captives, an element in Mr Yekatom’s group recovered a SIM card in the trousers of one of the female captives and no weapons were found on them. The elements in Mr Yekatom’s group took the women inside Cœur de Lion’s house while Saint Cyr’s interrogation continued outside, and from where they could hear what was happening outside. Elements in Mr Yekatom’s group continued to interrogate Saint Cyr and beat him, despite him showing his identification card and insisting that he was a FACA member. Cœur de Lion, who was observing Saint Cyr’s mistreatment, encouraged the assailants and ordered them to continue, saying, *inter alia*, that the victims were ‘Muslims’ and ‘Seleka’ and to ‘do the job properly’. Elements in Mr Yekatom’s group specifically beat Saint Cyr’s legs, breaking them, and tied him up in ‘*arbatacher*’ manner, continuing to assault him. An element in Mr Yekatom’s group cut off Saint Cyr’s toes, fingers, and an ear, being encouraged by Cœur de Lion’s presence at the scene and his words, and feeling that there was no choice but to do it. P-1704, P-1705, and P-1716 were present when Mr Yekatom’s elements interrogated and beat Saint Cyr and cut off his toes, fingers, and an ear. After Saint Cyr’s beating and maiming, the elements of Mr Yekatom’s group took him away. Saint Cyr then died. His relatives never saw him again and his dead body was never recovered.
102. Elements in Mr Yekatom’s group beat P-1704, P-1705, and P-1716 and threatened them with death.
103. Mr Yekatom was not present at the scene during the mistreatment of Saint Cyr, P-1704, P-1705, and P-1716. However, shortly after the fact, Mr Yekatom came to know about this

incident, including the actions of the element that had cut off Saint Cyr's toes, fingers, and an ear. Later, Mr Yekatom told P-1839 that this element had done a 'good job' insofar. Mr Yekatom did not punish this element for these acts and, on the contrary, rewarded this element with posts of responsibility within his group, including as part of his security detail. Mr Yekatom considered Saint Cyr a 'traitor' and 'in cahoots with the Seleka' and that therefore, they could not 'keep him'. When asked about Saint Cyr's treatment, Mr Yekatom said in Sango '*eforolo tonga na papai*' – meaning that 'they peeled the papaya', 'they removed the skin like they would do to a papaya'.

104. When elements in Mr Yekatom's group searched the female captives at Yamwara, they removed their veils and brought them inside Cœur de Lion's house at gunpoint. Inside Cœur de Lion's house, the elements in Mr Yekatom's group forced them to undress to their underwear, searched them again, threatened them with death and kept them in this location. At this time, the female captives could hear the interrogation and mistreatment of Saint Cyr taking place outside. An element in Mr Yekatom's group pointed a weapon in the women's direction and asked P-1811 about her tribe. At some point, the female captives could no longer hear Saint Cyr crying outside. During their captivity inside Cœur de Lion's house, elements from Mr Yekatom's group were going in and out of the house and threatened them with death. Mr Yekatom met the female captives inside Cœur de Lion's house later that evening and introduced himself as 'Rombhot' and 'the chief'. Mr Yekatom interrogated the female captives about their ethnicities and family background. Mr Yekatom knew that the three women were Muslim. Mr Yekatom's presence and words at this stage were not reassuring to the female captives. The female captives had no indication about, or reason to believe, the genuineness of Mr Yekatom's composure or the purported efforts to have them released, nor the possibility that they would be released. Mr Yekatom knew that his elements had captured, mistreated, and kept them at gunpoint at Yamwara.
105. The same evening of these events at Yamwara, P-1654, who was Saint Cyr's father, came to meet Mr Yekatom at Yamwara. Mr Yekatom, with Bojos and Cœur de Lion, questioned P-1654 about his family for hours, including about his ethnicity, and threatened him and his family with death. They asked him why 'the Goula', in particular, Mamour's relative, had been invited to the funeral; they also asked about Saint Cyr's relation with him. Mr Yekatom

did not inform P-1654, who was fearful for Saint Cyr, about the state and location of Saint Cyr or that of the other captives. After hearing the questioning from Mr Yekatom and his elements and upon P-1654's return from Yamwara to his house, the day after Saint Cyr and the others were captured, P-1654 and the rest of his family fled Boeing.

106. Mr Yekatom was aware of Saint Cyr's presence and mistreatment at Yamwara, at the very latest during P-1654's encounter with him on the evening of 24 December 2013. Mr Yekatom knew that his elements had mistreated Saint Cyr, and that he subsequently died. Mr Yekatom knew that, at the time of his capture, Saint Cyr was escorting the three women, with whom he had familial relations, together with the other three men, to find transport to go home, in the context of a burial of a family relative. Mr Yekatom knew that Saint Cyr had family links with the 'Goula' and that he was unarmed at the time of his capture.
107. P-1716 remained captive at Yamwara under Cœur de Lion's watch on the night of his capture. During this time, elements in Mr Yekatom's group threatened P-1716 with death and Cœur de Lion interrogated him. P-1716 was released the following morning after his father paid a ransom to Cœur de Lion and Mr Yekatom. Mr Yekatom knew of P-1716's capture and his mistreatment at the very latest by the morning of 25 December 2013.
108. Elements in Mr Yekatom's group brought the three women outside of Cœur de Lion's house, regrouped them with P-1704 and P-1705, and brought them to another location in Yamwara. The elements in Mr Yekatom's group continued to keep the three women, together with P-1704 and P-1705, in captivity at this location in Yamwara at gunpoint, where the female captives were threatened and told that they would be peeled 'like a papaya'. Saint Cyr was not amongst them.
109. During the intervening night of 24 and 25 December 2013, the elements in Mr Yekatom's group made P-1704, P-1705, P-0967, P-1811 and one other captive walk from Yamwara to a location close to the M'Poko airport. Mr Yekatom, Cœur de Lion, or Bojos did not accompany them. At this location, the elements in Mr Yekatom's group handed over P-1704, P-1705, P-0967, P-1811 and one other captive to Sylvestre Yagouzou, who introduced himself as the 'coordinator of the base behind the airport' and a 'spokesperson' of the Anti-Balaka. Sylvestre Yagouzou then kept P-1704, P-1705, P-0967, P-1811 and one other

captive at a location close to the airport until the following day under circumstances that, to P-0967 and P-1811, were frightening.

110. On the morning of 25 December 2013, Mr Yekatom met P-1704, P-1705, P-0967, P-1811 and one other captive at this location and introduced himself. Mr Yekatom was aware that Sylvestre Yagouzou kept them in the location close to the M'Poko airport surrounded by Anti-Balaka elements. On or about 27 December 2013, P-1704, P-1705, P-0967, P-1811 and one other captive were released and handed over to Sangaris.
111. Mr Yekatom approved of his elements capturing, interrogating, keeping captive, and mistreating the seven captives. Mr Yekatom approved of his elements beating, interrogating, maiming, and killing Saint Cyr. As regards the remaining six captives, Mr Yekatom approved of his elements capturing, interrogating, threatening with death, forcing them to undress, keeping them captive at gunpoint, and keeping them within hearing distance of Saint Cyr's mistreatment at Yamwara. Mr Yekatom approved of his elements beating P-1704, P-1705, and P-1716 at various stages of their captivity. Mr Yekatom approved of his elements keeping P-1716 overnight at Yamwara under Cœur de Lion's watch. Mr Yekatom approved of his elements transferring P-1704, P-1705, P-0967, P-1811 and one other captive to another Anti-Balaka base close to the airport and handing them over to Sylvestre Yagouzou.
112. Mr Yekatom's group coordinated with Wenezoui and Sylvestre Yagouzou and the Anti-Balaka based behind the M'Poko airport in the transfer and captivity of P-1704, P-1705, P-0967, P-1811 and one other captive.

E. The Anti-Balaka's advance through and takeover of villages along the PK9-Mbaïki axis

1. The departure of Mr Yekatom's group from Yamwara and its advance on the axis

113. Starting on 10 January 2014, Mr Yekatom and elements under his control left Yamwara and advanced from Bangui on the road towards Mbaïki, taking over a number of villages in the Lobaye prefecture, located in the south-west part of the country, including Sekia, Ndangala,

Bimon, Kapou, Bossongo and Pissa. They did not meet with resistance as they passed from PK9 to Sekia and Pissa, since the Seleka had fled these areas after learning that the Anti-Balaka were approaching.

114. At the time of the group's presence on the Mbaïki road, Mr Yekatom, Cœur de Lion and Alkanto instructed the elements to kill all the Muslims in their area.

2. Elements under Mr Yekatom's control present along the axis

115. Mr Yekatom was the undisputed leader of the Anti-Balaka group along the PK9-Mbaïki axis, which comprised at least 1,000 elements at the time.

3. Locations of checkpoints and bases on the axis

116. Mr Yekatom's group took over checkpoints at PK9, Sekia, Bimon, Bossongo and Pissa in their advance towards Mbaïki. Mr Yekatom and his elements also set up new bases at PK9 and Sekia.

117. By taking over these checkpoints, Mr Yekatom and his group aimed at searching and identifying Muslims in the area and raising money to finance the group and its needs. Mr Yekatom's group was armed.

4. The flight of Muslims from locations along the PK9-Mbaïki axis

118. A significant proportion of the Muslim civilian population fled their towns and villages along the PK9-Mbaïki axis due to and in fear of the advance of Mr Yekatom's group along the axis.

119. At least 1,000 Muslim civilians who fled from locations along the PK9-Mbaïki axis and in the Lobaye prefecture went to Mbaïki, substantially increasing the Muslim population of the town. Muslims in Mbaïki at the time were living in difficulty, under conditions of overcrowding, hunger and fear of death from the Anti-Balaka.

5. *Arrival of Mr Yekatom's group to Mbaïki*

120. Mr Yekatom and elements under his control entered Mbaïki on 30 January 2014. That day, a meeting was held at the *St Jeanne d'Arc* Church in Mbaïki, with Mr Yekatom and members of his group, representatives of the Mbaïki civilian and religious authorities, international organisations and NGOs, as well as the Sangaris. At the meeting, the removal of the Muslim civilian population from Mbaïki, which was a foregone conclusion at that point, was decided. After the meeting finished, Mr Yekatom addressed the crowds outside of the meeting location and subsequently at Mbaïki's bus station, where he delivered 'peace messages' similar to those he had expressed at the meeting. The presence of the Sangaris and other international actors in Mbaïki at that time compelled Mr Yekatom to bring this 'peace message' to Mbaïki and prevented attacks of his group against the Muslim civilian population. After the meeting, the prefect and other individuals contacted the authorities to arrange the convoy that would transport the Muslim civilian population out of Mbaïki.
121. Mr Yekatom's group settled in at least one base in Mbaïki. During this time, elements of Mr Yekatom's group threatened and harassed Muslim civilians in Mbaïki, telling them to leave the area. Both Mr Yekatom and Cœur de Lion knew that elements of the group committed acts of violence in Mbaïki. Efforts and measures to prevent these acts were taken only after the removal of the Muslim civilian population from Mbaïki had been decided and/or carried out. The Anti-Balaka also attacked a gendarme patrol in Mbaïki which was there to protect the population, taking the patrol's weapons and the service car that they were using.

6. *Dislocation of Muslims from Mbaïki*

122. On 6 February 2014, Chadian forces transported a first group of Muslim civilians from Mbaïki to Chad and other locations in the CAR. These Muslim civilians had to leave their belongings behind. They left Mbaïki in fear of the Anti-Balaka and, in particular, due to the arrival of Mr Yekatom's group to Mbaïki. The total number of Muslims removed from Mbaïki at the time amounted to at least 3,000. As a result of this dislocation, very few Muslim civilians remained in Mbaïki. The living conditions in the refugee camps in Chad were extremely difficult.

123. Thereafter, the Congolese MISCA transported a second group of Muslims out of Mbaïki to Bangui and other locations.

7. The killing of Djido Saleh

124. Following the removal of Muslim civilians out of Mbaïki, Djido Saleh, the second deputy mayor of Mbaïki, and his family, were among the very few remaining Muslims in Mbaïki. Prior to his killing, elements of Mr Yekatom's group threatened Djido Saleh. There is no indication that Anti-Balaka elements demanded money from Djido Saleh.

125. On 28 February 2014, a group of individuals attacked Djido Saleh's house while he and his family were inside. Djido Saleh's family fled. As Djido Saleh tried to flee, the group of individuals pursued him and threw stones at him. Djido Saleh tried to defend himself with a bow and at least one arrow. The group of individuals, which included at least three elements of Mr Yekatom's group, one of them being Honorine Gbafalo, killed him as he tried to reach the gendarmerie. Honorine Gbafalo cut off his genitals. Other individuals beat him and cut parts of his body, including one of his ears and his neck, partly severing his head. These individuals targeted Djido Saleh on the basis that he was a Muslim. Following the death of Djido Saleh, Mr Yekatom told Raymond Mongbandi that the killing was 'an accident' and that he would pay for the burial, which he never did. As a direct consequence of the killing, MISCA ordered Mr Yekatom and his elements to leave Mbaïki, which they immediately did.

III. EVIDENTIARY CONSIDERATIONS

A. General evidentiary considerations

1. Standard of proof

126. Everyone is presumed innocent until proved guilty before the Court.³⁷ The onus is on the Prosecution to prove the guilt of the accused.³⁸

127. In accordance with Article 66(3) of the Statute, the Chamber must be convinced of the guilt of the accused beyond reasonable doubt in order to convict the accused. The standard of

³⁷ Article 66(1) of the Statute.

³⁸ Article 66(2) of the Statute.

beyond reasonable doubt is to be applied to any facts indispensable for entering a conviction, namely those constituting the elements of the crimes or modes of liability charged.³⁹ For this determination, the Chamber must carry out a holistic evaluation and weighing of all the evidence taken together in relation to the facts at issue.⁴⁰

128. As is clear from its plain meaning, reasonable doubts must be grounded in reasons. Reasonable doubts cannot consist of imaginary or frivolous doubt – they must have a rational link to the evidence, lack of evidence or inconsistencies in the evidence.⁴¹

129. The possibility that unavailable evidence may include exculpatory information is too hypothetical, without more, to qualify as a reasonable doubt. Accepting such a proposition is akin to requiring proof beyond *all* doubt, while what is required is instead proof beyond *reasonable* doubt.⁴²

³⁹ Appeals Chamber, *The Prosecutor v. Thomas Lubanga Dyilo*, Judgment on the appeal of Mr Thomas Lubanga Dyilo against his conviction, 1 December 2014, ICC-01/04-01/06-3121-Conf (A5) (public redacted version notified the same day, ICC-01/04-01/06-3121-Red) (the '[Lubanga Appeals Judgment](#)'), para. 22; Appeals Chamber, *The Prosecutor v. Mathieu Ngudjolo Chui*, Judgment on the Prosecutor's appeal against the decision of Trial Chamber II entitled "Judgment pursuant to article 74 of the Statute", 7 April 2015, ICC-01/04-02/12-271-Corr (the '[Ngudjolo Appeals Judgment](#)'), paras 123-125; Appeals Chamber, *The Prosecutor v. Jean-Pierre Bemba Gombo et al.*, Judgment on the appeals of Mr Jean-Pierre Bemba Gombo, Mr Aimé Kilolo Musamba, Mr Jean-Jacques Mangenda Kabongo, Mr Fidèle Babala Wandu and Mr Narcisse Arido against the decision of Trial Chamber VII entitled "Judgment pursuant to Article 74 of the Statute", 8 March 2018, ICC-01/05-01/13-2275-Conf (A A2 A3 A4 A5) (public redacted version notified the same day, ICC-01/05-01/13-2275-Red) (the '[Bemba et al. Appeals Judgment](#)'), paras 96, 868; Appeals Chamber, *The Prosecutor v. Bosco Ntaganda*, Judgment on the appeals of Mr Bosco Ntaganda and the Prosecutor against the decision of Trial Chamber VI of 8 July 2019 entitled 'Judgment', 30 March 2021, ICC-01/04-02/06-2666-Conf (public redacted version notified the same day, ICC-01/04-02/06-2666-Red) (the '[Ntaganda Appeals Judgment](#)'), para. 37; Appeals Chamber, *The Prosecutor v. Dominic Ongwen*, Judgment on the appeal of Mr Ongwen against the decision of Trial Chamber IX of 4 February 2021 entitled "Trial Judgment", 15 December 2022, ICC-02/04-01/15-2022-Conf (public redacted version notified the same day, ICC-02/04-01/15-2022-Red) (the '[Ongwen Appeals Judgment](#)'), para. 321.

⁴⁰ [Lubanga Appeals Judgment](#), ICC-01/04-01/06-3121-Red, para. 22; Trial Chamber VI, *The Prosecutor v. Bosco Ntaganda*, Judgment, 8 July 2019, ICC-01/04-02/06-2359 (with public Annexes A-C) (the '[Ntaganda Trial Judgment](#)'), para. 45; Trial Chamber X, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, Trial Judgment (with three public annexes), 26 June 2024, ICC-01/12-01/18-2594-Conf (public redacted version notified the same day, ICC-01/12-01/18-2594-Red) (the '[Al Hassan Trial Judgment](#)'), para. 19.

⁴¹ [Ngudjolo Appeals Judgment](#), ICC-01/04-02/12-271-Corr, para. 109, referring to ICTR, Appeals Chamber, *Georges Anderson Nderubumwe Rutaganda v. The Prosecutor*, [Judgement](#), 26 May 2003, ICTR-96-3-A, para. 488; [Al Hassan Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 20.

⁴² Trial Chamber IX, *The Prosecutor v. Dominic Ongwen*, Trial Judgment, 4 February 2021, ICC-02/04-01/15-1762-Conf (public redacted version notified the same day, ICC-02/04-01/15-1762-Red) (the '[Ongwen Trial Judgment](#)'), ICC-02/04-01/15-1762-Red, para. 229; [Al Hassan Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 20.

2. *Evaluation of the evidence*

130. Pursuant to Article 74(2) of the Statute, the Chamber’s decision is based on the evidence and the entire proceedings. In doing so, it has only relied ‘on evidence submitted and discussed before it at the trial’. As determined by the Appeals Chamber, ‘evidence is properly before a trial chamber when it has been “submitted” in accordance with the procedure adopted by the trial chamber and discussed at trial, unless it is ruled as irrelevant or inadmissible’.⁴³ Furthermore, the Chamber recalls that what is required is that there has been the opportunity at trial to make arguments on the evidence concerned, irrespective of whether any such arguments are actually made.⁴⁴ The main consideration is that the evidence upon which the Chamber bases its Article 74 judgment has been introduced during trial and the parties and participants had the opportunity to make submissions on each item of evidence as they deemed fit.⁴⁵
131. The Chamber duly considered the arguments raised by the parties and participants throughout the proceedings. Of particular importance in this regard are the arguments made in the context of the submission of individual items of evidence as well as in the parties and participants’ closing briefs and statements. Nonetheless, the Chamber recalls that ‘to fulfil its obligation to provide a reasoned opinion’ under Article 74(5) of the Statute, it ‘is not required to address all the arguments raised by the parties [and participants], or every item of evidence relevant to a particular factual finding, provided that it indicates with sufficient clarity the basis for its decision’.⁴⁶ As confirmed by the Appeals Chamber, trial chambers have a degree of discretion as to what to address explicitly in their reasoning as long as there are sufficient reasons provided for their determinations.⁴⁷

⁴³ [Ongwen Appeals Judgment](#), ICC-02/04-01/15-2022-Red, para. 500; [Bemba et al. Appeals Judgment](#), ICC-01/05-01/13-2275-Red, paras 105, 576, 579, 599. See also [Al Hassan Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 23; [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 233.

⁴⁴ [Bemba et al. Appeals Judgment](#), ICC-01/05-01/13-2275-Red, para. 576, n. 1256.

⁴⁵ See [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 249 and the references cited therein; [Al Hassan Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 28.

⁴⁶ [Bemba et al. Appeals Judgment](#), ICC-01/05-01/13-2275-Red, para. 105.

⁴⁷ Appeals Chamber, *The Prosecutor v. Jean-Pierre Bemba Gombo*, [Judgment on the appeal of Mr Jean-Pierre Bemba Gombo against Trial Chamber III’s “Judgment pursuant to Article 74 of the Statute”](#), 8 June 2028, ICC-01/05-01/08-3636-Conf (public redacted version notified the same day, ICC-01/05-01/08-3636-Red), paras 53-55; [Bemba et al. Appeals Judgment](#), ICC-01/05-01/13-2275-Red, paras 105-107. See also [Al Hassan Trial Judgment](#), ICC-01/12-

132. Following the established practice of the Court, the Chamber adopted the so-called ‘submission approach’. Consequently, it decided not to rule on the admissibility of each item of evidence during the course of the proceedings, other than on the basis of any procedural bars such as those under Article 69(7) of the Statute or concerning the procedural requirements for the introduction of prior recorded testimonies under Rule 68 of the Rules.⁴⁸ Rather, in the absence of such procedural bars and following the applicable procedure for the submission of evidence,⁴⁹ the Chamber recognised items of evidence as submitted within the meaning of Article 74(2) of the Statute.⁵⁰ Following this procedure, 19,590 items were recognised as formally submitted in the case record and reflected as such in the e-court metadata.
133. The Chamber has assessed the relevance, probative value and potential prejudice of the evidence so submitted – and any argument in this regard raised by the parties and participants in the course of the trial – as part of its holistic assessment of all evidence when deciding on the guilt or innocence of the accused in its judgment. It assessed freely all evidence in accordance with Rule 63(2) of the Rules and considered all the evidentiary criteria for each item of evidence submitted, although it may not necessarily discuss in the judgment every submitted item.⁵¹
134. The Chamber notes the Ngaïssona Defence’s allegation that the adoption of the ‘submission approach’ by the Chamber ‘had serious consequences for the evidentiary position of the Defence’.⁵² The Chamber recalls that the submission approach is firmly established in the practice of the Court.⁵³ It further notes that the Ngaïssona Defence – as well as the rest of the parties and participants – had the opportunity to, and did in fact, present arguments

01/18-2594-Red, para. 26; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 52; [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 250.

⁴⁸ See [Initial Directions](#), ICC-01/14-01/18-631, paras 52-59 and the references cited therein. See also [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 237; [Al Hassan Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 23

⁴⁹ See [Initial Directions](#), ICC-01/14-01/18-631, paras 60-65.

⁵⁰ See [Initial Directions](#), ICC-01/14-01/18-631, para. 63(v). See also [Bemba et al. Appeals Judgment](#), ICC-01/05-01/13-2275-Red, paras 599-600; [Al Hassan Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 24; [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 237.

⁵¹ See [Bemba et al. Appeals Judgment](#), ICC-01/05-01/13-2275-Red, para. 583. See also [Al Hassan Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 25; [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 237.

⁵² [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 60-64.

⁵³ See [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 241, and the references cited therein.

concerning the submission of items of evidence throughout the trial, as well as effectively examine witnesses. The Chamber is of the view that the Ngaïssona Defence's allegations stem from a stated preference for the 'admission evidentiary regime',⁵⁴ and considers without merit its arguments that prejudice ensued as a result of 'irrelevant evidence' becoming part of the case file or it being 'overflowed'.⁵⁵

135. Moreover, the Chamber recalls that there is no procedural bar to the introduction or reliance on hearsay evidence in the Court's legal framework. The fact that evidence is hearsay does not necessarily deprive it of probative value. While the weight or probative value afforded to it may be lower, this ultimately 'depend[s] upon the infinitely variable circumstances which surround hearsay evidence', including for instance whether the hearsay evidence is anonymous.⁵⁶
136. Similarly, nothing in the statutory framework prevents a trial chamber from drawing inferences based on circumstantial evidence, nor does the standard of proof beyond reasonable doubt or the principle *in dubio pro reo* require that such evidence be excluded. In making findings based on circumstantial evidence, the Chamber has reached a conclusion beyond reasonable doubt when it was convinced that was the only reasonable inference to be drawn from the relevant facts. The Chamber further recalls that it is not required to articulate every step of its reasoning that led to its final conclusion. However, when the Chamber has made an essential finding based on an inference, it has explained in detail how it reached the factual conclusion in question.⁵⁷
137. The Chamber also takes note of the Ngaïssona Defence's submissions that the Prosecution has 'excessively relied on circumstantial evidence', as well as 'vast amounts of indirect and

⁵⁴ See [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 60, referring to [Defence response to the "Prosecution's Submission of Proposed Directions for the Conduct of Proceedings and Proposed Protocol on Witness Familiarisation"](#), ICC-01/14-01/18-476, 15 May 2020, ICC-01/14-01/18-521-Conf (with public Annexes A and B) (public redacted version notified the same day, ICC-01/14-01/18-521-Red), paras 14-18.

⁵⁵ See also [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 245.

⁵⁶ See [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, paras 67-68, and the references cited therein.

⁵⁷ See [Al Hassan Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 21, and the references cited therein.

hearsay evidence’.⁵⁸ The Chamber recalls that it will assess all of the evidence before it holistically and in light of the jurisprudence of the Court as set out above.

138. Furthermore, in accordance with Rule 63(4) of the Rules, the Chamber has imposed no legal requirement of corroboration. As held by the Appeals Chamber, ‘[d]epending on the circumstances, a single piece of evidence [...] may suffice to establish a specific fact. However, [...] this does not mean that any piece of evidence provides a sufficient evidentiary basis for a factual finding’.⁵⁹ The Appeals Chamber also found that ‘while corroboration is “an element that a reasonable trier of fact may consider in assessing the evidence”, the question of whether or not to consider it forms part of the Trial Chamber’s discretion’.⁶⁰
139. As to the Ngaïssona Defence’s submissions that the Prosecution ‘excessively relied on uncorroborated insider evidence, prior recorded statements and impugned witnesses’, and that it relied on ‘contaminated testimonies of key witnesses’,⁶¹ the Chamber notes that these allegations essentially refer to the probative value and weight that the Chamber should attribute to said evidence, on the basis that the evidence is allegedly uncorroborated, unreliable or not credible. Therefore, the Chamber considers it more appropriate to address these issues in the context of the credibility assessments of the witnesses as well as in its evidentiary analysis for findings of facts, as necessary.
140. Moreover, the Chamber notes that the Ngaïssona Defence argues that the Prosecution ‘abused its process regarding Article 70 of the Statute’ (the ‘Article 70 Investigation’), which would require the Chamber to dismiss any reference by the Prosecution to any allegations concerning witness interference by the Ngaïssona Defence when assessing the evidence, in order to safeguard Mr Ngaïssona’s rights in this case.⁶² The Chamber recalls its findings that, under the Court’s legal framework, it does not have the power to find an abuse of process by the Prosecution in the context of an Article 70 investigation, and, as this Chamber is not

⁵⁸ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 5-7.

⁵⁹ [Lubanga Appeals Judgment](#), ICC-01/04-01/06-3121-Red, para. 218. See also [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 75.

⁶⁰ [Ngudjolo Appeals Judgment](#), ICC-01/04-02/12-271-Corr, para. 148, referring to ICTY, Appeals Chamber, *Mrkšić and Šljivančanin* Appeal Judgment, para. 264 and referring to ICTY, *Limaj* Appeals Judgment, IT-03-66-A, para. 203. See also [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 75.

⁶¹ See Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, paras 8-59.

⁶² [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 135-139.

seized with the Article 70 Investigation, it has no power to order the latter to cease it.⁶³ It follows that the Chamber does not find it appropriate to dismiss *per se* any reference to allegations made by the Prosecution on any alleged witness interference on the part of the Ngaïssona Defence.

141. The Chamber further notes that the Prosecution's claim of alleged interference by Ngaïssona Defence witnesses has no bearing on Mr Ngaïssona's guilt or innocence in this case, and that the questioning by the Prosecution of certain Ngaïssona Defence witnesses on this topic was limited. It also considers that the Ngaïssona Defence mischaracterises the Chamber's findings when it asserts that the Chamber 'took no position on the unfounded allegations alluding to [Mr Ngaïssona]'s consciousness of guilt and tarnishing the Defence's professional reputation'.⁶⁴
142. Lastly, the Chamber takes note of the Ngaïssona Defence's submission that the Prosecution applied 'double standards' to evidence because it 'wrongly labelled' evidence as incriminating Mr Ngaïssona but later that same evidence was disclosed as exculpatory in the case of *The Prosecutor v Maxime Jeoffroy Eli Mokom Gawaka* (the 'Mokom Case').⁶⁵ The Chamber considers that the Ngaïssona Defence's contention is inapposite. Even though there might have been a substantial factual overlap between the two cases, the charges against the accused are different, and simply because an item of evidence is categorised in one way in the *Mokom* case does not mean that it should have been regarded as such in the present case.

3. *Agreed facts*

143. As provided in Rule 69 of the Rules, the Prosecution and Defence submitted 19 agreed facts related to (i) Mr Ngaïssona's background; (ii) certain geographical locations in the CAR;

⁶³ Decision on Further Ngaïssona Defence Requests Regarding the Article 70 Investigation, 6 December 2023, ICC-01/14-01/18-2243-Conf, para. 14.

⁶⁴ See [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 138, referring to [Decision on the Prosecution Request for the Submission of Rebuttal Evidence](#), 17 September 2024, ICC-01/14-01/18-2694, para. 13. In this regard, the Chamber recalls that it rejected the Prosecution's request to submit rebuttal evidence which was meant to demonstrate 'improper contact and/or influence by the Defence and persons linked to the Accused as regards Prosecution witnesses', and that it noted that the Ngaïssona Defence's response to the request would be made public. As such, it considered that no further relief would be necessary at that stage such as to order the Prosecution to 'refrain from making unfounded and contemptible accusations against the Defence'.

⁶⁵ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 131-134.

and (ii) the date and location of a national reconciliation event in the CAR, and further indicated that they agreed to 14 maps identified in the Prosecution’s final list of evidence, illustrating the geographical locations of the sites relevant to the facts and circumstances of the case (collectively, the ‘Agreed Facts’).⁶⁶ The Agreed Facts are proven for the purposes of the judgment.⁶⁷

B. Specific evidentiary considerations

1. Documentary evidence: Facebook material and call data records

i. Facebook material

144. The Chamber recognised as formally submitted approximately 943 items related to Facebook evidence (the ‘Facebook Material’). The Facebook Material comprises *inter alia* private messages, including attachments, sent between users;⁶⁸ screenshots of posts visible on the Facebook users’ profiles, pictures and lists of Facebook friends;⁶⁹ and Facebook business records with information and metadata on users’ profiles, such as the names and email addresses used for registration, and logs.⁷⁰

145. The Chamber recalls that the Prosecution obtained its Facebook material (the ‘Prosecution Facebook Material’) following a series of requests for assistance (the ‘RFA’) from Facebook Ireland Limited (Meta INC) (hereinafter: ‘Facebook’).⁷¹ The Yekatom Defence also obtained Facebook material from Facebook following a decision by the Chamber concerning cooperation issues,⁷² as well as open source investigations.⁷³

⁶⁶ [Joint Submission on Agreed Facts](#), ICC-01/14-01/18-811-Corr (with confidential Annexes A-C).

⁶⁷ See [Decision on the Joint Submission on Agreed Facts](#), 19 January 2021, ICC-01/14-01/18-835, p. 4.

⁶⁸ See e.g. Facebook messages, CAR-OTP-00000144.

⁶⁹ See e.g. Facebook user profile, CAR-OTP-2091-0433; Facebook pictures, CAR-D29-0016-0001; List of Facebook friends, CAR-D29-0016-0004.

⁷⁰ See e.g. Facebook messages, CAR-OTP-2131-0993; Facebook metadata, CAR-D29-0018-0002.

⁷¹ See Corrected version of ‘Decision on the Seventh, Tenth and Seventeenth Prosecution Submission Requests from the Bar Table (Facebook Evidence)’, 15 April 2024, ICC-01/14-01/18-2390-Corr (the ‘[Decision on the Prosecution Facebook Bar Table Motions](#)’), para. 1.

⁷² Decision on the Yekatom Defence Request for Cooperation from Ireland, 28 July 2022, ICC-01/14-01/18-1531-Conf-Exp (confidential *ex parte*, only available to the Yekatom Defence, the Registry and the Competent Authorities of Ireland) (confidential redacted version notified on 10 August 2022, ICC-01/14-01/18-1531-Conf-Red), p. 6. See also e.g. Facebook metadata, CAR-D29-0018-0008.

⁷³ See e.g. Facebook screenshot, CAR-D29-0016-0001.

146. The majority of the Facebook Material was submitted by the parties through requests to submit evidence in writing.⁷⁴ In addition, the Chamber recognised as formally submitted Facebook items in the context of witness testimony throughout the trial, including under Rule 68(3) of the Rules.⁷⁵
147. The Ngaissona Defence argues that the Prosecution Facebook Material lacks authentication, more specifically, that the Prosecution did not submit any evidence that could authenticate its material, let alone assist the Chamber in understanding what was received in response to the RFAs sent by the Prosecution to the competent Irish authorities (the ‘Authorities’), and that no Facebook employee or representative testified or explained the material generated by Facebook.⁷⁶
148. The Chamber notes that, in response to the Prosecution’s RFAs, the Authorities secured the evidence in question and thereafter transmitted it to the Prosecution.⁷⁷ The Chamber has no

⁷⁴ See [Prosecution’s Seventh Application for Submission of Facebook Evidence from the Bar Table](#), 17 May 2023, ICC-01/14-01/18-1874-Conf (with one confidential annex) (public redacted version notified on 8 June 2023, ICC-01/14-01/18-1874-Red); [Prosecution’s Tenth Application for Submission of Facebook Evidence from the Bar Table](#), 3 July 2023, ICC-01/14-01/18-1956-Conf (with one confidential annex) (public redacted version notified on 8 March 2024, ICC-01/14-01/18-1956-Red); [Prosecution’s Seventeenth Application for Submission of Facebook Evidence from the Bar Table](#), 25 August 2023, ICC-01/14-01/18-2062-Conf (with confidential Annexes A-B) (public redacted version notified on 8 March 2024, ICC-01/14-01/18-2062-Red); [Decision on the Prosecution Facebook Bar Table Motions](#), ICC-01/14-01/18-2390-Corr, para. 1; [Decision on the Second Prosecution Submission Request from the Bar Table \(P-0889\)](#), 24 May 2022, ICC-01/14-01/18-1429; Yekatom Defence Request for the formal submission of material related to the Fabrication of evidence, 31 July 2024, ICC-01/14-01/18-2611-Conf (with confidential Annexes A-C) (public redacted version notified on 27 September 2024, ICC-01/14-01/18-2611-Red) (the ‘[Yekatom Defence Fabrication of Evidence Bar Table Request](#)’); [Decision on the Fifth Yekatom Defence Request for Submission from the Bar Table \(Material Related to the Alleged Fabrication of Evidence\)](#), 13 September 2024, ICC-01/14-01/18-2687.

⁷⁵ See Decision on Submitted Materials for P-2232, email from the Chamber, 1 April 2022, at 14:59; Decision on Submitted Materials for P-0876, email from the Chamber, 25 May 2022, at 09:33; Decision on Submitted Materials for P-0808, email from the Chamber, 2 June 2022, at 17:30; Decision on Submitted Materials for P-2049, email from the Chamber, 23 August 2022, at 08:32; Decision on Submitted Materials for P-2475, email from the Chamber, 9 November 2022, at 14:53; Decision on Submitted Materials for P-1719, email from the Chamber, 28 February 2023, at 09:47; Decision on Submitted Materials for P-1077, email from the Chamber, 16 March 2023, at 09:51; Decision on Submitted Materials for P-0954, email from the Chamber, 22 May 2023, at 15:53; Decision on Submitted Materials for P-1813, email from the Chamber, 1 June 2023, at 10:28; Decision on Submitted Materials for P-2476, email from the Chamber, 3 October 2023, at 09:59; Decision on Submitted Materials for P-2082, email from the Chamber, 4 October 2023, at 10:46; Decision on Submitted Materials for P-2018, email from the Chamber, 12 October 2023, at 15:03; Decision on Submitted Materials for P-2084, email from the Chamber, 26 October 2023, at 14:14; Decision on Submitted Materials for P-1705, email from the Chamber, 22 November 2023, at 11:11; Decision on Submitted Materials for D29-6016, email from the Chamber, 2 May 2024 at 12:12; Decision on Submitted Materials for D29-6036, email from the Chamber, 28 May 2024, at 11:02; Decision on Submitted Materials for V45-0001 and V45-0002, 16 July 2024, email from the Chamber, at 11:50; Decision on Submitted Materials for D30-4679, email from the Chamber, 23 August 2024, at 16:02.

⁷⁶ [Ngaissona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 71, 75.

⁷⁷ Correspondence letters, CAR-OTP-2099-1340; CAR-OTP-2130-0409.

reason to doubt that the Facebook Material requested by the Prosecution through its RFAs is none other than what was obtained by the Authorities from Facebook according to the applicable domestic procedure, and ultimately conveyed to the Court.⁷⁸ The Chamber is also not persuaded that the lack of information ‘concerning the domestic court processes and whether the materials were altered in any way’ in this instance raises doubts on the authenticity of the Prosecution Facebook Material to such an extent as to render it inadmissible *per se*,⁷⁹ and considers that mere submissions on any alleged alteration of such material are speculative.

149. Contrary to the Ngaïssona Defence’s contention, the Chamber is satisfied, on the basis of the information conveyed by the Authorities and which is formally recognised as submitted,⁸⁰ that the Facebook Material obtained through the respective RFAs is overall authentic.⁸¹ It is therefore unnecessary to address whether the Facebook Material is in itself ‘self-authenticating’.⁸² The Chamber further notes that, insofar as witnesses testified in court on the Facebook Material, no doubts were raised as to whether the Facebook Material showed to them during their examination was authentic.⁸³
150. Moreover, the Ngaïssona Defence raises a series of issues related to the authenticity of user identification. It challenges the Prosecution’s assertion that the ‘registration IP or IP logs’ and ‘profile ID number’ provide further indicia of reliability, and submits that the IP addresses or IP logs from Facebook do not confirm an individual’s location. It also argues that only the testimony of a Facebook technician can provide information about whether safeguards at Facebook could have prevented multiple users from accessing the same

⁷⁸ The Chamber further notes that, at the time of the submission of certain Facebook material, the Yekatom Defence argued that its authenticity was confirmed by the fact that it was obtained from the Irish Authorities following an order issued by the Chamber. It also argued that some items from Facebook were authentic as they were publicly available and obtained through open source research. See [Yekatom Defence Fabrication of Evidence Bar Table Request](#), ICC-01/14-01/18-2611-Red, paras 49-50.

⁷⁹ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 70.

⁸⁰ Correspondence letters, CAR-OTP-2099-1340; CAR-OTP-2130-0409.

⁸¹ See [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 71.

⁸² See [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 66.

⁸³ See e.g. P-2841: T-029, p. 76, line 5 – p. 80, line 13; P-2673: T-042, p. 20, line 19 – p. 25, line 13; P-2843: T-074, p. 6, line 13 – p. 8, line 12, p. 52, line 13 – p. 54, line 13, p. 58, line 21 – p. 61, line 10; D30-4848: T-296, p. 59, line 2 – p. 65, line 11.

accounts.⁸⁴ The Yekatom Defence similarly contends that many Facebook posts lack essential details such as author identity, an issue which is compounded when neither the sender, recipient, nor mentioned individuals have confirmed the posts' authenticity.⁸⁵

151. Having regard to the above, the Chamber considers that without a statement or testimony from a witness who participated in an exchange through Facebook or who was the author of a post, the Chamber cannot conclusively determine who effectively engaged in an exchange or who authored a specific post, based solely on the Facebook Material. Further noting the absence of any expert testimony on the matter, the Chamber cannot solely rely on Facebook IP addresses or logs to confirm an individual's location.
152. As to the reliability of the Prosecution Facebook Material, the Yekatom Defence argues that social media platforms are often used to rapidly disseminate unverified information, 'fake news', or rumours without restrictions on what can be posted, pointing to the evidence provided by certain witnesses.⁸⁶ The Yekatom Defence also contends that the Prosecution fails to limit its relevance assessment of the items to factual elements as it provides its own interpretation of some messages and the intent of their authors, and that only the testimony of the author of the messages would allow the Chamber and the parties to have a meaningful and unequivocal understanding of their content and true meaning.⁸⁷

⁸⁴ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 76-77, 79. *See also* Defence Response to the "Prosecution's Tenth Application for the Submission of Facebook Evidence from the Bar Table" ICC-01/14-01/18-1956-Conf, 28 August 2023, ICC-01/14-01/18-2065-Conf (public redacted version notified on 8 March 2024, ICC-01/14-01/18-2065-Red) (the '[Ngaïssona Defence Response to the Prosecution's Tenth Facebook Bar Table Request](#)'), paras 8, 10; Defence Response to the "Prosecution's Seventeenth Application for the Submission of Facebook Evidence from the Bar Table" ICC-01/14-01/18-2062-Conf, 29 September 2023, ICC-01/14-01/18-2115-Conf (public redacted version notified on 8 March 2024, ICC-01/14-01/18-2115-Red) (the '[Ngaïssona Defence Response to the Prosecution's Seventeenth Facebook Bar Table Request](#)'), para. 9.

⁸⁵ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 54.

⁸⁶ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 54. *See also* Yekatom Response to "Prosecution's Seventh Application for Submission of Facebook Evidence from the Bar Table", 17 May 2023, ICC-01/14-01/18-1874, 21 July 2023, ICC-01/14-01/18-1996-Conf (with confidential Annex A, ICC-01/14-01/18-1996-Conf-AnxA) (the 'Yekatom Defence Response to the Prosecution's Seventh Facebook Bar Table Request'), paras 7-13.

⁸⁷ Yekatom Defence Response to the Prosecution's Seventh Facebook Bar Table Request, ICC-01/14-01/18-1996-Conf, paras 10-11; Yekatom Defence Response to 'Prosecution's Tenth Application for Submission of Facebook Evidence from the Bar Table', 25 July 2023, ICC-01/14-01/18-2005-Conf (the 'Yekatom Defence Response to the Prosecution's Tenth Facebook Bar Table Request'), paras 7-10.

153. The Ngaïssona Defence raises similar challenges, indicating that the Prosecution dedicated little time to testing the Facebook conversations and their alleged interpretations, and that the Prosecution Facebook Material is thus too unreliable to be used in a conviction.⁸⁸ In addition, both the Yekatom Defence and the Ngaïssona Defence argue that the Prosecution did not present a complete and objective characterisation of the content of the private Facebook messages, also failing to bringing to the attention of the Chamber ‘exculpatory messages’.⁸⁹
154. The Chamber considers that in the absence of a statement or testimony from an individual who participated in a Facebook exchange or authored a post, or otherwise has information about the contents, the related Facebook Material has little probative value. That being said, the Chamber does not consider it appropriate to adopt a presumption that ‘all messages are misinformation unless proven otherwise, given that individuals will often present unreliable information as fact’.⁹⁰ Instead, the Chamber considers it more appropriate to determine the reliability of the Facebook Material on a case-by-case basis in light of the available evidence – notably, the testimony of witnesses who could comment on the Facebook Material, as well as other relevant documents – and the submissions of the parties in its holistic approach.
155. Lastly, the Chamber notes the Ngaïssona Defence’s contention that the Prosecution’s use of its Facebook Material is ‘overly prejudicial’, given the timing of its submission which ‘adversely impacted the Defence ability to effectively prepare’, the fact that it was ‘barely

⁸⁸ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 80-88. See also [Defence Response to the “Prosecution’s Seventh Application for the Submission of Evidence from the Bar Table” ICC-01/14-01/18-1874-Conf](#), 21 July 2023, ICC-01/14-01/18-1999-Conf (public redacted version notified on 8 March 2024, ICC-01/14-01/18-1999-Red), paras 9-12, 16. See also Yekatom Defence Response to the Prosecution’s Seventh Facebook Bar Table Request, ICC-01/14-01/18-1996-Conf, para. 13.

⁸⁹ See Yekatom Defence Response to the Prosecution’s Seventh Facebook Bar Table Request, ICC-01/14-01/18-1996-Conf, para. 9; Yekatom Defence Response to the Prosecution’s Tenth Facebook Bar Table Request, ICC-01/14-01/18-2005-Conf, paras 7-13; [Yekatom Defence Response to ‘Prosecution’s Seventeenth Application for Submission of Facebook Evidence from the Bar Table’, ICC-01/14-01/18-2062-Conf](#), 28 September 2023, ICC-01/14-01/18-2112-Conf (public redacted version notified on 11 March 2024, ICC-01/14-01/18-2112-Red), paras 23-24; [Defence Response to the “Prosecution’s Seventh Application for the Submission of Evidence from the Bar Table” ICC-01/14-01/18-1874-Conf](#), 21 July 2023, ICC-01/14-01/18-1999-Conf (public redacted version notified on 8 March 2024, ICC-01/14-01/18-1999-Red), para. 8; Ngaïssona Defence Response to the Prosecution’s Tenth Facebook Bar Table Request, ICC-01/14-01/18-2065-Conf, paras 41-45; [Ngaïssona Defence Response to the Prosecution’s Seventeenth Facebook Bar Table Request](#), ICC-01/14-01/18-2115-Red, para. 39.

⁹⁰ See [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 83.

touched upon through oral testimony’, and that it contains a significant quantity of hearsay evidence.⁹¹

156. The Chamber recalls that the Prosecution requested the formal submission of its Facebook Material on 17 May, 3 July and 25 August 2023, respectively.⁹² The Chamber further recalls that the Single Judge shared the concerns expressed by the Defence in relation to the timing of the filing of bar table applications. However, the Chamber is of the view that it adopted appropriate measures in that regard,⁹³ and that the Ngaïssona Defence had sufficient time to review the disclosed material and adequately prepare for trial.⁹⁴

157. In addition, the Chamber notes that the Prosecution provided to the Defence detailed information regarding its approach to its Facebook Material in its Trial Brief,⁹⁵ and that the Ngaïssona Defence had the opportunity to and did rely on Facebook Material for the purposes of its examination of Prosecution witnesses since the early stages of trial.⁹⁶ In any event, as with any other documentary evidence, the Chamber will take into account in its assessment of the probative value of the Facebook Material whether a specific item has been subject to examination in court.

ii. Call Data Records

158. The Chamber recognised as formally submitted approximately 104 items related to call data records (the ‘CDR’), comprising call data, cell site items,⁹⁷ and call sequence tables (the ‘CST’) (together, the ‘CDR Material’).⁹⁸ The Chamber will briefly define each of these terms.

⁹¹ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 89-92.

⁹² Corrected version of ‘[Decision on the Seventh, Tenth and Seventeenth Prosecution Submission Requests from the Bar Table \(Facebook Evidence\)](#)’, 15 April 2024, ICC-01/14-01/18-2390-Corr, para. 1.

⁹³ See [Decision on the Ngaïssona Defence’s Request to dismiss in limine ICC-01/14-01/18-1874 and for orders concerning the Prosecution’s prospective bar table applications](#), 25 May 2023, ICC-01/14-01/18-1884, para. 22.

⁹⁴ The Chamber further notes that the Prosecution’s Facebook Material was disclosed to the Defence in March and August 2019, October and November 2020, and May and June 2021.

⁹⁵ See, in particular, Annex C to the Prosecution’s Trial Brief, 9 November 2020, ICC-01/14-01/18-723-Conf-AnxC.

⁹⁶ See e.g. the Ngaïssona Defence’s list of materials for the examination of Prosecution witnesses P-0801, P-2027, P-2673, P-2328, P-0884 and P-0965 (see, respectively, emails from the Ngaïssona Defence to the parties and participants from 21 May 2021, at 18:04; 31 May 2021, at 15:32; 2 June 2021, at 16:38; 2 July 2021, at 17:36; 14 July 2021, at 18:42; and 31 August 2021, at 11:59).

⁹⁷ See e.g. CDR, CAR-OTP-2002-4276.

⁹⁸ See e.g. CST, CAR-OTP-00036769.

159. CDR provide information about telecommunications,⁹⁹ such as the sending and receiving number, the type of communication (voice call or text message), the date, time and duration of the communication, the identification number ascribed to a particular mobile phone (the ‘handset’) and/or SIM card – respectively known as international mobile equipment identification number (the ‘IMEI’) and international mobile subscriber identity –, and the cell towers to which the handset connected.¹⁰⁰ Furthermore, CDR usually contain information as to which cell or cell site was used at the start and/or end of a connection.¹⁰¹
160. Cell site items contain information on the site name, cell name and the direction of the antennas that were capturing the telecommunication signal between the concerned devices.¹⁰² A cell site (or base transceiver station) contains a piece of equipment that receives and emits radio frequencies used by telephones to communicate with each other.¹⁰³ The cell is the basic unit of network coverage produced by the antenna of a single sector.¹⁰⁴ This information is significant to the extent that CDR generally do not contain the details of the antenna configuration or the cell site details such as the location or address.¹⁰⁵
161. The CDR and cell site items were obtained following the RFAs by the Prosecution¹⁰⁶ and the Yekatom Defence,¹⁰⁷ and were provided by the telecommunications companies Moov, Orange, MTN and Telecel.¹⁰⁸

⁹⁹ See e.g. CDR, CAR-OTP-2008-0480.

¹⁰⁰ D30-4864: T-272, p. 13, lines 9-24, p. 26, lines 12-25; D30-4864 Report, CAR-D30-0018-0001, at 0010-12. See also a glossary of terms in Annex to D30-4864 Report, CAR-D30-0018-0028, at 0036-37.

¹⁰¹ See e.g. CDR, CAR-OTP-2103-0675, at 0676.

¹⁰² See e.g. CDR, CAR-OTP-2002-4276.

¹⁰³ P-2973: T-241, p. 20, lines 1-14.

¹⁰⁴ Annex to D30-4864 Report, CAR-D30-0018-0028, at 0036.

¹⁰⁵ D30-4864 Report, CAR-D30-0018-0001, at 0011, para. 4.2.7.

¹⁰⁶ See Prosecution’s submission of call data records and related evidence via the “bar table”, 1 March 2022, ICC-01/14-01/18-1296 (with confidential Annexes A-D) (a corrigendum of Annex A was notified on 2 March 2022, ICC-01/14-01/18-1296-Conf-AnxA-Corr) (the ‘[Prosecution’s Third Bar Table Request](#)’), ICC-01/14-01/18-1296, para. 15, n. 14. The Chamber notes the Prosecution’s submission that all such RFAs were disclosed to the Defence; however, they are not recognised as formally submitted.

¹⁰⁷ See CDR, CAR-D29-0004-0003; CAR-D29-0004-3924. See also Annex A to the Yekatom Defence Fabrication of Evidence Bar Table Request, ICC-01/14-01/18-2611-Conf-AnxA, p. 117, entry 82.

¹⁰⁸ The Chamber also notes that some items were provided by the government of the CAR and by a certain ‘[REDACTED]’, who appears to be an employee or to be working at Orange at the time the Prosecution received such items. See e.g. CDR, CAR-OTP-2008-0482; CAR-OTP-2069-0479; CAR-OTP-2092-0021.

162. Lastly, CST consist of a work product prepared by the parties,¹⁰⁹ which provides a simplified version of the information contained in the CDR for its presentation in court.¹¹⁰
163. The majority of the CDR Material were submitted by the parties through requests to submit evidence in writing.¹¹¹ In addition, the Chamber recognised as formally submitted CDR and CST through witnesses throughout the trial, including under Rule 68(3) of the Rules.¹¹²
164. The Chamber further heard the testimonies of two witnesses from both the Prosecution and the Ngaïssona Defence with knowledge and/or expertise on CDR generally.

¹⁰⁹ See e.g. CST, CAR-OTP-00036769; CAR-D29-0004-0023.

¹¹⁰ D30-4864: T-272, p. 18, line 8 – p. 19, line 16. See also [Decision on the Ngaïssona Defence Requests in relation to the Third Prosecution Submission Request from the Bar Table \(Call Data Records\)](#), 6 May 2022, ICC-01/14-01/18-1392, para. 15.

¹¹¹ See [Prosecution's Third Bar Table Request](#), 1 March 2022, ICC-01/14-01/18-1296; [Decision on the Third Prosecution Submission Request \(Call Data Records\)](#), 5 July 2022, ICC-01/14-01/18-1499; [Prosecution's Sixteenth supplementary submission of call data records and related evidence via the "bar table"](#), 25 August 2023, ICC-01/14-01/18-2061 (with confidential Annexes A-C); [Decision on the Sixteenth Prosecution Submission Request from the Bar Table \(supplementary Call Data Records\)](#), 27 July 2023, ICC-01/14-01/18-2110; Yekatom Defence Request for the Formal Submission of Telecommunication Related Material, 28 June 2024, ICC-01/14-01/18-2562-Conf (with confidential Annexes A and B, ICC-01/14-01/18-2562-Conf-AnxA and ICC-01/14-01/18-2562-Conf-AnxB) (public redacted version notified on 23 August 2024, ICC-01/14-01/18-2562-Red) (the '[Yekatom Defence Telecommunications Bar Table Request](#)'); [Decision on the Fourth Yekatom Defence Request for Submission from the Bar Table \(Telecommunication Related Material\) and the Prosecution Request for Reconsideration concerning D30-4864](#), 19 August 2024, ICC-01/14-01/18-2641; [Yekatom Defence Fabrication of Evidence Bar Table Request](#), ICC-01/14-01/18-2611-Red; [Decision on the Fifth Yekatom Defence Request for Submission from the Bar Table \(Material Related to the Alleged Fabrication of Evidence\)](#), 13 September 2024, ICC-01/14-01/18-2687.

¹¹² See Decision on Submitted Materials for P-2841, email from the Chamber, 2 July 2021, at 14:07; Decision on Submitted Materials for P-0884, email from the Chamber, 21 October 2021, at 13:16; Decision on Submitted Materials for P-0965, email from the Chamber, 21 February 2022, at 08:42; Decision on Submitted Materials for P-0446, email from the Chamber, 12 October 2022, at 15:09; Decision on Submitted Materials for P-0954, email from the Chamber, 22 May 2023, at 15:53; Decision on Submitted Materials for P-1813, email from the Chamber, 1 June 2023, at 10:28; Decision on Submitted Materials for P-1647, email from the Chamber, 27 June 2023, at 14:37; Decision on Submitted Materials for P-0487, email from the Chamber, 27 September 2023, at 14:34; Decision on Submitted Materials for P-2018, email from the Chamber, 12 October 2023, at 15:03; Decision on Submitted Materials for D30-4197, email from the Chamber, 30 May 2024, at 12:11; Decision on Submitted Materials for D30-4864, email from the Chamber, 6 June 2024, at 12:58; Decision on Submitted Materials for D29-5013, email from the Chamber, 2 July 2024, at 16:24; Decision on Submitted Materials for D29-3014, email from the Chamber, 3 July 2024, at 9:48; Decision on Submitted Materials for D30-4504, email from the Chamber, 12 July 2024, at 11:21; Decision on Submitted Materials for D30-4679, email from the Chamber, 23 August 2024, at 16:02; Decision on Submitted Materials for D30-4608, email from the Chamber, 9 September 2024, at 16:51; Decision on Submitted Materials for D30-4848, email from the Chamber, 10 September 2024, at 9:46; [Request for the Submission of Expert Report and Associated Material pursuant to Rule 68\(3\)](#), 18 January 2024, ICC-01/14-01/18-2310-Conf (public redacted version notified the same day, ICC-01/14-01/18-2310-Red); Decision on the Ngaïssona Defence Request for Formal Submission of Expert Report and Associated Items Pursuant to Rule 68(3) of the Rules, 5 February 2024, ICC-01/14-01/18-2346 (the '[Decision on the Ngaïssona Defence Rule 68\(3\) Request for D30-4864](#)'); Second Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies pursuant to Rule 68(2)(b) of the Rules, 5 June 2023, ICC-01/14-01/18-1907-Conf (public redacted version notified the same day, ICC-01/14-01/18-1907-Red) (the '[Second Decision on Prosecution Requests under Rule 68\(2\)\(b\) of the Rules](#)'), paras 111-112, p. 62.

165. Ghislain N'Douba (P-2973) appeared before the Chamber without protective measures on 21 and 22 August 2023,¹¹³ and his prior recorded testimony was introduced under Rule 68(3) of the Rules.¹¹⁴ He is an employee from the telecommunications company Moov since 2005, which is based in the CAR, worked as a radio technician and network supervisor at the relevant time and at the time of his testimony, he was head of the equipment and project department.¹¹⁵ The witness testified mostly about the process by which CDR are created, including the generation, recording, storage and transfer of data, as well as issues related to the antennas and scope of coverage of the network. Although his testimony focused on the applicable procedures and practices at Moov, the witness also provided some evidence in relation to other telecommunications companies in general.
166. Duncan Brown (D30-4864) appeared as an expert witness before the Chamber and without protective measures from 27 February to 1 March 2024,¹¹⁶ and his prior recorded testimony was introduced under Rule 68(3) of the Rules.¹¹⁷ He is currently a full-time expert witness in the field of cell site analysis, telephone attribution, call data analysis and related topics.¹¹⁸ He testified mostly about the interpretation and analysis of CDR, including issues related to forensic integrity and data corruption, the transfer of CDR and their formats, common interpretation errors made by non-experts, the creation of CDR, attribution and cell site analysis, and CST.
167. The Ngaïssona Defence's general position is that the CDR material tendered by the Prosecution (the 'Prosecution CDR Material') should be dismissed as a matter of law, on the basis that it is unreliable.¹¹⁹ The Yekatom Defence in its closing brief makes submissions specifically with regard to certain aspects of the use of the Prosecution CDR Material, notably the issues of attribution, cell site analysis and CST, as well as the overall

¹¹³ P-2973: T-241; T-242.

¹¹⁴ P-2973 Statement, CAR-OTP-2122-9874-R01; P-2973 Corrections, CAR-OTP-00001717. See [Second Decision on Prosecution Requests under Rule 68\(2\)\(b\) of the Rules](#), ICC-01/14-01/18-1907-Red, paras 111-112, p. 62. See also P-2973: T-241, p. 5, lines 1-3.

¹¹⁵ P-2973: T-241, p. 5, line 14 – p. 6, line 6.

¹¹⁶ D30-4864: T-270; T-271; T-272; T-273.

¹¹⁷ D30-4864 Report, CAR-D30-0018-0001. See also [Decision on the Ngaïssona Defence Rule 68\(3\) Request for D30-4864](#), ICC-01/14-01/18-2346, para. 15, p. 8; D30-4864: T-270, p. 6, lines 8-10.

¹¹⁸ D30-4864 Report, CAR-D30-0018-0001, at 0005, paras 2.2.1, 2.2.6; D30-4864: T-270, p. 6, lines 16-22.

¹¹⁹ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 93.

interpretation of CDR.¹²⁰ Both Defence teams made similar arguments on these topics during the course of the trial.¹²¹ More specifically, the Chamber notes the Ngaïssona Defence’s argument that the Prosecution failed to authenticate its CDR material, and that CDR are not self-authenticating.¹²²

168. The Chamber also notes the Defence’s arguments concerning the probative value of the CST submitted into evidence by the Prosecution (the ‘Prosecution CST’).¹²³ In particular, the Yekatom Defence contends that the Prosecution submitted its CST ‘without transparently and fully explaining its process, [which] hampers the Chamber’s ability to recreate the process’, on the basis that analytical products produced for a party must be repeatable to allow for verification.¹²⁴ The Ngaïssona Defence also argues that the Prosecution CST are unreliable given the absence of any witness statement or testimony explaining how they were prepared, and that they contain inaccuracies.¹²⁵
169. In light of these arguments, the Chamber will first recall the main points from the testimonies of Ghislain N’Douba and Duncan Brown. It will then address the authenticity and reliability of the CDR and cell site items, as well as the parties’ submissions on the inferences that may be drawn from this evidence. Furthermore, taking into account the fact that the Ngaïssona Defence’s submissions concern a limited number of CST and the manner in which these were used in the proceedings – notably, to challenge the credibility of witnesses Brice Stanislas Mohi, Didier Ouebio, D30-4608 and D30-4848 –, the Chamber does not consider

¹²⁰ See [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 32-39.

¹²¹ See e.g. on the issue of attribution, Ngaïssona Defence Response to ‘Prosecution’s submission of call data records and related evidence via the “bar table”’ (ICC-01/14-01/18-1296), 13 May 2022, ICC-01/14-01/18-1409-Conf (with confidential Annexes A-C), paras 54-61. See. e.g. on the issue of cell site information, [Yekatom Defence Telecommunications Bar Table Request](#), ICC-01/14-01/18-2562-Red, paras 23-24.

¹²² [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 94-115.

¹²³ The Chamber notes that the Ngaïssona Defence mentioned CST, CAR-OTP-00036769; CAR-OTP-00036594, CAR-OTP-00036624 and CAR-OTP-00036627, but the submission of CAR-OTP-00036627 was rejected by the Chamber (see Decision on Submitted Materials for D30-4848, email from the Chamber, 10 September 2024, at 9:46). Furthermore, the Chamber notes that it also recognised as formally submitted another CST tendered by the Prosecution with ERN CAR-OTP-00036482 (see Decision on Submitted Materials for D30-4504, email from the Chamber, 12 July 2024, at 11:21).

¹²⁴ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 39.

¹²⁵ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 121-124.

it necessary at this point to rule on the probative value of the Prosecution CST in the abstract. The Chamber will address these arguments on a case-by-case basis.¹²⁶

170. The Chamber notes that telecommunications companies generate CDR with data that is automatically collected in the ordinary course of business.¹²⁷ The CDR from Moov register any communication, either phone calls or text messages, that is initiated by a particular number on the network.¹²⁸ The type of data that is collected includes the receiver of the communication, whether it consists of a call or text message, the date and time, the duration of the call, and any other information that is useful for the business reports of the company.¹²⁹ In its raw form, the data consists of a set of alphanumeric characters which then needs to be decoded by a programme in order to be readable by humans and used in a CDR.¹³⁰
171. In a CDR produced by Moov, the registration of a call begins when the receiver answers the call – that is to say, it excludes the ringing time – and stops in the event that the subscriber loses the signal from the network and thus cannot continue the communication.¹³¹ Furthermore, since CDR are used to record data for billing purposes, the operator does not register a communication that did not actually take place.¹³² The Chamber also takes note of Duncan Brown’s testimony that, in the event that a phone call is diverted, some networks would indicate this in some ways in their CDR, but others would not include any information of that kind, so that it would not be possible to tell whether the number has possibly been diverted.¹³³ The expert witness also indicated that it is possible that few connections may not be recorded by an operator due to technical errors, although that possibility seems rare.¹³⁴
172. Ghislain N’Douba indicated that Moov has a protocol for archiving data in digital archives, and that all other operators in the CAR are also required by regulatory requirements to store

¹²⁶ See section IV. below.

¹²⁷ P-2973: T-242, p. 5, lines 3-11. *See also* D30-4864: T-271, p. 21, lines 7-24.

¹²⁸ P-2973: T-241, p. 6, lines 7-21.

¹²⁹ P-2973: T-241, p. 6, line 22 – p. 7, line 5. *See also* D30-4864: T-272, p. 13, lines 9-24. *See also* D30-4864 Report, CAR-D30-0018-0001, at 0010-0011, paras 4.2.1-4.2.3.

¹³⁰ P-2973: T-242, p. 5, lines 3-11. *See also* D30-4864: T-271, p. 22, lines 8-15.

¹³¹ P-2973: T-241, p. 9, lines 9-21. The Chamber notes that other networks may include the ringing time in the duration of a call (*see* D30-4864: T-271, p. 28, lines 5-15).

¹³² P-2973: T-241, p. 9, line 23 – p. 10, line 5.

¹³³ D30-4864: T-271, p. 25, line 20 – p. 26, line 9, p. 27, lines 4-8.

¹³⁴ D30-4864: T-272, p. 14, line 19 – p. 15, line 3; D30-4864 Report, CAR-D30-0018-0001, at 0014, para. 4.6.3.

the data for a certain time, beyond which there is no further obligation. At Moov, the transfer of the data to the archives is done automatically to ensure that it is carried out properly and completely.¹³⁵ The control mechanisms put in place to ensure that the production of CDR is well executed are also automated,¹³⁶ and specialised staff ensure that CDR are properly collected and that the decoding process is executed correctly.¹³⁷ The Chamber also notes Duncan Brown's testimony that networks record slightly different information into their databases, and that each operator tends to have CDR that look different.¹³⁸

173. As regards the generation of CDR, they can be produced for billing and tax purposes, as well as for legal purposes, which is the reason why they need to be as accurate and reliable as possible.¹³⁹ Ghislain N'Douba further indicated that the generation of such data is common to all telephone companies in the CAR, since their business model is always based on this data.¹⁴⁰ Importantly, he also explained that the collection of data for billing purposes is different from litigation or legal purposes.¹⁴¹ The CDR produced for invoicing purposes contain information that is limited to what is necessary for the client, omitting certain details such as the location of the call.¹⁴²
174. As regards their electronic format, CDR can be transmitted to the requesting party in an Excel, text or readable format, or in their raw or binary form. This raw form cannot be altered by either the network or the requesting party, and guarantees the authenticity of the information after the decoding process, since Excel formats can be modified.¹⁴³ A PDF version can also be provided to ensure that the Excel format contains the same data, but in order to facilitate the analysis, Excel or 'comma separated values' (the 'CSV') formats are

¹³⁵ P-2973: T-241, p. 10, lines 7-21. *See also* D30-4864 Report, CAR-D30-0018-0001, at 0012, para. 4.3.

¹³⁶ P-2973: T-241, p. 11, line 14 – p. 12, line 4. *See also* D30-4864: T-271, p. 23, lines 5-19.

¹³⁷ P-2973: T-242, p. 5, lines 3-11. *See also* D30-4864: T-271, p. 23, lines 20-25.

¹³⁸ D30-4864: T-271, p. 24, lines 1-9.

¹³⁹ P-2973: T-241, p. 7, line 13 – p. 8, line 6. *See also* D30-4864 Report, CAR-D30-0018-0001, at 0003, para. 1.2.1, at 0012, para. 4.3.

¹⁴⁰ P-2973: T-241, p. 7, lines 8-12.

¹⁴¹ From a terminological point of view, the Chamber notes that Duncan Brown distinguishes, on the one hand, between a CDR as a product created for litigation purposes and, on the other hand, records or documents containing billing and management data created by the network, whereas Ghislain N'Douba makes no distinction and refers to CDR as products that are also generated and used for the business purposes of the company. The Chamber will use the term CDR to refer to any such item of evidence before it, regardless of the purpose for which it was created (*see also* D30-4864: T-271, p. 19, line 20 – p. 20, line 6).

¹⁴² P-2973: T-242, p. 9, line 25 – p. 10, line 22, p. 27, lines 10-18.

¹⁴³ P-2973: T-242, p. 11, line 13 – p. 12, line 2. *See also* D30-4864 Report, CAR-D30-0018-0001, at 0012, para. 4.4.3.

most commonly requested.¹⁴⁴ The Chamber also notes Duncan Brown's testimony that in order to prevent a CDR file being corrupted during the analysis, best practices recommend that a copy be made before an investigator works on it. However, he also indicated that re-saving a CDR file by someone who did not produce it would not necessarily corrupt the data.¹⁴⁵ In this regard, the Chamber notes the Prosecution's submission that its CDR were obtained through a series of RFAs in text, CSV and Excel formats.¹⁴⁶

175. Ghislain N'Douba further testified on the location of the Moov cell towers, explaining that, in Bangui, in 2013 and 2014, the range of relay of the antennas was generally set at 1 to 2 kilometres in order to avoid interference between them.¹⁴⁷ Outside of Bangui, the range can reach up to 20 kilometres but may still vary based on geographical and meteorological conditions.¹⁴⁸ Each cell site may be divided into sectors, each of which has an antenna¹⁴⁹ that transmits its signal over a certain area and direction in an attempt to provide the best server coverage.¹⁵⁰ The angle or degree at which the antenna on the cell tower is pointed is known as an azimuth.¹⁵¹ All companies have information on the areas covered by each antenna, for both technical and commercial reasons.¹⁵² Even when not being used, a handset communicates regularly with the network so that it knows at all times where the telephone is located.¹⁵³ As to cell site items, the Chamber notes Duncan Brown's evidence that networks typically maintain a separate cell site information database that will be used for cell site planning and should be updated with any changes to the cells or cell sites.¹⁵⁴
176. The Chamber further notes that handsets normally connect to the strongest signal that is best for establishing communications,¹⁵⁵ and that CDR from all telecommunications companies

¹⁴⁴ P-2973: T-242, p. 21, line 18 – p. 22, line 1, p. 26, lines 17-23. *See also* D30-4864 Report, CAR-D30-0018-0001, at 0012, para. 4.4.2; D30-4864: T-270, p. 11, line 8 – p. 12, line 5, p. 29, lines 10-17, p. 30, line 14 – p. 31, line 6.

¹⁴⁵ D30-4864: T-271, p. 11, lines 12-22.

¹⁴⁶ [Prosecution's Third Bar Table Request](#), ICC-01/14-01/18-1296, paras 15-16.

¹⁴⁷ P-2973: T-241, p. 13, line 15 – p. 14, line 5, p. 42, line 9 – p. 43, line 9.

¹⁴⁸ P-2973 Statement, CAR-OTP-2122-9874-R01, at 9879, paras 43-44.

¹⁴⁹ P-2973: T-241, p. 21, line 13 – p. 22, line 3. *See also* Report, CAR-D29-0003-0189, at 0189.

¹⁵⁰ D30-4864: T-272, p. 31, lines 2-17.

¹⁵¹ P-2973: T-241, p. 15, line 14 – p. 16, line 10.

¹⁵² P-2973: T-241, p. 17, lines 7-13. *See also* D30-4864 Report, CAR-D30-0018-0001, at 0012, para. 4.2.8.

¹⁵³ P-2973: T-241, p. 23, line 23 – p. 24, line 3.

¹⁵⁴ D30-4864 Expert Report, CAR-D30-0018-0001, at 0012, para. 4.2.8.

¹⁵⁵ P-2973: T-241, p. 24, lines 8-11. *See also* D30-4864: T-272, p. 41, line 21 – p. 42, line 23.

always reflect the cell site or sector that was actually used to make or receive a call.¹⁵⁶ It is also possible that, in certain conditions, there exists an overlap in coverage so that a CDR can show that a telephone was connected to a different cell while remaining on the same spot.¹⁵⁷ The Chamber notes Ghislain N'Douba's testimony that this is not necessarily a deviation that would call into question the reliability of the data contained in the CDR.¹⁵⁸ The serving cell for a particular call is actually not always the closest one geographically to that handset.¹⁵⁹ Depending on the technology used by a telecommunications company, the size of the area covered by a cell may vary,¹⁶⁰ but the Chamber notes that, normally, in urban centres, deviations are considerably smaller as opposed to rural areas, where there are not that many antennas.¹⁶¹

177. Furthermore, as a result of coverage overlap, other neighbouring cells can provide service in the event that a cell fails because of power shortages or damage to the hardware,¹⁶² or because of saturation or overloading at a given moment.¹⁶³ Ghislain N'Douba also explained that if a call that is underway happens to be transferred, only the initial cell covering a certain area will appear in a CDR, not the cell to which it was ultimately transferred.¹⁶⁴ Additionally, in cases of congestion, if no channel is available, the call will then start already from another cell – even if the caller is geographically closer to the antenna of the cell which would normally provide service –, and that is the cell that will appear in a CDR.¹⁶⁵
178. Duncan Brown also explained that even if a CDR shows that a handset used a specific cell to place a call, no expert can pinpoint where the handset was specifically located within the

¹⁵⁶ P-2973: T-241, p. 25, lines 3-7.

¹⁵⁷ P-2973: T-241, p. 27, lines 6-16, 20-25.

¹⁵⁸ P-2973: T-241, p. 38, lines 1-16.

¹⁵⁹ P-2973: T-241, p. 33, lines 10-18.

¹⁶⁰ P-2973: T-241, p. 42, line 8 – p. 43, line 9.

¹⁶¹ P-2973: T-241, p. 39, line 15 – p. 40, line 10.

¹⁶² P-2973: T-241, p. 50, lines 14-24.

¹⁶³ P-2973: T-241, p. 54, lines 12-17, p. 60, lines 19-25. *See also* D30-4864: T-272, p. 44, line 14 – p. 45, line 1, p. 45, line 18 – p. 46, line 14.

¹⁶⁴ P-2973: T-241, p. 56, lines 14-25.

¹⁶⁵ P-2973: T-241, p. 57, line 24 – p. 58, line 19.

extent of coverage of the cell used.¹⁶⁶ This means that a person could be located several kilometres away from that cell site location.¹⁶⁷

179. Moreover, the Chamber notes the testimony of Duncan Brown in relation to the issue of attribution, who indicated the existence of a series of elements that are relevant for the potential determination of phone ownership or usage which may be considered as part of an attribution process.¹⁶⁸ Attribution relies on a combination of elements, and some carry a greater weight than others.¹⁶⁹ Duncan Brown indicated that some elements¹⁷⁰ can be analysed or interpreted without the assistance of an expert and in light of other evidence available before it.¹⁷¹ It may be possible to conclusively attribute a phone number even in the absence of a technical analysis, although the strength of that conclusion would depend on the available evidence and the circumstances of each of these attribution elements.¹⁷²
180. The attribution process does not require that all elements be verified, but it will be ultimately strengthened if they all point in the same direction and corroborate each other, although no single element would provide an absolute attribution.¹⁷³ Certain aspects of the attribution process can show an indirect association rather than a direct attribution.¹⁷⁴ At the same time, attention must be paid to potential elements of dis-attribution, in other words, evidence that weakens a potential attribution.¹⁷⁵ Furthermore, however strong an overall attribution may be, it can only establish who is likely to be the ‘usual holder’ or ‘primary user’ of a particular

¹⁶⁶ D30-4864 Expert Report, CAR-D30-0018-0001, at 0016, para. 4.9.1; D30-4864: T-272, p. 41, lines 13-16.

¹⁶⁷ D30-4864 Expert Report, CAR-D30-0018-0001, at 0016, para. 4.9.6; D30-4864: T-271, p. 50, lines 9-20, p. 51, line 24 – p. 52, line 11. *See also* D30-4864 Expert Report, CAR-D30-0018-0001, at 0025, paras 5.3.12-5.3.13.

¹⁶⁸ *See* D30-4864 Expert Report, CAR-D30-0018-0001, at 0017, para. 4.10.2.

¹⁶⁹ D30-4864: T-271, p. 33, line 19 – p. 34, line 4. *See also* D30-4864: T-272, p. 28, line 23 – p. 29, line 13.

¹⁷⁰ These elements consist of possession of a handset and of a SIM card, subscriber checks, contact lists of associated phones, handset IMEI usage, contact with family friends and other nominated numbers, overnight at address, most used cells at home address, first and last call and/or cell, concurrent calls, police systems and witnessed associations. On the contrary, elements that would require expert analysis include handset/SIM card contact book and text messages analysis, top up/payment and call records contact analysis, cell site analysis, geographic separation, potential co-location, and automatic number-plate recognition.

¹⁷¹ *See* D30-4864: T-271, p. 35, lines 11-21, p. 36, line 18 – p. 37, line 11.

¹⁷² D30-4864: T-271, p. 40, lines 11-21. *See also* D30-4864: T-272, p. 21, line 18 – p. 22, line 9, p. 27, lines 2-7.

¹⁷³ D30-4864 Expert Report, CAR-D30-0018-0001, at 0017, para. 4.10.1; D30-4864: T-271, p. 33, line 19 – p. 34, line 6, p. 38, line 21 – p. 40, line 3, p. 41, lines 23-24.

¹⁷⁴ D30-4864: T-272, p. 19, line 18 – p. 20, line 16.

¹⁷⁵ D30-4864: T-271, p. 46, line 15 – p. 47, line 12; D30-4864 Expert Report, CAR-D30-0018-0001, at 0017, para. 4.10.3. *See also* D30-4864: T-272, p. 24, line 21 – p. 25, line 8.

handset and can never determine who actually had the telephone ‘in hand’ at a particular time or for any specific communication.¹⁷⁶

181. The Chamber will now address the Ngaïssona Defence’s submissions concerning the authenticity and reliability of the Prosecution CDR Material.
182. The Chamber is not convinced by the Ngaïssona Defence’s arguments that the Prosecution CDR Material is not authentic. The Chamber has no reason to doubt that the CDR and cell site items obtained from the respective networks correspond to what was requested by the Prosecution in its RFAs, nor the validity of the respective chains of custody as reflected in the metadata. Furthermore, the Chamber notes that the Ngaïssona Defence questions the authenticity of the Prosecution CDR Material by referring to the lack of factual or expert testimony on the nature, authorship and process by which the CDR were generated. However, the Chamber is of the view that these submissions appear to concern rather whether the Prosecution CDR Material can be deemed sufficiently reliable or accurate, as well as the manner in which the Chamber may or should interpret them.¹⁷⁷ In addition, the Chamber considers in this instance that the potential disparities in formats of the CDR or the fact that some may have been generated for billing, tax or litigation purposes do not have an impact overall on the authenticity of the CDR. In this regard, the Chamber is of the view that these differences do not necessarily mean that some CDR ‘are more genuine’ or more authentic than others.
183. Moreover, the Chamber understands from the evidence of Ghislain N’Douba and Duncan Brown that CDR and cell site items can be generally presumed reliable, having regard to the fact that they contain information that was automatically generated and that their accuracy serves the networks’ best interests, the manner in which they were stored and transmitted without evidence of tampering, and the involvement of persons with sufficient knowledge or technical expertise in the production process of the CDR. However, this presumption can

¹⁷⁶ D30-4864 Expert Report, CAR-D30-0018-0001, at 0017, para. 4.10.4.

¹⁷⁷ See [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 98-99, 103-108.

be rebutted by the parties, for instance by showing specific examples of irregularities in the collection, storing, formatting and/or transmission of the evidence.¹⁷⁸

184. The Chamber considers that it is sufficiently informed about the process generally involved in the production of CDR and cell site items, despite only having received evidence related to the material provided by Moov.¹⁷⁹ In its view, additional information about the procedures at Orange and Telecel is not necessary in this instance to appreciate the process in which CDR and cell site items are produced generally or to presume their reliability.¹⁸⁰
185. The Chamber therefore rejects the Ngaïssona Defence's submissions on the lack of authenticity and reliability of the CDR and cell site items.¹⁸¹
186. That being said, the Chamber considers that generally the probative value of the CDR and cell site items is low and will rely on them, if at all, taking into account the submission of the parties and all of the available evidence in its holistic approach.
187. The Chamber will now turn to its conclusions on the issues of attribution, existence of communications and content thereof, as well as the geographic location of interlocutors.
188. Based on the testimonies of Ghislain N'Douba and Duncan Brown, the Chamber considers that CDR alone are insufficient to conclusively attribute a phone number to an individual. Rather, additional extrinsic evidence is necessary to demonstrate attribution. In this regard, the Chamber notes that sometimes witnesses provided phone numbers in statements or during testimony, or that phone numbers were discovered as being saved or registered as

¹⁷⁸ See e.g. Annex A.10 to the Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA.10. As to the specific submissions raised by the Ngaïssona Defence concerning the reliability of CAR-OTP-2112-1395, which is a CDR from Moov, the Chamber will address them further below if it relies on this CDR (see [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 116-120).

¹⁷⁹ The Chamber recalls that it rejected a request by the Prosecution to introduce the prior recorded testimony of P-2687, who worked as [REDACTED], under Rule 68(3) of the Rules on the basis that it did not consider it in the interest of the expeditiousness of the proceedings to hear two witnesses testifying on issues related to CDR, further noting that the issues on which P-2687 and P-2973 were expected to testify were substantially similar, see [Decision on the CLRV Leave to Present Evidence](#), ICC-01/14-01/18-2016-Red, paras 52-54, p. 22.

¹⁸⁰ The Chamber notes that MTN is a company that is based in Cameroon. Given the possibility that different regulations or practices concerning the collection of CDR may apply, compared to the CAR, the Chamber cannot pronounce itself on the authenticity or reliability of CAR-OTP-2103-0675.

¹⁸¹ See [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 93-120, 125-130. See also [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 33.

contacts in a specific handset belonging to an individual.¹⁸² Unless the witnesses themselves gave or recognised a phone number, further information may be needed to determine attribution.

189. Relatedly, the Chamber also considers that the CDR alone are not conclusive as to whether a communication occurred between specific individuals. In certain instances, witnesses admitted or refuted having placed a phone call when confronted with a CDR.¹⁸³ The Chamber also understands from the evidence before it that it may have been possible that a handset was shared by more than one person, that a call was made through another phone number or received by someone else who also had access to that particular handset.
190. Furthermore, the Chamber considers that in the event a CDR shows that a call was placed between individuals, that evidence alone cannot definitively prove that said individuals effectively engaged in a conversation. Conversely, an absence of CDR evidence does not exclude the possibility that a communication actually took place by other means or devices. Consequently, CDR alone also cannot depict with accuracy the frequency of communications between individuals. Similarly, the length of a call alone is not necessarily reflective of a conversation taking place.
191. As to the content of phone calls, CDR themselves do not offer information thereon, but must be read together with the witness's testimony about said phone call. If no witness provided evidence about the existence of a phone call, no conclusion can be drawn on the content by solely relying on the CDR.
192. Lastly, having regard to the limitations mentioned by Ghislain N'Douba and Duncan Brown discussed above, the CDR and cell site items alone cannot conclusively show a person's exact geographic location.
193. In light of the above, the Chamber will assess the CDR and cell site items, if at all, on a case-by-case basis, depending on the inference sought by the parties, having regard to the totality of the evidence before it, as referenced in the following sections of this judgment.

¹⁸² See e.g. P-0808 Statement, CAR-OTP-2093-0010-R02, at 0037, paras 151, 143.

¹⁸³ See section IV. below.

2. *Assessment of individual witnesses' credibility*

i. *General considerations*

194. The testimonial evidence in the present case consists of: the testimony of 37 witnesses given *viva voce* before the Chamber; the prior recorded testimony of 61 number of witnesses introduced pursuant to Rule 68(3) of the Rules; and the prior recorded testimony of 77 number of witnesses introduced pursuant to Rule 68(2)(b), (c) or (d) of the Rules.
195. As recalled, a total of 98 witnesses testified live before the Chamber in the present case.¹⁸⁴ On a number of occasions, the Chamber allowed the introduction, under Rule 68(3) of the Rules, of the prior recorded testimony of some of these witnesses who testified live before it and did not object to such introduction – with both parties having the opportunity to examine them in court. In these instances, the recorded statement complements and forms an integral part of the witness's *viva voce* testimony, and the Chamber has accordingly considered the prior recorded testimony together with and in the light of the witness's testimony given in court, and vice versa.
196. Further, the Chamber allowed the introduction, pursuant to Rule 68(2)(b), (c) or (d) of the Rules, of the prior recorded testimony of a total of further 77 witnesses.¹⁸⁵ The Chamber has assessed these for the purpose of the present judgment, together with all the other evidence submitted and discussed at trial. Besides the other relevant considerations generally applicable to the assessment of testimonial evidence as set out below, in its evaluation of the prior recorded testimony introduced under Rule 68(2)(b) or (c) of the Rules, the Chamber also considered that the witnesses did not testify before the court and that the non-tendering party did not have the opportunity to examine them. Like with any other type of evidence submitted before it, the Chamber has considered the arguments made by the participants concerning the relevance and probative value of this testimonial evidence made in the course

¹⁸⁴ 75 of these witnesses were called by the Prosecution, 19 by the Defence, three by the participating victims through their legal representatives, and one by the Chamber.

¹⁸⁵ The prior recorded testimony of 39 witnesses was introduced by the Prosecution and 37 by the Defence. 10 prior recorded testimonies were introduced under Rule 68(2)(c) of the Rules upon request by the Prosecution and 2 upon request by the Defence. The prior recorded testimony of one witness was introduced under Rule 68(2)(d) of the Rules upon request by the Prosecution.

of the trial for the purpose of the present judgment and are explicitly addressed, as appropriate.

197. For the purposes of its assessment of the reliability of any witness's testimony, the Chamber considered a number of different factors, including the richness of details and coherence of the narrative provided by the witness, as well as the coherence of the testimony with other evidence before the Chamber.
198. The Chamber has also considered the coherence between in-court testimony and their prior accounts in relation to the same facts. In particular, the Chamber notes that throughout the trial, witnesses who testified fully live before the Chamber have often been asked questions in relation to prior accounts they gave in other contexts. Prior accounts were typically put to witnesses in two distinct situations: (i) when a witness declared themselves unable to respond to a question, in which case a prior account was used to refresh their memory; and (ii) in case of an alleged discrepancy between in-court testimony and a prior account.
199. In both cases, the witnesses were then given an opportunity to express themselves on the accuracy and truthfulness of their prior account, and the relevant part of such account, as read out in court, was incorporated into the testimony.¹⁸⁶ In case of a discrepancy between an in-court testimony and a prior account, the Chamber has carefully considered the content and circumstances in which such prior account had been made, including, but not limited to, its context, purpose and the (expected) level of details, as well as any explanation for such discrepancy as provided by the witness in court.
200. Amongst the relevant factors in the Chamber's assessment of testimonial evidence is also the consideration whether and to what extent the witness is, or is not, in position to provide certain information and the source of their knowledge.¹⁸⁷ This is particularly the case in those

¹⁸⁶ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 256 referring to [Bemba et al. Appeals Judgment](#), ICC-01/05-01/13-2275-Red, para. 307. See also, more generally, paras 305-308. This limitation on the reliance on testimonial accounts previously given by a witness outside in-court testimony did not apply to prior recorded testimony, provided by witnesses who testified live before the Court, introduced under Rule 68(3) of the Rules, and thus constituting evidence which, in its totality, 'can be relied upon by the chamber in its determination of the facts at issue'. See also [Al Hassan Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 38.

¹⁸⁷ See also [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 24-31.

instances where the Chamber is faced with competing versions of events, and therefore has to determine which evidence it considers more probative.¹⁸⁸

201. The Chamber also took into account the individual circumstances of the witness, including their relationship to the accused, age, the provision of assurances against self-incrimination, indication of bias against the accused or lack thereof, as well as motives for telling the truth.¹⁸⁹ The Chamber considers that witnesses who suffered trauma or were children at the time of the events may also have had difficulty in providing a coherent and complete account, and the Chamber made appropriate allowance for imprecisions or contradictions.¹⁹⁰ The Chamber was also mindful and taken due account of the fact that, given the passage of time, the memory of some witnesses may have faded with regard to certain details.¹⁹¹
202. Further factors which might also have an influence on the Chamber's assessment of evidence given by witnesses who testified live are its immediate impression of the witness during their testimony, the witness's demeanour and bearing when testifying in court, willingness to respond to questions and spontaneity of their answers when responding.¹⁹²
203. Finally, the Chamber clarifies that the considerations expressed above can by no means be considered an exhaustive list of factors, or a 'check-list' of requirements for a witness to be

¹⁸⁸ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 257 referring to ICTR, Appeals Chamber, *The Prosecutor v. Yussuf Muniyazi*, [Judgement](#), 28 September 2011, ICTR-97-36A-A, para. 118; ICTR, Appeals Chamber, *Tharcisse Muvunyi v. The Prosecutor*, [Judgement](#), 1 April 2011, ICTR-2000-55A-A, para. 57; ICTR, Appeals Chamber, *Mikaëli Muhimana v. The Prosecutor*, [Judgement](#), 21 May 2007, ICTR-95-1B-A, para. 103; ICTR, Appeals Chamber, *Sylvestre Gacumbitsi v. The Prosecutor*, [Judgement](#), 7 July 2006, ICTR-2001-64-A, para. 81; ICTR, Appeals Chamber, *Georges Anderson Nderubumwe Rutaganda v. The Prosecutor*, [Judgement](#), 26 May 2003, ICTR-96-3-A, paras 29, 501. See also [Al Hassan Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 39.

¹⁸⁹ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 258 referring to Trial Chamber VII, *The Prosecutor v. Jean-Pierre Bemba Gombo et al.*, Judgment pursuant to Article 74 of the Statute, 19 October 2016, ICC-01/05-01/13-1989-Red ('[Bemba et al. Trial Judgment](#)'), para. 202; Trial Chamber II, *The Prosecutor v. Mathieu Ngudjolo Chui*, Judgment pursuant to Article 74 of the Statute, 18 December 2012, ICC-01/04-02/12-4, para. 51; Trial Chamber I, *The Prosecutor v. Thomas Lubanga Dyilo*, Judgment pursuant to Article 74 of the Statute, 14 March 2012, ICC-01/04-01/06-2842 (the '[Lubanga Trial Judgment](#)'), para. 106. See also [Al Hassan Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 41.

¹⁹⁰ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 258 referring to [Bemba et al. Trial Judgment](#), ICC-01/05-01/13-1989-Red, para. 203; Trial Chamber II, *The Prosecutor v. Mathieu Ngudjolo Chui*, Judgment pursuant to Article 74 of the Statute, 18 December 2012, ICC-01/04-02/12-4, para. 53. See also [Al Hassan Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 41.

¹⁹¹ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 258 referring to [Bemba et al. Trial Judgment](#), ICC-01/05-01/13-1989-Red, para. 203. See also [Al Hassan Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 40.

¹⁹² [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 259. See also [Al Hassan Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 40.

relied upon. Any assessment of testimonial evidence, like of any other type of evidence, is in fact dependent on the specific circumstances at hand. Each claim made by a witness is assessed individually, while, at the same time, considering, holistically, the entire body of evidence available to the Chamber. Accordingly, the same witness may be reliable in one part of their testimony, but not in another.¹⁹³

ii. Specific credibility assessments

204. The Chamber considered that not all the witnesses who provided evidence in this case required an assessment of the credibility of their evidence, separate to the holistic assessment made, in any event, in the context of the evidentiary analysis below.¹⁹⁴

205. Below, the Chamber sets forth its general considerations with respect to some specific witnesses to the extent that the Chamber considered that the nature and extent of their testimonies, or the volume of issues relating to credibility and reliability, necessitated a more detailed analysis.¹⁹⁵ The Chamber emphasises that these assessments were based on the totality of the evidence before the Chamber. These must be read in conjunction with the evidentiary analysis further below in the present judgment. Indeed, specific aspects affecting the credibility of a number of witnesses and the relevance of their testimony to the Chamber deciding on the charges against the accused are addressed, as appropriate, in the relevant evidentiary analysis further below.

¹⁹³ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 260 referring to [Ngudjolo Appeals Judgment](#), ICC-01/04-02/12-271-Corr, para. 168. See also [Al Hassan Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 37, 43.

¹⁹⁴ See e.g. P-0287, P-0952, P-1528, P-1577, P-2682.

¹⁹⁵ The Chamber notes the Yekatom Defence's submissions concerning the assessment of the credibility of witnesses who were allegedly the target of interference (see [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 14). The Chamber considers that such allegations had no bearing on the Chamber's assessment of the credibility of the witnesses concerned.

a. High-level Insiders

i. P-0306

206. P-0306, a former Anti-Balaka, testified fully live with in-court protective measures,¹⁹⁶ and with the assistance of counsel appointed pursuant to Rule 74 of the Rules.¹⁹⁷
207. P-0306 was a civilian [REDACTED] in 2013 and joined the Anti-Balaka in Gobere in 2013, participated in the attacks in September 2013, including the attack on Bouca, and then advanced with his group to Bangui to participate in the attack on Bangui on 5 December 2013. At the time of his testimony, P-0306 was [REDACTED].¹⁹⁸
208. The Prosecution and the Ngaïssona Defence rely on limited parts of P-0306's evidence.¹⁹⁹ At the same time, the Ngaïssona Defence submits that evidence before the Chamber shows that P-0306 was a '[REDACTED]'.²⁰⁰ It alleges that P-0306 had reasons to incriminate Mr Ngaïssona, fabricated evidence, and was coached to do so.²⁰¹ It submits that P-0306's account evolved from no mention of Mr Ngaïssona in 2018 to heavily incriminating him in 2019.²⁰²
209. The Ngaïssona Defence raises several inconsistencies in P-0306's testimony.²⁰³ In particular, it submits that P-0306's 'narrative on the Bouca attack' 'diverges from other witnesses' accounts concerning the timing and circumstances of the onset of the fighting.²⁰⁴ It submits that P-0306's evidence concerning Mr Ngaïssona [REDACTED] lacked credibility and gave

¹⁹⁶ P-0306: T-064; T-065; T-066; T-067; T-068; Decision on the Prosecution Requests for In-Court Protective Measures for 73 Trial Witnesses, 9 March 2021, ICC-01/14-01/18-906-Conf-Exp, confidential *ex parte*, only available to the Prosecution and the VWU (confidential redacted version notified the same date; public redacted version notified on 19 April 2021, ICC-01/14-01/18-906-Red) (the '[Decision on In-Court Protective Measures](#)'), paras 33-34, p. 41. [REDACTED]

¹⁹⁷ Decision on the Prosecution Request for Appointment of Duty Counsel, 29 January 2021, ICC-01/14-01/18-857 (the '[Decision on the Appointment of Duty Counsel](#)'); [Notification of the appointment of Mr Jean Pierre Madoukou as Legal Adviser to Witness P-0306](#), 30 August 2021, ICC-01/14-01/18-1101 (with confidential Annexes I and II).

¹⁹⁸ P-0306: T-064, p. 10, lines 6-24. See also Decision on In-Court Protective Measures, ICC-01/14-01/18-906-Conf-Exp, para. 34.

¹⁹⁹ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, paras 230, 236, 246, 249, 253, 544, 546-547; [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 215, 218, 492, 496.

²⁰⁰ Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, para. 13.

²⁰¹ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 13, 15-16.

²⁰² [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 14.

²⁰³ Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, paras 14-15.

²⁰⁴ Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, para. 220.

an impression of a pre-rehearsed narrative, lacking the details and nuances expected from a witness who lived through the events.²⁰⁵ The Ngaïssona Defence argues that P-0306's account of Mr Ngaïssona giving military instructions also lacked credibility, was 'remarkably vague', and exemplifies P-0306's exaggerated and uncorroborated claims about Mr Ngaïssona.²⁰⁶

210. At the outset, the Chamber notes that the Ngaïssona Defence's submissions about P-0306 being [REDACTED] person did not feature in the assessment of the credibility of his evidence below. In the view of the Chamber, such character traits have no meaningful relation with the credibility of the information provided by a witness; they also do not indicate a tendency to lie on oath.
211. Bearing this in mind and having reviewed it in light of the Ngaïssona Defence's arguments, the Chamber finds that P-0306's testimony is, nonetheless, generally credible. P-0306 had firsthand information about the participation of his group in the attacks on Bouca and Bangui, and was forthcoming and appeared sincere about the details of his own involvement. P-0306 recognised [REDACTED],²⁰⁷ and explained the contents of this video as well as the characters featured in it.²⁰⁸
212. Further, the Chamber considers that P-0306 did not show a tendency to incriminate Mr Ngaïssona at all costs and therefore his testimony did not reflect a bias against Mr Ngaïssona or the Anti-Balaka generally. For example, when asked how he and his group armed, P-0306 did not implicate Mr Ngaïssona in the supply of weapons and described how he obtained his AK-47 and ammunition from the Seleka that he killed.²⁰⁹ P-0306 was also clear that he only got to know Mr Ngaïssona as the 'general coordinator' when they met in Bangui in 2014.²¹⁰ Related to the allegations that Mr Ngaïssona provided money to the elements during their advance to Bangui before 5 December 2013, P-0306 said that while

²⁰⁵ Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, paras 450-452.

²⁰⁶ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 526.

²⁰⁷ P-0306: T-065, p. 20, line 13 – p. 23, line 15 *referring to* Video, CAR-OTP-2049-0141.

²⁰⁸ P-0306: T-065, p. 25, line 14 – p. 27, line 14, p. 28, lines 14-25.

²⁰⁹ P-0306: T-064, p. 23, line 13 – p. 24, line 24, p. 73, lines 9-24. *See also* T-065, p. 23, line 16 – p. 24, line 19, p. 26, lines 13-18.

²¹⁰ P-0306: T-064, p. 50, lines 16-24.

money was promised to him and his group, they did not receive it.²¹¹ Similarly, in the context of the allegations that FACA members trained civilian elements prior to the attack on Bangui, P-0306, when asked about being trained to use weapons, said that '[n]obody' taught them, they simply observed what needed to be done to pull the trigger and do whatever they observed others doing, and 'simply proceeded by observation and imitation'.²¹²

213. In the view of the Chamber, P-0306 was clear when he could not provide precise details and admitted to forgetting exact dates. For example, P-0306, when asked how many people accompanied Konaté [REDACTED], said that they were numerous but that he could not provide 'a precise figure' of people.²¹³ P-0306, when asked about the size of his group, said that it was 'difficult to give [...] a number of people who were fighting'.²¹⁴ P-0306, asked about when his group arrived close to Bangui in 2013, said that they remained there 'for about a month' before December but that he could not be 'very specific as to the date on which [they] arrived'.²¹⁵

214. Nonetheless, the Chamber noted that certain portions of his testimony were not consistent with other evidence received by the Chamber. However, in its view and in any event, these inconsistencies were not such that they rendered his testimony wholly unreliable. For example, P-0306 testified about [REDACTED],²¹⁶ but then did not recognise an individual in a photograph which, according to the Ngaïssona Defence, shows [REDACTED].²¹⁷ On occasion, his testimony suggests that [REDACTED],²¹⁸ and he acknowledged that he had forgotten the exact dates on which [REDACTED].²¹⁹ P-0306 provided evidence about Ngremangou's involvement in the events,²²⁰ and qualified that he heard about Ngremangou only when his group was about to enter Bangui.²²¹

²¹¹ P-0306: T-064, p. 55, line 11 – p. 56, line 19; T-065, p. 17, lines 17-22.

²¹² P-0306: T-064, p. 72, line 22 – p. 73, line 6.

²¹³ P-0306: T-064, p. 40, lines 15-24.

²¹⁴ P-0306: T-064, p. 40, line 25 – p. 41, line 12.

²¹⁵ P-0306: T-064, p. 70, line 23 – p. 71, line 4. *See similarly* p. 40, lines 7-14.

²¹⁶ P-0306: T-064, p. 53, line 22 – p. 54, line 8.

²¹⁷ P-0306: T-065, p. 33, line 7 – p. 34, line 23 *referring to* Photograph, CAR-OTP-2099-0262. [REDACTED]

²¹⁸ P-0306: T-064, p. 52, lines 1-14, p. 57, line 10 – p. 58, line 2, p. 64, line 22 – p. 65, line 13.

²¹⁹ *See e.g.* P-0306: T-064, p. 40, lines 7-14, p. 14, lines 2-14; T-065, p. 13, line 25 – p. 14, line 23.

²²⁰ P-0306: T-065, p. 11, line 22 – p. 12, line 2, p. 13, line 25 – p. 14, line 14, p. 16, lines 3-17, p. 17, line 23 – p. 18, line 9.

²²¹ P-0306: T-064, p. 59, line 15 – p. 60, line 4, p. 60, line 24 – p. 62, line 7.

215. Furthermore, in the view of the Chamber, none of the inconsistencies raised by the Ngaïssona Defence were such that threw into question his first-hand account of participating in the attacks on Bouca and Bangui. In this regard, the Chamber notes that other witnesses testified about the involvement of P-0306's group in these attacks and that the Chamber was in a position to assess the veracity of the details provided by P-0306. The same was true of the purported military instructions by Mr Ngaïssona concerning the attack on Bangui on 5 December 2013. The Chamber further considered that the alleged inconsistencies concerning his participation in the attack on Bouca were minor and otherwise explainable by the passage of time and the context of the conflict situation.
216. Having assessed P-0306's testimony about the notes he provided to the Prosecution,²²² the Chamber considers that these notes did not render his evidence wholly unreliable. At most, his testimony regarding these notes reflected a lack of understanding of legal procedure. The Chamber notes that P-0306 appeared to have drawn some of these notes as a memory aid 'to jog [his] memory' and, being illiterate, prepared with the assistance of someone else, thinking that they could 'serve as evidence whenever necessary'.²²³ It was clear to the Chamber that, in making these notes, P-0306 did not fully understand the need to keep track of dates and sequence of events adequately for proper legal scrutiny. This did not reflect negatively on the credibility of the rest of his claims; however, they do render these notes unreliable for the purposes of drawing any factual conclusions. Accordingly, the Chamber has not relied on the contents of these notes in its evidentiary analysis below.
217. Furthermore, in the view of the Chamber, these notes did not reflect improper motives to incriminate Mr Ngaïssona nor a fabrication of evidence, or otherwise indicate that P-0306 was coached to provide evidence before the Chamber. The Chamber finds the Ngaïssona Defence's arguments in this regard entirely speculative.

²²² P-0306: T-066, p. 14, lines 13-16, p. 16, line 21 – p. 17, line 13, p. 21, line 15 – p. 23, line 10, p. 25, line 5 – p. 26, line 25 *referring to* Note, CAR-OTP-2120-0598; p. 28, line 12 – p. 29, line 25 *referring to* Note, CAR-OTP-2120-0599; p. 30, line 1 – p. 31, line 15 *referring to* Note, CAR-OTP-2120-0600; p. 32, lines 5-22 *referring to* Note, CAR-OTP-2120-0601. *See also* p. 47, line 3 – p. 53, line 13, p. 54, lines 11-18, p. 55, line 4 – p. 65, line 16; T-067, p. 11, line 6 – p. 13, line 6, p. 28, line 8 – p. 30, line 16.

²²³ P-0306: T-066, p. 54, lines 5-18.

218. Having regard to the above, the Chamber has assessed the reliability of P-0306's evidence on a case-by-case basis in light of other evidence before it. As regards specifically his testimony concerning Mr Ngaïssona [REDACTED] and giving military instructions, the Chamber has assessed it, in the context of other evidence received by the Chamber, in its evidentiary analysis below.²²⁴

ii. P-0446

219. Brice Emotion Namsio, a former Anti-Balaka element who also held the role of the Anti-Balaka spokesperson in 2014, testified without in-court protective measures,²²⁵ with the assistance of counsel appointed pursuant to Rule 74 of the Rules.²²⁶ His prior recorded testimony was introduced pursuant to Rule 68(3) of the Rules.²²⁷

220. All parties rely on parts of the evidence provided by Brice Emotion Namsio.²²⁸ The Yekatom Defence specifically raises two issues with regard to his evidence. First, it argues that the witness's information concerning Mr Yekatom's participation in the attack on Bangui on

²²⁴ See sections IV.B.1.ii, IV.B.1.ix below.

²²⁵ P-0446: T-096; T-097; T-098; T-099; [Decision on In-Court Protective Measures](#), ICC-01/14-01/18-906-Red, paras 41, 46-48, p. 42.

²²⁶ [Decision on the Appointment of Duty Counsel](#), ICC-01/14-01/18-857; [Notification of the appointment of Mr Jean Pierre Madoukou as Legal Adviser to Witness P-0446](#), 7 January 2022, ICC-01/14-01/18-1235 (with confidential Annexes I and II). See also Decision on the Ngaïssona Defence Submissions regarding the Appointment of a Legal Adviser to P-0458 and P-0446, 2 February 2022, ICC-01/14-01/18-1269-Conf.

²²⁷ P-0446 Interview Transcripts, CAR-OTP-2059-1431-R01; CAR-OTP-2059-1433-R01; CAR-OTP-2059-1454-R01; CAR-OTP-2059-1468-R01; CAR-OTP-2059-1498-R02; CAR-OTP-2059-1523-R01; CAR-OTP-2059-1546-R02; CAR-OTP-2059-1567-R01; CAR-OTP-2059-1586-R01; CAR-OTP-2059-1602-R01; CAR-OTP-2059-1626-R01; CAR-OTP-2059-1648-R01; CAR-OTP-2059-1672-R02; CAR-OTP-2059-1696-R01; CAR-OTP-2105-0324-R01; CAR-OTP-2105-0326-R01; CAR-OTP-2105-0348-R02; CAR-OTP-2105-0376-R02; CAR-OTP-2105-0402-R02; CAR-OTP-2105-0430-R02; CAR-OTP-2105-0462-R02; CAR-OTP-2105-0492-R01; CAR-OTP-2105-0523-R01; CAR-OTP-2105-0542-R02; CAR-OTP-2105-0572-R01; CAR-OTP-2105-0593-R01; CAR-OTP-2105-0611-R01; CAR-OTP-2105-0647-R01; P-0446 Corrections, CAR-OTP-2135-2317-R01; and its associated items, CAR-OTP-2029-0167-R01; CAR-OTP-2029-0169; CAR-OTP-2029-0171; CAR-OTP-2029-0175; CAR-OTP-2029-0176; CAR-OTP-2029-0177-R01; CAR-OTP-2029-0182-R01; CAR-OTP-2029-0189; CAR-OTP-2029-0190; CAR-OTP-2029-0191-R01; CAR-OTP-2029-0193; CAR-OTP-2029-0196; CAR-OTP-2029-0197; CAR-OTP-2001-4603; CAR-OTP-2001-6227; CAR-OTP-2104-0298; Ninth Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies under Rule 68(3) of the Rules concerning Witnesses P-0992, P-0446, P-0888, P-0889 and P-1416, 21 December 2021, ICC-01/14-01/18-1226-Conf, paras 16, pp. 16-17; P-0446: T-096, p. 5.

²²⁸ See e.g. [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, paras 61, 214, 226, 229, 231, 236, 253-254, 292, 296, 315, 359, 388, 393, 546-547, 569; [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 168-169, 173, 195, 197, 204, 209, 215, 355, 360, 362, 374, 406-407, 420-421; [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 149, 233-234, 243, 258, 261, 263, 264-266, 410, 441, 457, 461, 505, 511, 560, 588, 592, 595, 599.

5 December 2013 was not correct.²²⁹ Second, it argues that P-0446's claim that there was contact between Mr Yekatom and 'Konate' should be disregarded as it is not reflected in CDR and is inconsistent with audio-visual evidence.²³⁰

221. In the Chamber's view, Brice Emotion Namsio had first-hand knowledge about several events of interest to the Chamber and was forthcoming when providing details. He was in Zongo for some time in 2013 following the Seleka coup and crossed over to participate in the attack on Bangui on 5 December 2013. In 2014, he assumed the role of the deputy spokesperson of the Anti-Balaka and spoke about the political organisation of the Anti-Balaka during this period, including the setting up of the military police. On occasion, he appeared to diminish his own role and attempted to dismiss the evidence concerning the Anti-Balaka's attitude towards Muslims. However, this did not diminish the fact that the Chamber found him internally consistent and coherent.

222. Having regard to the above, the Chamber concludes that Brice Emotion Namsio's testimony was generally credible. As regards the issues raised by the Yekatom Defence relating to certain other specific aspects of his evidence, as noted above, the Chamber has assessed them holistically, in light of the other evidence before it, in its evidentiary analysis below.

iii. P-0487

223. P-0487, a former FACA member and Anti-Balaka element, testified fully live with in-court protective measures,²³¹ and received Rule 74 assurances.²³²

224. P-0487 claimed to have joined Mr Yekatom's group at Yamwara [REDACTED] 2013 and is identified by other witnesses as having [REDACTED] in the Anti-Balaka [REDACTED].

²²⁹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 358, n. 1190.

²³⁰ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 37, 361.

²³¹ P-0487: T-201; T-202; T-203; T-204; T-205; T-206; T-207; T-208; T-209; [Decision on In-Court Protective Measures](#), ICC-01/14-01/18-906-Red, paras 33-35, 40, p. 41. See discussion on implementation of special measure at email from the Chamber, 15 February 2023, at 14:22.

²³² P-0487: T-201; email from the Chamber, 15 February 2023, at 15:49; [Decision on the Appointment of Duty Counsel](#), ICC-01/14-01/18-857; [Notification of the Appointment of Mr Hédi Aouini as Legal Adviser to Witness P-0487](#), 21 November 2022, ICC-01/14-01/18-1673 (with confidential Annexes I and II); [Notification of the Appointment of Ms Dignité Bwiza as Legal Adviser to Witness P-0487](#), 8 February 2023, ICC-01/14-01/18-1746 (with confidential Annexes I and II); Notification of the Appointment of Ms Vessela Terzieva as Legal Adviser to Witness P-0487, 23 February 2023, ICC-01/14-01/18-1769 (with confidential Annexes I and II).

225. The Chamber notes that the Prosecution relies on P-0487's evidence in support of a number of key allegations relating to both accused.²³³
226. The Yekatom Defence challenges the credibility of P-0487,²³⁴ referring to him, *inter alia*, when arguing that there are 'testimonies in which witnesses minimise their own involvement, distort the facts, or present false accounts'.²³⁵ At the same time, it submits, *inter alia*, that 'P-0487's testimony contradicted P-1339's entirely' to challenge P-1339's account about his visit to procure money for weapons.²³⁶ The Yekatom Defence further relies on other limited parts of P-0487's evidence.²³⁷
227. The Ngaïssona Defence argues that the testimony of P-0487 was 'unclear, inconsistent and at times entirely incredible', with the 'sole objective' of minimising his role within the Anti-Balaka,²³⁸ making the 'flagrant evidentiary shortcomings [...] so pervasive as to impugn the entirety of his testimony', and further pointing to his bias against Mr Ngaïssona.²³⁹ It disputes, in particular, P-0487's claims concerning (i) Mr Ngaïssona's efforts to return François Bozizé to power and (ii) Mr Ngaïssona's 'secret agenda', as well as (iii) P-0487's refusal to join the meetings organised by Mr Ngaïssona and (iv) Mr Ngaïssona's attempts to kill him.²⁴⁰
228. The Chamber notes that P-0487 made several claims during his examination distancing himself from the [REDACTED] role that he, according to the evidence before the Chamber, played within the Anti-Balaka, which greatly undermined the reliability of his evidence. For instance, the witness repeatedly said that he was a 'nobody' amongst the Anti-Balaka, a 'real non-entity', that he had 'no title' – in contrast with other testimonial and documentary evidence –, and attended Anti-Balaka meetings 'out of curiosity', while at the same time

²³³ See e.g. Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, paras 75, 77, 236, 268, 306, 341, 460, 458-460, 551, 564, 576.

²³⁴ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 37; Annex A to Yekatom Defence Closing Brief, ICC-01/14-01/18-2562-Conf-AnxA, pp. 115-124.

²³⁵ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 73.

²³⁶ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 131.

²³⁷ See e.g. Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 191-193.

²³⁸ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 29.

²³⁹ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 32.

²⁴⁰ Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, paras 30-31.

saying that he played a ‘strategic role’.²⁴¹ P-0487, asked about being [REDACTED] of the Anti-Balaka, said that he was ‘under pressure’ to be with the Anti-Balaka and did not [REDACTED];²⁴² he acknowledged that he [REDACTED] but that it was ‘strategic’.²⁴³ P-0487, when asked if he ever provided military advice to Mr Yekatom, said that he could not fulfil that role and that he ‘was too lowly with elements’ without elaborating further.²⁴⁴

229. The Chamber was also not persuaded by the witness’s answers when he was confronted with information contained in contemporary notes of his, from which he tried to distance himself by saying that he wrote those notes ‘out of sheer pride’.²⁴⁵ The Chamber considers that the witness was evasive, contradictory, and attempted to minimise his role within the Anti-Balaka to an extent that put into question the entirety of his account.
230. Further, when considering P-0487’s evidence with regard to Mr Yekatom and Mr Ngaïssona, the Chamber notes that the witness indicated several times that both of them wanted to kill him, and that Mr Ngaïssona was involved in a plan to kill him, without being able to provide further details when asked about it.²⁴⁶ The witness also provided on several occasions evidence against Mr Ngaïssona which the Chamber considers to be based on speculation and hearsay.²⁴⁷
231. The Chamber also considered that evidence about his own role in the Anti-Balaka stood out in contrast with the evidence received from other witnesses whom the Chamber finds credible. P-0487, when asked about his role [REDACTED], [REDACTED], repeated that he was ‘nobody amongst the Balaka’, ‘really a nobody’, that he had ‘no responsibilities’ or ‘decision-making authority’ and that he ‘did not make any decisions’; P-0487 deflected the responsibility to [REDACTED].²⁴⁸ P-0487 did not recall having been part of the meeting

²⁴¹ See e.g. P-0487: T-202, p. 32, lines 14-25; T-207, p. 9, lines 8-13, p. 13, line 22 – p. 15, line 12, p. 21, line 7 – p. 23, line 2, p. 25, line 6 – p. 26, line 1, p. 30, line 8 – p. 31, line 21, p. 47, line 19 – p. 48, line 24. See also P-0487: T-202, p. 34, lines 9-24, p. 47, lines 4-20.

²⁴² P-0487: T-205, p. 45, line 18 – p. 46, line 15.

²⁴³ P-0487: T-207, p. 14, line 15 – p. 15, line 12.

²⁴⁴ P-0487: T-207, p. 18, line 25 – p. 19, line 4.

²⁴⁵ See P-0487: T-207, p. 38, line 20 – p. 42, line 11.

²⁴⁶ See P-0487: T-207, p. 19, lines 5-15, p. 31, lines 15-21, p. 47, line 25 – p. 48, line 11; T-208, p. 79, line 12 – p. 84, line 7.

²⁴⁷ See e.g. P-0487: T-208, p. 10, line 8 – p. 11, line 4, p. 75, line 25 – p. 76, line 24.

²⁴⁸ P-0487: T-207, p. 9, line 6 – p. 10, line 4.

where Mr Yekatom's group discussed moving from Yamwara to the PK9-Mbaïki axis and said that they 'did not have any meetings in Yamwara'.²⁴⁹

232. In the Chamber's view, the number and nature of the inconsistencies in P-0487's account, as well as his demeanour and evasiveness in the courtroom, rendered his testimony wholly unreliable, especially when assessed holistically with the evidence of other witnesses that place him [REDACTED] during the relevant period. Consequently, the Chamber has not relied on P-0487 for the purposes of determining any factual allegations.

iv. P-0801

233. Joachim Kokaté, a former FACA member, self-proclaimed Anti-Balaka supporter and key political figure at the time of the events, testified fully live without in-court protective measures,²⁵⁰ with the assistance of counsel appointed pursuant to Rule 74 of the Rules.²⁵¹

234. The Prosecution and the Yekatom Defence cited to parts of Joachim Kokaté's evidence in support of their arguments.²⁵² The Ngaïssona Defence argues that the Chamber cannot reasonably rely on Joachim Kokaté's testimony to convict Mr Ngaïssona because besides (i) his proven role in corrupting at least 14 witnesses in another case and (ii) his reputation as 'a person who tends to lie', (iii) his testimony is replete with contradictions.²⁵³ The Ngaïssona Defence submits, in particular, that these contradictions relate to, *inter alia*, his and Mr Ngaïssona's purported participation in meetings in Cameroon, Mr Ngaïssona financing the Anti-Balaka movement, Joachim Kokaté's involvement in the attack on Bangui on 5 December 2013 and attempts to destabilise and overthrow the CAR government.²⁵⁴ The Ngaïssona Defence also refers to Joachim Kokaté's contradictory responses when confronted with Trial Chamber VII's findings in relation to him, and, generally, to his

²⁴⁹ P-0487: T-207, p. 8, lines 9 – p. 9, line 4.

²⁵⁰ P-0801: T-033; T-034; T-035; T-036; T-037; T-038; T-039.

²⁵¹ [Decision on the Appointment of Duty Counsel](#), ICC-01/14-01/18-857; [Notification of the appointment of Mr Jose Bangaguere as Legal Adviser to Witness P-0801](#), 6 May 2021, ICC-01/14-01/18-988 (with confidential Annexes I and II).

²⁵² See e.g. [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, paras 16, 20, 36, 39, 45, 49, 52, 56, 85, 92, 94, 110, 201, 246, 267-268, 274, 317, 339, 383; [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 163, 171, 204, 231-232, 267, 353, 366, 482, 497.

²⁵³ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 24.

²⁵⁴ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 25.

‘overall demeanour during testimony, exhibiting defensiveness, evasiveness and visible unrest’.²⁵⁵ The Ngaïssona Defence further submits that Joachim Kokaté is involved, together with other ‘key witnesses’, in a ‘pattern of interference’ with the underlying plan to incriminate Mr Ngaïssona.²⁵⁶

235. At the outset, the Chamber takes note of Trial Chamber VII’s findings in relation to Joachim Kokaté’s involvement in influencing witnesses to give false testimony in another case before this Court, in particular that Joachim Kokaté (i) participated in a meeting with witnesses in that case in which he ‘reassured them that they would receive money and be able to go to Europe’;²⁵⁷ and (ii) approached an individual with the suggestion that he testify ‘as a soldier’ in the case and promising in return ‘that if he testified he would be relocated to Europe’, while instructing the individual not to reveal to the Court that he (Joachim Kokaté) had put the witness in contact with the defence in that case.²⁵⁸
236. The Chamber emphasises that these findings by a different chamber do not, as such and by themselves, pre-determine the assessment of the witness’s testimony before it. Especially, the Chamber is of the view that it must evaluate the witness’s evidence as provided under oath in the circumstances of the current case, and in conjunction with and compared to other evidence provided to the Chamber.²⁵⁹
237. Having assessed Joachim Kokaté’s testimony overall in this case, in light of the Ngaïssona Defence arguments, the Chamber concludes that the witness’s testimony is, nonetheless, generally credible.
238. The Chamber notes that Joachim Kokaté was himself present in key meetings in 2013 and personally interacted with individuals of relevance to the present case and therefore was in a position to provide firsthand information about them. The witness also distinguished the sources of his knowledge.

²⁵⁵ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 26.

²⁵⁶ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 42-44, 54-55.

²⁵⁷ [Bemba et al. Trial Judgment](#), ICC-01/05-01/13-1989-Red, para. 131.

²⁵⁸ [Bemba et al. Trial Judgment](#), ICC-01/05-01/13-1989-Red, para. 148.

²⁵⁹ See also Decision on the Ngaïssona Defence Request to Exclude Witness P-0801, 11 February 2021, ICC-01/14-01/18-882-Conf, paras 8-10.

239. In the Chamber's view, the inconsistencies pointed out by the Ngaïssona Defence are not such that they would render his account unreliable.
240. First, as regards Joachim Kokaté's and Mr Ngaïssona's purported participation in meetings in Cameroon,²⁶⁰ the Chamber notes that the witness was asked to clarify whether Mr Ngaïssona was outside of the Hilton hotel or in Bozizé's suite; to which Joachim Kokaté responded that after being received by 'President Bozizé' and leaving his suite, he saw Mr Ngaïssona and 'many other people' in the bar of the hotel on the ground floor.²⁶¹ When confronted with the fact that in 2018 he had stated that he met Bernard Mokom during the second meeting at the CAR embassy in Yaoundé yet testified that he actually saw Bernard Mokom when he went down after the first meeting at the hotel Hilton, Joachim Kokaté responded that when he went down from the suite, he saw Mr Ngaïssona and other people, and that he thought that this was the first time he physically saw Bernard Mokom.²⁶²
241. Second, in relation to Mr Ngaïssona financing the Anti-Balaka movement, the Chamber notes that Joachim Kokaté testified, *inter alia*, that Mr Ngaïssona was determined to see François Bozizé come to power with him and that Mr Ngaïssona told the witness that he organised and coordinated military actions in the field.²⁶³ Joachim Kokaté, when asked whether he spoke to Mr Ngaïssona about financing of the military wing of FROCCA, said that they did not talk about finance.²⁶⁴ However, Joachim Kokaté also said that Mr Ngaïssona organised and met Anti-Balaka in the field, and they reported to him; and that in the statements in Bangui, Mr Ngaïssona said himself that he had spent a lot for the Anti-Balaka, which he had helped finance.²⁶⁵
242. When confronted with his prior interview of 2018,²⁶⁶ Joachim Kokaté explained that he had not changed his statement and that he believed that he had said that Mr Ngaïssona told him

²⁶⁰ P-0801: T-037, p. 87, line 3 – p. 88, line 25.

²⁶¹ P-0801: T-037, p. 69, line 11 – p. 70, line 12.

²⁶² P-0801: T-037, p. 70, line 21 – p. 72, line 20.

²⁶³ P-0801: T-034, p. 51, lines 14-21.

²⁶⁴ P-0801: T-034, p. 51, lines 22-25.

²⁶⁵ P-0801: T-034, p. 51, line 22 – p. 52, line 6.

²⁶⁶ The Chamber notes that the Ngaïssona Defence counsel indicated that in 2018, Joachim Kokaté told the Prosecution investigators that he did not know how the military wing was financed and that it was Mr Ngaïssona who could tell them about the financing, which contradicted the witness's testimony. The Presiding Judge, however, indicated that

during some telephone conversations that he was financing the movement, and that he had given in his testimony a concrete example of what various Anti-Balaka leaders were saying to the transitional head of state when they met at the presidency, which was that it was Mr Ngaïssona who took care of them, funded them and organised them.²⁶⁷ The Chamber notes that the witness had indeed referred to this in previous days of his testimony.²⁶⁸ When confronted with the fact that he had not mentioned this in his 2018 interview and that it was also not mentioned in the notes taken during the meeting with Catherine Samba-Panza, Joachim Kokaté indicated that during his questioning by the calling party, he had provided details as to how Mr Ngaïssona financed the Anti-Balaka and that the Anti-Balaka elements themselves had made that statement to the transitional president in the presence of her cabinet.²⁶⁹

243. Third, regarding the attack on Bangui on 5 December 2013, and when asked why in 2018 he had not mentioned a discussion in Yaoundé in 2013 in which Mr Ngaïssona said that his troops would attack and, by contrast, had stated that he had not met any soldiers in Cameroon except for one colonel, Joachim Kokaté explained that he did not mention any meeting with soldiers but did talk about having met soldiers and civilians in exile in Cameroon and also mentioned the meeting with Mr Ngaïssona in which he said that ‘the attack was imminent’.²⁷⁰ Joachim Kokaté indicated that ‘to [his] mind, there is no inconsistency’.²⁷¹
244. The Chamber further notes that when asked in court about an alleged inconsistency in his account, Joachim Kokaté explained that during his interview, he had answered the questions put by the Prosecution and asked, ‘if during the trial there are new elements that come to mind, why shouldn’t I talk about them?’.²⁷² He added: ‘I have come here to help in the quest for the truth about what happened in our country so that, together, people can desist from

according to the interview transcripts, the witness also said in 2018, ‘Mr Ngaïssona told me on several occasions over the phone that they are meeting there. He is able to tell you about the military wing, the financing of this wing and everything. I think he is the man [...] or this is the man’, which according to the Presiding Judge also had to be put to the witness for completeness (see P-0801: T-037, p. 79, line 17 – p. 81, line 12).

²⁶⁷ P-0801: T-037, p. 81, lines 13-22.

²⁶⁸ See e.g. P-0801: T-034, p. 52, line 10 – p. 53, line 9; T-035, p. 30, line 24 – p. 32, line 4; T-036, p. 14, lines 8-14.

²⁶⁹ P-0801: T-037, p. 82, line 17 – p. 86, line 7.

²⁷⁰ P-0801: T-037, p. 87, line 3 – p. 88, line 25.

²⁷¹ P-0801: T-037, p. 89, line 1.

²⁷² P-0801: T-037, p. 89, line 24 – p. 90, line 6.

having [...] the kind of conduct they had before. You see, for example, I'm here with you now. You are putting questions to me, and I can answer. You have talked about inconsistencies, but I know that I am not inconsistent'.²⁷³

245. The Chamber also considers that the Ngaïssona Defence's allegations of Joachim Kokaté being involved in a scheme to incriminate Mr Ngaïssona²⁷⁴ are based on pure speculation, and, without more, do not affect the credibility of his testimony.²⁷⁵

246. However, the Chamber notes that Joachim Kokaté clearly distanced himself and downplayed his own involvement in certain aspects relevant to this case. For example, when confronted with a document dated December 2013 stating that he was the military coordinator of the Anti-Balaka, Joachim Kokaté claimed that his signature had been forged and that he had never seen that document; in relation to another document dated January 2014, purportedly drafted by him, Joachim Kokaté said that he had not seen this document and claimed that it was fraudulent.²⁷⁶ Joachim Kokaté also distanced himself from any involvement with the FROCCA and being able to provide information about it, despite his purported association with this movement.²⁷⁷ Similarly, he also appeared to downplay his knowledge of the attack on Bangui of 5 December 2013.²⁷⁸

247. In the Chamber's view, neither of these aspects undermined the credibility of the remainder of the witness's testimony. The Chamber has considered it within the context of other evidence before it. As regards the specific aspects of his testimony concerning his participation in meetings in Cameroon and his phone call with Mr Ngaïssona concerning the attack on Bangui on 5 December 2013, the Chamber has assessed them, in the context of other evidence received by the Chamber, further below.²⁷⁹

²⁷³ P-0801: T-037, p. 90, lines 7-11.

²⁷⁴ Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, para. 55.

²⁷⁵ See also paragraphs 266-273, 348-354, 365-373, 428-433 below.

²⁷⁶ See e.g. P-0801: T-035, p. 3, line 11 – p. 7, line 20 *referring to* Correspondence, CAR-OTP-2084-1222; Press article, CAR-OTP-2084-1229.

²⁷⁷ See e.g. P-0801: T-034, p. 44, line 1 – p. 50, line 14.

²⁷⁸ See e.g. P-0801: T-034, p. 66, line 19 – p. 67, line 13.

²⁷⁹ See paragraphs 772-792, 1001-1024, 2127 below.

v. P-0808

248. Alfred Legrand Ngaya, a former member of the Anti-Balaka, testified without in-court protective measures,²⁸⁰ with the assistance of counsel appointed pursuant to Rule 74 of the Rules.²⁸¹ His prior recorded testimony was introduced pursuant to Rule 68(3) of the Rules.²⁸²
249. Alfred Legrand Ngaya was the director-general of youth in the ministry of youth and sports from 2006 to 2014²⁸³ and during part of that time worked with Mr Ngaïssona, who was the minister at the beginning of 2013.²⁸⁴ The witness testified about the formation, structure and elements of the Anti-Balaka and about his interactions with Mr Ngaïssona and Mr Yekatom.
250. All parties rely on parts of Alfred Legrand Ngaya's evidence in support of their arguments.²⁸⁵ The Ngaïssona Defence argues that Alfred Legrand Ngaya's email exchanges with Mr Ngaïssona 'were wholly unrelated to military action or the Anti-Balaka movement'²⁸⁶ and do not indicate 'a so-called military *Plan Stratégique*'²⁸⁷ or Mr Ngaïssona's coordination of FROCCA.²⁸⁸

²⁸⁰ P-0808: T-069; T-070; T-071; T-072.

²⁸¹ [Decision on the Appointment of Duty Counsel](#), ICC-01/14-01/18-857; [Notification of the Appointment of Mr Jacob Sangone as Legal Adviser to Witness P-0808](#), 28 September 2021, ICC-01/14-01/18-1121 (with confidential Annexes I and II).

²⁸² P-0808 First Statement, CAR-OTP-2025-0324-R05; P-0808 First Translation, CAR-OTP-2102-0045-R02; P-0808 Second Statement, CAR-OTP-2093-0010-R02; P-0808 Second Translation, CAR-OTP-2107-6197-R02; P-0808 Corrections, CAR-OTP-2134-1737; CAR-OTP-2134-1742; and associated items, CAR-OTP-2045-0874; CAR-OTP-2025-0353; CAR-OTP-2004-0371; CAR-OTP-2004-0554; CAR-OTP-2001-6105; CAR-OTP-2001-6112; CAR-OTP-2001-6432; CAR-OTP-2025-0354; CAR-OTP-2025-0355; CAR-OTP-2025-0356; CAR-OTP-2025-0362; CAR-OTP-2025-0372; CAR-OTP-2025-0380; CAR-OTP-2006-1210; CAR-OTP-2025-0386; CAR-OTP-2025-0387; CAR-OTP-2025-0388; CAR-OTP-2025-0389; CAR-OTP-2025-0390; CAR-OTP-2025-0391; CAR-OTP-2025-0392; CAR-OTP-2025-0393; CAR-OTP-2025-0394; CAR-OTP-2025-0395; CAR-OTP-2025-0396; CAR-OTP-2025-0407; CAR-OTP-2025-0408; CAR-OTP-2025-0428; CAR-OTP-2122-4495; CAR-OTP-2093-0042; CAR-OTP-2001-6924; CAR-OTP-2001-6251; CAR-OTP-2001-5386; CAR-OTP-2030-0263; CAR-OTP-2030-0245; CAR-OTP-2030-0243; Corrected version of 'Sixth Decision on the Prosecution Request for Formal Submission of Prior Recorded Testimony under Rule 68(3) of the Rules concerning Witness P-0808', 10 December 2021, ICC-01/14-01/18-1114-Conf-Corr, para. 22, p. 10; P-0808: T-069, p. 23.

²⁸³ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0326, para. 16.

²⁸⁴ P-0808: T-069, p. 10, lines 11-24.

²⁸⁵ See e.g. [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, paras 16, 36, 39, 41, 45, 77, 112, 232, 249, 256, 299, 314-315, 330, 342, 357; [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 173, 194, 215, 250, 352-353, 555, 560; [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 145, 147, 149, 180, 182, 186-187, 243, 250, 409, 440, 455, 457, 509, 542, 544, 549, 559-560, 583, 585-586, 589-596, 599, 601-602, 605.

²⁸⁶ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 549. See also paras 455, 548.

²⁸⁷ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 439.

²⁸⁸ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 440.

251. Having reviewed his evidence, the Chamber finds Alfred Legrand Ngaya's evidence generally credible. He was knowledgeable about the context and political events in the CAR during the relevant period. He directly interacted with Mr Ngaïssona and was generally forthcoming about his exchanges with him. The witness appeared to be generally able to distinguish between the sources of his knowledge. For example, he considered that he was not 'the authorised person' to talk about Mr Yekatom because all that he could say about him were 'things that I learned from rumours'.²⁸⁹
252. The Chamber notes that Alfred Legrand Ngaya appeared to present a favourable and passive view of Mr Ngaïssona's role in 2014, which often led him to contradict himself. For example, he stated not being aware that anyone provided money to the Anti-Balaka.²⁹⁰ At the same time, according to him, Mr Ngaïssona supported the Anti-Balaka on his return with his 'own money' to dissuade them.²⁹¹ He did not recall if Mr Ngaïssona provided financial resources as requested, but indicated that at some point, Mr Ngaïssona sent money to him to help the Anti-Balaka in their neighbourhood and dissuade them from bothering the population.²⁹² He also thought that Mr Ngaïssona was designated as coordinator because the Anti-Balaka did not have resources to take care of themselves and Mr Ngaïssona had a reputation for being generous with money.²⁹³ He also said that Mr Ngaïssona 'had an influence on the movement because of his generosity, of doing good' and that they 'always needed him'.²⁹⁴
253. Alfred Legrand Ngaya also did not appear forthcoming as regards his email exchanges with Mr Ngaïssona. In places, he denied what is apparent from the clear text of the emails exchanged between him and Mr Ngaïssona in July and August 2013 that concern organising military actions.²⁹⁵ For example, he explained in relation to these emails that they had spoken on the phone two or three times while Mr Ngaïssona was in exile in Cameroon in 2013 and

²⁸⁹ P-0808: T-072, p. 47, line 10 – p. 48, line 9; *see also* p. 50, line 16 – p. 51, line 15.

²⁹⁰ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0332, para. 55.

²⁹¹ P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0023, para. 71; P-0808: T-071, p. 45, lines 16-25.

²⁹² P-0808: T-069, p. 19, lines 1-12.

²⁹³ P-0808: T-070, p. 42, line 17 – p. 43, line 9, p. 58, line 23 – p. 59, line 5.

²⁹⁴ P-0808: T-071, p. 27, lines 7-16.

²⁹⁵ *See e.g.* Email, CAR-OTP-2130-3288, at 3288, 3289-90; Email, CAR-OTP-2130-3291; Email, CAR-OTP-2130-3294; Email, CAR-OTP-2130-3296; Email, CAR-OTP-2130-3297; Email, CAR-OTP-2130-3298. *See in this regard* paragraphs 873-875 below.

that Mr Ngaïssona would ask for news about the neighbourhood.²⁹⁶ The witness did not recall discussing the Anti-Balaka with him.²⁹⁷

254. However, in the Chamber's view, these aspects did not render his evidence wholly unreliable.

255. Having regard to the above, the Chamber has considered Alfred Legrand Ngaya's evidence in light of other evidence before it. As regards the specific aspects of his testimony concerning his emails with Mr Ngaïssona, the Chamber has assessed them in the context of other evidence received by the Chamber, further below.²⁹⁸

vi. P-0876

256. P-0876, a former Anti-Balaka element and [REDACTED], testified with in-court protective measures,²⁹⁹ with the assistance of counsel appointed pursuant to Rule 74 of the Rules.³⁰⁰ His prior recorded testimony was introduced pursuant to Rule 68(3) of the Rules.³⁰¹

257. P-0876 participated in several meetings with various Anti-Balaka leaders, including Mr Yekatom, [REDACTED]. He held the position of [REDACTED].

258. All parties rely on parts of P-0876's evidence in support of their arguments.³⁰² The Ngaïssona Defence argues that P-0876's evidence concerning his phone call with Lin

²⁹⁶ P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0015, para. 30.

²⁹⁷ P-0808: T-069, p. 37, lines 2-7.

²⁹⁸ See paragraphs 1529-1551 below.

²⁹⁹ P-0876: T-085; T-086; T-087; T-088; T-089; [Decision on In-Court Protective Measures](#), ICC-01/14-01/18-906-Red, paras 33-36, 38, p. 41.

³⁰⁰ [Decision on the Appointment of Duty Counsel](#), ICC-01/14-01/18-857; [Notification of the Appointment of Ms Leto Cariolou as Legal Adviser to Witness P-0876](#), 26 November 2021, ICC-01/14-01/18-1193 (with confidential Annexes I and II). See also email from the Chamber, 6 December 2021, at 17:28.

³⁰¹ P-0876 Interview Transcripts, CAR-OTP-2046-0247-R01; CAR-OTP-2046-0249-R01; CAR-OTP-2046-0267-R01; CAR-OTP-2046-0295-R01; CAR-OTP-2046-0324-R01; CAR-OTP-2046-0346-R01; CAR-OTP-2046-0370-R01; CAR-OTP-2046-0380-R01; CAR-OTP-2046-0407-R01; CAR-OTP-2046-0427-R01; CAR-OTP-2046-0455-R01; CAR-OTP-2046-0473-R02; CAR-OTP-2046-0500-R01; CAR-OTP-2046-0530-R02; CAR-OTP-2046-0562-R01; P-0876 Corrections, CAR-OTP-2135-1449; Eighth Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies under Rule 68(3) of the Rules concerning Witnesses P-1193, P-0876, and P-0475, 23 November 2021, ICC-01/14-01/18-1186-Conf (public redacted version notified on 17 June 2022, ICC-01/14-01/18-1186-Red) (the '[Eighth Rule 68\(3\) Decision](#)'), para. 29, pp. 14-15.

³⁰² See e.g. [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, paras 228, 293, 298; [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 155, 203, 232, 260, 263, 414, 505, 542, 544; [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 168, 171-172, 176-184, 186-194, 196, 229, 248-250, 262, 467.

Banoukepa is uncorroborated,³⁰³ and also lists P-0876 as one of the witnesses that ‘changed their evidence significantly during examination’.³⁰⁴

259. Having reviewed his testimony, the Chamber finds P-0876’s evidence generally credible.
260. The Chamber notes that P-0876 was knowledgeable and forthcoming about [REDACTED] meetings with various Anti-Balaka leaders in December 2013 to February 2014, [REDACTED]. During the relevant time, P-0876 personally interacted with both accused and [REDACTED] a number of meetings with the various Anti-Balaka groups from end 2013 to early 2014. P-0876 was well-placed to provide informed opinions about the in-group dynamics within the Anti-Balaka during the relevant time.
261. The Chamber found that P-0876’s evidence was largely consistent and coherent. The Chamber has considered that, at times, P-0876’s answers were long-winding,³⁰⁵ and tending to emphasise his own role [REDACTED].³⁰⁶
262. The Chamber notes that P-0876 appeared unclear as regards the sequence and timing of certain events but offered clarifications during his testimony; for example, as regards the meetings and attendees at [REDACTED],³⁰⁷ and as regards his phone calls [REDACTED].³⁰⁸ P-0876 not recalling the sequence of events perfectly did not diminish the credibility of his evidence but rather suggested that he was providing genuine, spontaneous, and un-rehearsed answers.
263. In the Chamber’s view, P-0876 was able to distinguish the sources of his knowledge and was able to indicate where he did not have firsthand information.³⁰⁹

³⁰³ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 189.

³⁰⁴ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 9.

³⁰⁵ See e.g. P-0876: T-085, p. 25, line 6 – p. 30, line 11, p. 36, line 24 – p. 39, line 4, p. 40, line 12 – p. 44, line 9.

³⁰⁶ See e.g. P-0876: T-085, p. 25, lines 6-18; T-086, p. 43, line 20 – p. 44, line 18, p. 62, lines 14-21, p. 71, line 23 – p. 72, line 15; T-087, p. 14, lines 9-21.

³⁰⁷ See e.g. P-0876: T-085, p. 50, line 14 – p. 53, line 14; T-086, p. 39, line 6 – p. 40, line 1.

³⁰⁸ See e.g. P-0876: T-085, p. 55, line 12 – p. 57, line 9; T-086, p. 41, line 17 – p. 42, line 24; P-0876 Interview Transcripts, CAR-OTP-2046-0249-R01, at 0260-62, lines 415-499; CAR-OTP-2046-0295-R01, at 0298-0301, lines 82-179; CAR-OTP-2046-0407-R01, at 0412-16, lines 190-349.

³⁰⁹ See e.g. P-0876: T-085, p. 31, lines 6-21, p. 36, line 24 – p. 39, line 4, p. 44, line 25 – p. 45, line 7; T-087, p. 9, line 23 – p. 10, line 3, p. 19, lines 13-21. See also P-0876: T-085, p. 12, lines 6-24, p. 16, lines 15-23; T-086, p. 28, line 23 – p. 29, line 5.

264. The Chamber has also considered the inconsistencies that appear between the evidence provided by P-0876 together with those of P-0954 and P-1858 in relation to '[REDACTED]',³¹⁰ and considers that these did not render P-0876's evidence wholly unreliable.
265. Having regard to the above, the Chamber has considered P-0876's evidence in light of other evidence available before it. As regards the specific aspects of his testimony concerning his phone call with [REDACTED] and [REDACTED], the Chamber has assessed them in the context of other evidence received by the Chamber, further below.³¹¹

vii. P-0884

266. P-0884, [REDACTED] the Anti-Balaka [REDACTED], testified fully live with in-court protective measures³¹² and with the assistance of counsel appointed pursuant to Rule 74 of the Rules.³¹³
267. The Yekatom Defence relies on certain aspects of P-0884's evidence,³¹⁴ while arguing that he provided inconsistent testimony regarding his role following the events at Yamwara.³¹⁵ The Ngaïssona Defence argues that as a result of a 'plan to incriminate' Mr Ngaïssona, testimonies of 'key witnesses', including that of P-0884, were contaminated.³¹⁶ In particular, it argues that two months before Mr Ngaïssona's arrest and 'while the scheme to incriminate him was starting to materialise', P-0884 was 'being pressured' by the CAR government.³¹⁷ It further submits that despite P-0884 denying such pressure, he 'would have a reason to

³¹⁰ P-0876: T-086, p. 43, line 20 – p. 45, line 13; P-1858 Statement CAR-OTP-2063-0050-R04, at 0050, at 0055-56, paras 28, 30-33; P-0954 Statement, CAR-OTP-2048-0171-R03, at 0175, para. 25; P-0954 Corrections, CAR-OTP-00000303, at 000004; P-0954: T-166, p. 15, lines 10-22; T-167, p. 24, line 2 – p. 25, line 2.

³¹¹ See paragraphs 1500-1526, 2203 below.

³¹² P-0884: T-054; T-055, T-056; T-057, T-058; [Decision on In-Court Protective Measures](#), ICC-01/14-01/18-906-Red, paras 33-35, 37-38, p. 41.

³¹³ [Decision on the Appointment of Duty Counsel](#), ICC-01/14-01/18-857; [Notification of the appointment of Ms Marie Louise Mbida as Legal Adviser to Witness P-0884](#), 2 July 2021, ICC-01/14-01/18-1051 (with confidential Annexes I and II).

³¹⁴ See e.g. [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 168, 170, 171-172, 180-181, 185, 194, 196, 197-198, 205, 207-209, 247, 249, 351, 366, 373-374, 394.

³¹⁵ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 474.

³¹⁶ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 42, 46.

³¹⁷ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 58.

incriminate' Mr Ngaïssona due to their relationship being strained from 2013 and 2014 [REDACTED].³¹⁸

268. The Chamber notes that P-0884's testimony concerning the events at Yamwara is addressed in the evidentiary analysis below.³¹⁹ In relation to the Ngaïssona Defence's allegations of witness interference and contamination, the Chamber notes that there is no evidence on the case record supporting these claims and therefore considers that they are based on mere speculation and without merit.³²⁰
269. Further, the Chamber is of the view that during his testimony, the witness did not show any bias against either accused, pointing out negative and positive matters concerning both, and providing nuance and explanations about his opinions, where necessary. For example, P-0884 said that he knew Mr Ngaïssona 'very well',³²¹ and that Mr Ngaïssona was his 'elder' and he did not have the right to talk about Mr Ngaïssona's character and behaviour; P-0884 explained how they were related professionally [REDACTED] that 'that was the limit' of their relations.³²² P-0884, when asked, agreed that it was his impression that Mr Ngaïssona had initially involved himself in the leadership of the Anti-Balaka to take advantage of the movement but then 'we' spoke out against this idea.³²³ P-0884 clarified that no one influenced him or spoke to him about testifying against Mr Ngaïssona.³²⁴
270. Moreover, P-0884 said that he would give advice to Mr Yekatom and said that when Mr Yekatom had not been drinking 'he was serious and really a sweetheart', but when he was drunk one would not recognise him.³²⁵

³¹⁸ Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, para. 59.

³¹⁹ See paragraphs 3278-3290 below.

³²⁰ Moreover, the Chamber notes that in support of its argument that '[a]ccording to information circulating in Bangui in 2018 among high-ranking officials', P-0884 was 'being pressured', the Ngaïssona Defence solely refers to the content of a WhatsApp message allegedly sent by [REDACTED] to Mr Ngaïssona [REDACTED] (see P-0884: T-058, p. 83, lines 9-24). Further, the Chamber considers that the message, in any event and if anything, shows that P-0884 would not have given in to any pressure allegedly exerted on him. See also paragraphs 233-247 above, paragraphs 348-354, 365-373, 428-433 below.

³²¹ P-0884: T-054, p. 12, lines 22-25.

³²² P-0884: T-058, p. 7, line 11 – p. 8, line 5.

³²³ P-0884: T-056, p. 49, lines 16-25.

³²⁴ P-0884: T-058, p. 81, lines 15-23.

³²⁵ P-0884: T-056, p. 16, lines 7-19.

271. The Chamber further notes that P-0884 appeared truthful, and particularly able to specify the sources of his knowledge and the limits thereof, about the actions of both accused.³²⁶
272. While the witness sometimes appeared to not directly answer the questions posed, overall, he did appear consistent and internally coherent in his in-court testimony. At the same time, the witness clearly downplayed his own involvement in the Anti-Balaka³²⁷ and tried to emphasise in court his efforts towards reconciliation in the later stages of the conflict.³²⁸ Due to his [REDACTED] position within the Anti-Balaka [REDACTED], as well as contacts with Maxime Mokom and former members of FACA also before 5 December 2013, the witness had first-hand information regarding the initial setting up and evolution of the Anti-Balaka, as well as the interactions between key members of the Anti-Balaka national coordination.
273. Having regard to the above, the Chamber has generally relied on the evidence provided by P-0884, with specific inconsistencies in his testimony pointed to by the parties being assessed, as appropriate, in the context of other evidence received by the Chamber, in the evidentiary analysis further below.

viii. P-2328

274. Jean-Jacques Demafouth, a former government official in the CAR,³²⁹ testified fully live without in-court protective measures.³³⁰

³²⁶ See e.g. P-0884: T-055, p. 32, line 9 – p. 34, line 8 (regarding Gobere), p. 42, lines 13-20 (regarding FROCCA), p. 40, line 20 – p. 41, line 19 (regarding hostilities in 2013), p. 45, line 19 – p. 46, line 1 (regarding Ngremangou), p. 68, lines 9-13 (regarding the exact number of elements), p. 69, lines 5-14, p. 71, lines 9-21 (regarding Mr Ngaïssona's role on the ground); T-056, p. 71, line 23 – p. 72, line 16 (regarding number and organisation of elements in Mr Yekatom's group), p. 76, line 24 – p. 77, line 7 (regarding Bara and Kokaté).

³²⁷ See e.g. paragraphs 2513-2518 below. See also P-0884: T-057, p. 77, line 18 – p. 78, line 11.

³²⁸ See e.g. P-0884: T-054, p. 13, lines 1-23; T-056, p. 82, line 25 – p. 83, line 16.

³²⁹ Jean-Jacques Demafouth held various positions in the CAR, including as president of the *Armée Populaire pour la Restauration Démocratique* from 2008 to 2012 (P-2328: T-046, p. 12, line 12 – p. 14, line 19; CV, CAR-OTP-2099-0232-R02); minister advisor at the presidency in charge of DDR and the reform of the security sector, and staying in the position from April 2013 until January 2014 (P-2328: T-046, p. 9, line 23 – p. 10, line 5); and in charge of security at the presidency, including relations with FOMAC, MISCA, and the Sangaris from February 2014 to December 2015 (P-2328: T-046, p. 10, lines 6-13).

³³⁰ P-2328: T-046; T-047; T-048; T-049; T-050.

275. While not a direct insider within the Anti-Balaka, due to his various positions before, during and after the time relevant to the charges, Jean-Jacques Demafouth was well connected and proved to have vast knowledge on a variety of topics coming from various sources. He not only provided extensive information on the background to the conflict in the CAR, including the Seleka origins and objectives, but also on his observations regarding the Anti-Balaka structure, including Mr Ngaïssona's role therein, his meetings with the latter, Mr Yekatom and the Anti-Balaka elements under his control, crimes attributed to the Anti-Balaka, and the flight of Muslims in the CAR.
276. The Prosecution cites to parts of Jean-Jacques Demafouth's evidence in support of some of its allegations.³³¹
277. The Yekatom Defence argues that Jean-Jacques Demafouth's account is 'wholly unreliable' due to 'his propensity to lead serious allegations against Mr Yekatom, which 'appears to stem from personal animosity' towards him and 'a deliberate attempt to deceive the Chamber in order to exaggerate his own importance'; as a consequence of which his testimony should be disregarded.³³²
278. In particular, it disputes Jean-Jacques Demafouth's 'multiple baseless, untested and inconsistent claims', including that (i) during Catherine Samba-Panza's visit to Mbaïki on 12 February 2014, "'anti-balaka" reportedly part of RFACPP and "under Mr. Yekatom's orders" brutally murdered one of the last Muslim civilians in Mbaïki'; (ii) Mr Yekatom controlled Boda, Boganangone and various secondary roads within those localities, and members of his group surrounded the enclave in Boda and attacked Muslims venturing out; (iii) 'the RFACPP was responsible for the 5th December Operation'; as well as his claims concerning (iv) the structure of the Anti-Balaka and of 'the RFACPP'.³³³ The Yekatom Defence also argues that Jean-Jacques Demafouth lied when confronted in the courtroom with accusations against him involving him in fraudulent and criminal activities.³³⁴ Further, it argues that motivated by power and to place himself at the centre of attention, Jean-Jacques

³³¹ See e.g. [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, paras 20-22, 36, 38, 44-45, 48-49, 52, 56-57, 85, 124, 165, 187, 284, 369, 382, 461.

³³² [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 78, 151.

³³³ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 152-157.

³³⁴ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 158-163.

Demafoth ‘wilfully fabricat[ed] baseless, exaggerated, and entirely unsubstantiated claims, all aimed at incriminating Mr. Yekatom to the greatest extent possible’.³³⁵

279. The Ngaïssona Defence submits that the Chamber should exercise caution when assessing the reliability of Jean-Jacques Demafoth’s evidence due to his bias against François Bozizé, in respect of whom he provided evidence largely based on anonymous hearsay, and his bias against the Anti-Balaka and ‘by extension’ against Mr Ngaïssona, who he claimed sought to destabilise the transition and did not ‘even begin to implement good will *vis-à-vis* the DDR’.³³⁶
280. At the outset, the Chamber notes that it is undeniable from the evidence before it that Jean-Jacques Demafoth is seen as a controversial figure within the CAR who has been subject to various allegations. However, the Chamber is of the view that these allegations, in and of themselves, did not undermine the credibility of the information on the relevant facts provided by Jean-Jacques Demafoth. In particular, allegations against the witness concerning (i) embezzlement in the context of his supervision of a demobilisation programme after the 2003 crisis;³³⁷ (ii) being involved in an attack on a church during which civilians died;³³⁸ (iii) planning an alleged coup against the transitional government of Catherine Samba-Panza;³³⁹ or (iv) in fact steering the transitional government headed by Catherine Samba-Panza through his influence on her;³⁴⁰ with witnesses at times referring to him as a ‘manipulator’³⁴¹ were generally either unspecific or based on rumours.
281. Having assessed Jean-Jacques Demafoth’s testimony overall, in light of the Defence’s arguments, the Chamber concludes that the witness’s testimony is, nonetheless, generally

³³⁵ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 164-166.

³³⁶ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 33-35.

³³⁷ See P-2328: T-048, p. 81, line 24 – p. 101, line 11 *referring to* Media articles, CAR-D30-0007-0008; CAR-D30-0007-0014; Dissertation, CAR-D30-0007-0205, at 0619; Annex 9 to CAR Panel Final Report 2015, CAR-OTP-2023-0032, at 0368, para. 62.

³³⁸ See P-2328: T-049, p. 42, line 15 – p. 43, line 21 *referring to* Facebook messages, CAR-OTP-2101-8129, at 8158; T-050, p. 13, line 23 – p. 16, line 5 *referring to* Media article, CAR-OTP-2101-3413, at 3417.

³³⁹ See P-2328: T-049, p. 43, line 22 – p. 51, line 21 *referring to* Facebook messages, CAR-OTP-2100-6030, at 6117; CAR-OTP-2099-7830, at 7889-90; CAR-OTP-2101-8599, at 8827; CAR-OTP-2102-1866, at 1929. *See also* P-0801: T-037, p. 38, line 20 – p. 39, line 12.

³⁴⁰ See P-2328: T-050, p. 19, line 1 – p. 21, line 14. *See also* P-2926: T-031, p. 69, line 24 – p. 70, line 16.

³⁴¹ See P-0801: T-037, p. 18, line 9 – p. 19, line 1; P-0992: T-093, p. 8, lines 2-10; T-095, p. 28, lines 6-15; P-0889: T-110, p. 66, lines 1-17.

credible. The Chamber is of the view that Jean-Jacques Demafouth was generally clearly capable of differentiating in his answers between the sources of information and his own interpretation. The Chamber did not find that he was necessarily biased against either of the accused or the Anti-Balaka in general. Jean-Jacques Demafouth was respectful to both accused when testifying about them and did not express any negative feelings. The witness was forthcoming and provided a significant number of details concerning events and interactions he was personally involved in.

282. Regarding the three purported inconsistencies pointed out by the Yekatom Defence, concerning the witness's testimony that (i) a Muslim was killed on the day of Catherine Samba-Panza's visit to Mbaïki;³⁴² (ii) Mr Yekatom controlled neighbourhoods in Bangui, the Mbaïki road and suburbs and that Anti-Balaka under his command encircled the Boda enclave;³⁴³ and (iii) Mr Yekatom controlled the area of Boeing and PK9 and was 'the one controlling the attack from that zone',³⁴⁴ the Chamber has considered them in the context of the witness's entire testimony and did not find them such as to render his entire evidence unreliable.
283. At the same time, and having regard to his evidence holistically in light of other evidence available before it, the Chamber has not relied on Jean-Jacques Demafouth's evidence concerning these three aspects.
284. Lastly, regarding his alleged 'irreconcilable assertions' about the structure of the Anti-Balaka, the Chamber notes that Jean-Jacques Demafouth explained that the police referred to the Anti-Balaka at the time as '*nébuleuse*' because 'it was no longer possible to understand what was inside and [they] were not aware of the specific hierarchy', which is why they ('we') decided that FOMAC would arrest some Anti-Balaka leaders and question them to find out their structure and actions.³⁴⁵ He also testified that 'the Rambo group depended on

³⁴² P-2328: T-047, p. 75, line 15 – p. 76, line 24; T-050, p. 45, line 12 – p. 46, line 17.

³⁴³ P-2328: T-047, p. 16, line 17 – p. 18, line 8, p. 68, lines 6-10. In particular, the Chamber notes that Jean-Jacques Demafouth indicated that 'the Boda brigade' alerted 'them' ('us') about the situation in Boda; 'they' tried to deploy a detachment of FOMAC that came from the Congo; the witness then spoke to the French 'General Bellot des Minieres' to ask for a further French detachment in the area and 'France helped [them]' providing such a detachment; after which the witness took 'flights' and witnessed the humanitarian situation in Boda.

³⁴⁴ P-2328: T-047, p. 64, line 10 – p. 65, line 21.

³⁴⁵ P-2328: T-047, p. 22, line 13 – p. 23, line 1.

the coordination and was a member of the coordination of Mr Ngaïssona'.³⁴⁶ The Chamber does not consider these allegations to be 'irreconcilable', particularly in the context of other explanations Jean-Jacques Demafouth provided,³⁴⁷ and in light of the abundant evidence on the case record on the structure and coordination of the Anti-Balaka.

285. Overall, the Chamber has assessed the reliability of Jean-Jacques Demafouth's evidence in the context of its holistic evaluation of the evidence before it.

ix. P-2625

286. Georges Adrien Serge Poussou (hereinafter: 'Adrien Poussou'), a journalist and former member of the CAR government, testified fully live without in-court protective measures.³⁴⁸ Adrien Poussou was subject to a summons by the Chamber³⁴⁹ and eventually took oath in September 2022,³⁵⁰ with his testimony following in January 2023.³⁵¹

287. During the relevant time, Adrien Poussou held various positions in the CAR government, including special advisor to the prime minister Nicolas Tiangaye, in charge of communication, national reconciliation and civic and democratic culture, as well as spokesperson for the prime minister's office; and also held a position within Catherine Samba-Panza's government. He was also a member of FROCCA and in charge of PR or communications. As such, he testified about FROCCA's creation, objective and various meetings he attended. He also testified about the formation, structure and coordination of the Anti-Balaka, as well as about Mr Ngaïssona's role within the movement.

³⁴⁶ P-2328: T-047, p. 73, lines 1-6.

³⁴⁷ The Chamber notes that the witness explained that his expression of support to arrest the Anti-Balaka on a list 'escaped' a meeting, referring again to the Anti-Balaka as 'nebulous' because '[i]t was an organisation which had a lot of complicity, even amongst the members of the government' (P-2328: T-047, p. 54, lines 2-19).

³⁴⁸ P-2625: T-165; T-188; T-189; T-190; T-191; T-192; T-193. The Chamber notes that for his solemn undertaking, the witness was granted in-court protective measures (P-2625: T-165, p. 3, lines 17-22).

³⁴⁹ [Decision on the Prosecution Request to Summon a Witness](#), 8 January 2021, ICC-01/14-01/18-804. *See also* Decision on the Prosecution Request for Further Measures to Compel the Attendance of a Witness and the related Ngaïssona Defence Requests for Disclosure, 20 October 2022, ICC-01/14-01/18-1627-Conf.

³⁵⁰ P-2625: T-165.

³⁵¹ P-2625: T-188; T-189; T-190; T-191; T-192; T-193. At the beginning of his testimony, the witness was assisted by counsel appointed pursuant to Rule 171(5) of the Rules (*see* Notification of the Appointment of Mr John Philpot following the Trial Chamber's Order to assign Counsel to Witness P-2625, 14 October 2022, ICC-01/14-01/18-1610, with confidential annexes I and II; Decision on the Request for clarification with respect to the mandate of counsel for P-2625, email from the Chamber, 17 January 2023, at 09:34).

288. The Prosecution cites to parts of Adrien Poussou's evidence in support of some of its allegations.³⁵² The Yekatom Defence refers to his evidence twice in support of its arguments.³⁵³
289. The Ngaïssona Defence submits that the Prosecution excessively relied on the uncorroborated insider evidence of Adrien Poussou.³⁵⁴ It further submits that his evidence is 'irreparably impugned' and should therefore be rejected in full due to his (i) clear bias against Mr Ngaïssona and the Defence, (ii) non-cooperation with the Court, and (iii) contradictory claims and overall demeanour.³⁵⁵
290. Having assessed Adrien Poussou's testimony overall, in light of the Ngaïssona Defence's arguments, the Chamber concludes that the witness's testimony is, nonetheless, generally credible. In light of his involvement in the early stages of FROCCA and within the governments of Michel Djotodia and then of Catherine Samba-Panza, Adrien Poussou had direct information about many events of relevance to the Chamber. He clearly had access to a wide variety of sources on different sides of the conflict and provided a significant amount of information. The Chamber is of the view that Adrien Poussou clearly distinguished between what he witnessed himself and what he heard about and was able to specify the source of his knowledge with sufficient detail.
291. The Chamber first turns to the Ngaïssona Defence's allegations that Adrien Poussou attempted to incriminate Mr Ngaïssona 'at all costs', and 'demonstrated a hostile, obstructive and aggressive demeanour' during his examination, often refusing to answer questions, making 'inappropriate and disparaging remarks' and using 'violent language'.³⁵⁶ Having reviewed his testimony in light of these arguments, the Chamber did not consider that Adrien Poussou was biased against Mr Ngaïssona or the Ngaïssona Defence. He indicated that he had no specific interest in Mr Ngaïssona nor in making things up about him or harming

³⁵² See e.g. [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, paras 34, 36, 38-39, 41, 49, 56, 84-85, 87, 94, 98, 126, 130, 146, 148, 151, 209, 250, 402.

³⁵³ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 168.

³⁵⁴ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 8.

³⁵⁵ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 20.

³⁵⁶ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 21.

him.³⁵⁷ Also, when confronted with the fact that during his interview with the Prosecution he had not mentioned that Mr Ngaïssona led COAC together with Yambeté, signed COAC statements and participated at the PK0 rally, Adrien Poussou provided consistent and reasonable explanations which did not denote, in the Chamber's view, any hostility towards Mr Ngaïssona nor his defence counsel.³⁵⁸

292. Regarding the Ngaïssona Defence's argument that the witness often refused to answer its questions, the Chamber notes that Adrien Poussou sometimes indicated that he could not answer certain questions because he did not have the details or was not in the meetings or groups about which he was asked³⁵⁹ – which, if anything, reflected positively on the credibility of his evidence. Likewise, on various occasions, the witness said that he stood by what he had said in response to questions he had already answered.³⁶⁰ The Chamber does not attribute the witness appearing at times exasperated or insolent during his examination by the Ngaïssona Defence to having feelings of hostility towards the counsel.³⁶¹

293. The Chamber now turns to the Ngaïssona Defence's arguments that Adrien Poussou aimed to secure personal gain from his cooperation with the Court by fabricating material allegedly containing key incriminating evidence against Mr Ngaïssona which he never produced; and that once he realised he would not obtain any gain, he abruptly withdrew his cooperation.³⁶²

³⁵⁷ See *e.g.* P-2625: T-192, p. 14, lines 10-22; T-193, p. 72, line 25 – p. 73, line 4. The Chamber further notes that when asked about his 'motivation to testify against Mr Ngaïssona', the witness responded as follows: 'This has absolutely nothing to do with my deposition before this Chamber. May I specify that I'm not deposing against Mr Ngaïssona. I have got absolutely no interest in doing so. There were crimes that were committed in my country. And I told the investigators of the OTP the first day when we met, my wish is that the perpetrators of these crimes be punished. That's my only motivation. I do not have any animosity or a bone to pick with the Anti-Balaka.' (see P-2625: T-193, p. 107, line 18 – p. 108, line 7).

³⁵⁸ See *e.g.* P-2625: T-192, p. 4, line 16 – p. 5, line 22, p. 6, line 10 – p. 8, line 7. The Chamber also notes further explanations by the witness at T-192, p. 9, line 12 – p. 16, line 11. See *also e.g.* P-2625: T-193, p. 25, line 21 – p. 26, line 19.

³⁵⁹ See *e.g.* P-2625: T-192, p. 61, line 10 – p. 63, line 10; T-193, p. 64, lines 9-16.

³⁶⁰ See *e.g.* P-2625: T-192, p. 64, line 5 – p. 66, line 11; T-193, p. 60, line 23 – p. 61, line 13.

³⁶¹ See *e.g.* P-2625: T-192, p. 45, lines 24-25, p. 67, lines 21-25, p. 70, line 11 – p. 71, line 9, p. 74, line 11 – p. 76, line 13; T-193, p. 14, line 14 – p. 15, line 3, p. 27, lines 19-22, p. 53, lines 6-15, p. 56, lines 7-21. Regarding the witness's alleged use of violent language, the Chamber notes the entirety of his remark: 'I would like to draw your attention to the fact that I have my return flight tomorrow at 1500 hours and I've already lost more than 10 days before this Chamber. And that's important. I would prefer to have my throat slit than coming back tomorrow. In any event, I'm going back home tomorrow [...] to get back to my activities and then we'll see [...]' (see P-2625: T-193, p. 98, lines 5-10).

³⁶² Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, para. 22.

The Chamber is of the view that the efforts required to secure his testimony,³⁶³ any actions he may have taken in relation to [REDACTED],³⁶⁴ or as regards certain contemporaneous documents he may have had in his possession,³⁶⁵ did not have any impact on the credibility of his testimony.

294. Similarly, the Chamber has found irrelevant to its overall determinations any criminal allegations against the witness pointed out by the Ngaïssona Defence in court.³⁶⁶

295. Lastly, as regards the Ngaïssona Defence's allegations on Adrien Poussou's alleged contradictions, inability to specify his source of knowledge, and evasive and speculative answers, based on anonymous hearsay,³⁶⁷ the Chamber assessed the specific examples provided by the Ngaïssona Defence and considers that they did not affect the credibility of the evidence that he provided.³⁶⁸

296. Having regard to the above, the Chamber considered Adrien Poussou's evidence generally reliable and has assessed it in light of other evidence available before it.

³⁶³ For a complete sequence of events and timeline, see Decision on the Ngaïssona Defence Motion for Disclosure, 12 December 2022, ICC-01/14-01/18-1694-Conf.

³⁶⁴ P-2625: T-193, p. 73, line 16 – p. 78, line 4, p. 92, line 25 – p. 96, line 12.

³⁶⁵ See P-2625: T-188, p. 14, lines 1-19; T-192, p. 29, line 21 – p. 33, line 8; T-193, p. 18, line 12 – p. 19, line 10, p. 81, lines 1-16, p. 82, line 14 – p. 86, line 15, p. 87, line 14 – p. 91, line 23, p. 96, lines 2-12.

³⁶⁶ See P-2625: T-193, p. 98, line 19 – p. 106, line 20.

³⁶⁷ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 23.

³⁶⁸ See P-2625: T-191, p. 54, line 13 – p. 55, line 11 (concerning Mr Ngaïssona's nomination within the national unity government); T-192, p. 48, line 25 – p. 51, line 1 (concerning 'Socrate' and 'Kokaté'). Further examples are assessed in paragraph 291 above.

b. Mid-level Insiders

i. P-0954

297. P-0954, a former Anti-Balaka element, testified with in-court protective measures,³⁶⁹ and with the assistance of counsel appointed pursuant to Rule 74 of the Rules.³⁷⁰ His prior recorded testimony was introduced pursuant to Rule 68(3) of the Rules.³⁷¹

298. All parties relied on parts of P-0954's testimony in support of their arguments.³⁷²

299. At the same time, the Yekatom Defence raised several challenges to the reliability of P-0954's account, referring to him, *inter alia*, when arguing that there are 'testimonies in which witnesses minimise their own involvement, distort the facts, or present false accounts'.³⁷³ It argues that P-0954 provided false testimony based on personal animosity towards Mr Yekatom and his self-serving interest to use the testimony [REDACTED].³⁷⁴ In particular, the Yekatom Defence submits that P-0954 provided a false narrative concerning the events at Yamwara, and that his account on this aspect as well as concerning Mr Yekatom's equipment of arms is contradicted by other evidence.³⁷⁵ It also claims that while the Prosecution relies on P-0954's evidence to assert that Mr Yekatom issued orders to kill Muslims, it has not been demonstrated that P-0954 ever personally saw or heard Mr Yekatom issue such orders – which the Yekatom Defence considers to be yet another example of P-0954's evidence being based on second-hand information, often stemming from anonymous

³⁶⁹ P-0954: T-112 (no testimony); T-113 (no testimony); T-166; T-167; T-168; T-169. [REDACTED]

³⁷⁰ Order to Assign Counsel to P-0954, 9 May 2022, ICC-01/14-01/18-1396-Conf; [Notification of the Appointment of Ms Claudine Bagaza-Dini as Legal Adviser to Witness P-0954](#), 13 May 2022, ICC-01/14-01/18-1407 (with one confidential annex); Notification of the Appointment of Ms Claudine Bagaza-Dini as Counsel following the "Order to Assign Counsel to P-0954" (ICC-01/14-01/18-1396-Conf), 17 May 2022, ICC-01/14-01/18-1413 (with confidential Annex I).

³⁷¹ P-0954 Statement, CAR-OTP-2048-0171; P-0954 Translation, CAR-OTP-2102-0160; P-0954 Corrections, CAR-OTP-00000303-R01; and its associated items, CAR-OTP-2048-0192; CAR-OTP-2048-0193. *See also* Eleventh Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies under Rule 68(3) of the Rules concerning Witnesses P-0954, P-1811, and P-0966, 18 March 2022, ICC-01/14-01/18-1317-Conf, para. 20, p. 14; P-0954: T-166, p. 13, lines 5-7.

³⁷² *See e.g.* [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, paras 72, 229, 235, 253, 263, 275, 298, 354, 385, 400; Ngaissona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, paras 243, 266-267, 498, 506, 509, 511, 541-542, 545-546, 563; Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 172, 174, 181, 188, 191-192, 196-198, 202, 220, 239, 249.

³⁷³ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 73.

³⁷⁴ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 75, 340, 412.

³⁷⁵ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 241, 257, 468-469, 472-473.

hearsay and/or media reports.³⁷⁶ The Yekatom Defence further challenges P-0954's evidence concerning phone calls that he claims to have made.³⁷⁷

300. The Ngaïssona Defence submits that several witnesses, including P-0954, changed their evidence significantly during examination before the Chamber.³⁷⁸ In particular, it submits that P-0954 admitted during his oral testimony that mentioning Mr Ngaïssona as a 'financier' in his prior recorded testimony was 'perhaps an error'.³⁷⁹
301. Having reviewed it in light of the Defence's arguments, the Chamber finds that P-0954's evidence is nonetheless generally credible.
302. In the view of the Chamber, P-0954 did not have a lot of firsthand information about the charged incidents in 2013, particularly, having not participated in the preparation or the execution of the attack on Bangui on 5 December 2013. While P-0954 claims to have personally interacted with Mr Yekatom over the telephone during the relevant time, he appears to have qualified these interactions by distinguishing between what he had heard and what he assumed. The Chamber particularly noted that P-0954 himself also did not claim to have direct or accurate information about the events when providing information about what he did not experience himself. This reflected positively on the reliability of his testimony.
303. Nonetheless, the Chamber has borne in mind the source of his information when assessing the weight to be given to his evidence. This applies to P-0954's evidence concerning the arming and financing of Mr Yekatom's group,³⁸⁰ as well as his testimony concerning his phone call with Mr Yekatom regarding the events that took place at Yamwara on and around 24 December 2013.
304. As regards the Yekatom Defence's arguments, the Chamber finds that P-0954's evidence reflected a degree of animosity towards Mr Yekatom. In this regard, the Chamber has

³⁷⁶ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 340.

³⁷⁷ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 37, 361.

³⁷⁸ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 9.

³⁷⁹ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 498.

³⁸⁰ *See further* Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 257, 259.

considered, *inter alia*, that P-0954 stated that Mr Yekatom considered others ‘as dogs’³⁸¹ and, in court, said that Mr Yekatom ‘doesn’t listen’, behaved ‘as the good Samaritan’ while in The Hague but was a ‘semi-god’ on the ground, and alleged that Mr Yekatom was ‘after’ him [REDACTED].³⁸² However, in the Chamber’s view, these comments did not reflect a bias towards Mr Yekatom such that it affected the credibility of his evidence. In this respect, the Chamber has considered that P-0954’s evidence did not show a tendency to incriminate Mr Yekatom at all costs, as he was otherwise forthcoming to the Chamber about the extent of his knowledge and the source of his information concerning Mr Yekatom. For example, the witness described one incident in which Mr Yekatom [REDACTED].³⁸³

305. Further, the Chamber notes that P-0954’s statement and his in-court testimony are inconsistent concerning Mr Ngaïssona financing the Anti-Balaka. In his interview with the Prosecution, P-0954 stated that ‘N[gaïssona], M[okom] [...] and Francis B[ozizé] financed the A[nti-Balaka] to buy weapons and ammunition’.³⁸⁴ When asked about this statement in court, P-0954 said that Mr Ngaïssona’s name was ‘perhaps an error’ and, when asked, agreed that information in this statement as regards Mr Ngaïssona concerned ‘[REDACTED]’, adding that he did not know what Mr Ngaïssona was doing in Cameroon and did not ‘hear his name in relation to the financing in 2013’.³⁸⁵ In the view of the Chamber, P-0954 downplayed Mr Ngaïssona’s role during his in-court testimony but this did not impact the credibility of the remainder of the evidence he provided.

306. Having regard to the above, the Chamber also considers the Yekatom Defence’s allegation that P-0954 gave a false account [REDACTED] to be speculative. The Chamber further notes that P-0954 testified in [REDACTED] 2022,³⁸⁶ and [REDACTED].³⁸⁷ P-0954 had indicated to the Chamber in [REDACTED] 2022, when his testimony was initially scheduled

³⁸¹ P-0954 Statement, CAR-OTP-2048-0171-R03, at 0187, para. 91.

³⁸² P-0954: T-168, p. 83, line 12 – p. 85, line 12.

³⁸³ P-0954: T-168, p. 20, line 10 – p. 22, line 11.

³⁸⁴ P-0954 Statement, CAR-OTP-2048-0171-R03, at 0179, para. 47.

³⁸⁵ P-0954: T-166, p. 67, line 17 – p. 69, line 12; T-169, p. 46, line 25 – p. 47, line 20.

³⁸⁶ See also P-0954: T-113, p. 4, lines 3-13, p. 6, lines 11-14, where P-0954 unequivocally stated that he was not willing to testify before the Chamber [REDACTED]. In the view of the Chamber, had he believed – as the Yekatom Defence claims – that his testimony could have a positive impact on [REDACTED], he would not have refused to testify before the Chamber [REDACTED].

³⁸⁷ Email from the VWU, 9 June 2022, at 13:20. See also P-0954: T-168, p. 43, lines 2-18.

and [REDACTED], that he was concerned about his security and that of his family,³⁸⁸ and expressed concerns that '[REDACTED]'.³⁸⁹ P-0954 said that if [REDACTED], he could testify.³⁹⁰ However, there is no indication that P-0954 was [REDACTED], or that [REDACTED] adversely affected how P-0954 testified in this case.

307. Having regard to the above, the Chamber has assessed the reliability of P-0954's evidence on a case-by-case basis in light of other evidence before it. As regards specific aspects of his testimony such as his phone call with Mr Yekatom in relation to the attack on Bangui on 5 December 2013, Mr Yekatom's involvement in the events at Yamwara, and the presence of Mr Yekatom's group at PK9 and checkpoints on the PK9-Mbaïki axis, the Chamber has assessed them, in the context of other evidence received by the Chamber, in the evidentiary analysis further below.³⁹¹

ii. P-0965

308. P-0965, a former Anti-Balaka element [REDACTED] who participated in the attack on Bangui on 5 December 2013, testified with in-court protective measures,³⁹² with the assistance of counsel appointed pursuant to Rule 74 of the Rules.³⁹³ His prior recorded testimony was introduced pursuant to Rule 68(3) of the Rules.³⁹⁴

³⁸⁸ P-0954: T-113, p. 6, lines 11-14.

³⁸⁹ P-0954: T-113, p. 4, lines 3-13.

³⁹⁰ P-0954: T-113, p. 2, lines 16-21.

³⁹¹ See paragraphs 2503-2512, 3191-3201, 3365-3366 below.

³⁹² P-0965: T-061; T-062; T-063; [Decision on In-Court Protective Measures](#), ICC-01/14-01/18-906-Red, paras 50, 52, p. 41.

³⁹³ [Decision on the Appointment of Duty Counsel](#), ICC-01/14-01/18-857; [Notification of the appointment of Mr Jean-Chrysostome Wang-You Sando as Legal Adviser to Witness P-0965](#), 2 July 2021, ICC-01/14-01/18-1052 (with confidential Annexes I and II).

³⁹⁴ P-0965 Interview Transcripts, CAR-OTP-2046-0022-R01; CAR-OTP-2046-0024-R01; CAR-OTP-2046-0032-R01; CAR-OTP-2046-0037-R02; CAR-OTP-2046-0049-R01; CAR-OTP-2046-0051-R01; CAR-OTP-2046-0055-R02; CAR-OTP-2046-0072-R01; CAR-OTP-2046-0090-R01; CAR-OTP-2046-0108-R01; CAR-OTP-2046-0122-R01; CAR-OTP-2046-0134-R01; CAR-OTP-2046-0147-R01; CAR-OTP-2046-0150-R01; CAR-OTP-2046-0166-R01; CAR-OTP-2046-0182-R01; CAR-OTP-2046-0195-R01; CAR-OTP-2046-0213-R02; CAR-OTP-2046-0228-R01; P-0965 Corrections, CAR-OTP-2130-9411 (only at 9411); and its associated item, CAR-OTP-2033-8065; Fourth Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies under Rule 68(3) of the Rules concerning Witnesses P-0965 and P-0291, 28 June 2021, ICC-01/14-01/18-1040-Conf, para. 13, pp. 10-11; P-0965: T-061, p. 10, lines 5-16.

309. The Prosecution places limited reliance on P-0965's evidence.³⁹⁵ The Ngaïssona Defence argues that P-0965 is 'an impostor' and that he 'lied on the stand on several key facts, such that he cannot be relied upon'.³⁹⁶ It raises issues concerning when he joined [REDACTED].³⁹⁷ It points to P-0306's evidence in which he did not recognise P-0965's name and 'identified someone else [REDACTED]'; and also points to other witnesses, who also did not recognise P-0965's name.³⁹⁸ The Ngaïssona Defence argues that the uncertainty about the foundation of all of P-0965's knowledge means that his testimony should be disregarded in its entirety.³⁹⁹ It further argues that since P-0965 lacks overall credibility, his claims have no probative value, including (i) his evidence concerning the notebook provided by him, supposedly containing information on the gathering and leaders in Gobere,⁴⁰⁰ (ii) his claims that Mr Ngaïssona 'had the means to buy weapons and was the Anti-Balaka financier', and (iii) his claims that Mr Ngaïssona 'gave instructions to the Anti-Balaka gathered at the hill in advance of the 5 December attack'.⁴⁰¹
310. Having reviewed his testimony in light of these arguments, the Chamber concludes that P-0965 is, nonetheless, generally credible. The Chamber notes that it is not contested, and his testimony leaves no doubt, that P-0965 was a member of the Anti-Balaka within [REDACTED]. P-0965 provides a firsthand account of his experiences and a significant number of details regarding the preparation and his participation in the attack on Bangui on 5 December 2013. P-0965 appeared generally knowledgeable about the groups and individuals who had been in Gobere, even though [REDACTED]. P-0965's evidence concerning the advance of the Anti-Balaka groups to Bangui before 5 December 2013 and how the attack unfolded is largely coherent and consistent with other evidence received before it.
311. At the same time, as set out below, the Chamber noted inconsistencies in his testimony that, in its view, were not such that rendered his testimony wholly unreliable.

³⁹⁵ See e.g. [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, paras 623, 678.

³⁹⁶ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 17.

³⁹⁷ Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, para. 18.

³⁹⁸ Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, para. 19.

³⁹⁹ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 19.

⁴⁰⁰ Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, para. 216.

⁴⁰¹ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 508, 527.

312. First, as regards the question and the timeline of P-0965's role [REDACTED], the Chamber notes that while P-0965 used this term to describe his role,⁴⁰² his functions more closely resembled that of [REDACTED] in its traditional sense. In any event, the Chamber considered that the reliability of P-0965's entire account did not rest on his formal role [REDACTED].
313. Second, as regards the notebook provided by P-0965 in which there is information that he claimed to have copied from [REDACTED],⁴⁰³ the challenges raised by the Ngaïssona Defence in court also did not affect his credibility overall. P-0965 provided adequate explanations about the source of information in the notebook and consistently confirmed that it was not based on [REDACTED].⁴⁰⁴ The Chamber has also assessed the notebook holistically, in light of P-0965's testimony, his level of education, and the context in which it was written, and finds that its contents and the circumstances in which it was prepared also did not affect the reliability of his testimony.
314. Having regard to the above, the Chamber has assessed the reliability of P-0965's evidence on a case-by-case basis in light of other evidence before it. As regards the specific aspects of his testimony concerning the procurement of weapons at the Ndress cemetery, a phone call with François Bozizé, and Yvon Konaté's contacts with Mr Ngaïssona, the Chamber has assessed them, in the context of other evidence received by the Chamber, in its evidentiary analysis further below.⁴⁰⁵

iii. P-1077

315. Chrysostome Yapélé, also known as 'Chiki Chiki',⁴⁰⁶ a former ComZone of Berbérati and later the Anti-Balaka coordinator for the Mambéré-Kadéï prefecture, testified without in-court protective measures,⁴⁰⁷ and with the assistance of counsel appointed pursuant to Rule

⁴⁰² See e.g. P-0965: T-062, p. 50, lines 2-9.

⁴⁰³ P-0965: T-062, p. 9, line 19 – p. 11, line 9 referring to Notebook, CAR-OTP-2033-8065.

⁴⁰⁴ P-0965: T-062, p. 13, line 5 – p. 14, line 10, p. 14, line 22 – p. 15, line 4, p. 17, lines 16-21, p. 20, lines 1-18.

⁴⁰⁵ See paragraphs 2214, 2254, 2305-2315, 2332-2337 below.

⁴⁰⁶ P-1077 Interview Transcript, CAR-OTP-2107-3396-R01, at 3398, lines 42-56; P-1077: T-149, p. 5, lines 17-20.

⁴⁰⁷ P-1077: T-149; T-150; Decision on the Prosecution Request for Reconsideration regarding In-Court Protective Measures for P-1077, 24 August 2022, ICC-01/14-01/18-1553-Conf-Exp, confidential *ex parte*, only available to the Prosecution and the Registry (public redacted version notified the same day, [ICC-01/14-01/18-1553-Red](#)), para. 10, p. 5.

74 of the Rules.⁴⁰⁸ His prior recorded testimony was introduced pursuant to Rule 68(3) of the Rules.⁴⁰⁹

316. The Ngaïssona Defence relies on Chrysostome Yapélé's evidence to argue that it was difficult to differentiate between the civilians and the Anti-Balaka⁴¹⁰ and that the Anti-Balaka did not target the Muslim civilians.⁴¹¹ In particular, the Ngaïssona Defence refers to this witness's evidence that in Berbérati, the Anti-Balaka only targeted the Seleka to argue that harming Muslim civilians was not the Anti-Balaka's collective intent but was conducted by some uneducated Anti-Balaka who were acting on their own.⁴¹²
317. At the outset, the Chamber notes that Chrysostome Yapélé testified about his experience in the Anti-Balaka during the relevant time, the situation in Carnot and Berbérati, including the attack in Berbérati in February 2014, and the Brazzaville talks. His testimony about Carnot and Berbérati does not directly relate to any of the charged incidents in this case.
318. As set out below, the Chamber concludes that his evidence concerning a key aspect relevant for this case – whether Anti-Balaka elements made a distinction between the Seleka and Muslims – was not forthcoming and therefore, not reliable. In the view of the Chamber, Chrysostome Yapélé distanced himself from the statements he made to the Prosecution investigators and did not offer any meaningful clarity in court about how the Anti-Balaka elements understood the terms 'Muslims' or 'Seleka'. Notably, in court, when asked about his previous statement that 'when I find a Muslim I'm going to kill him', Chrysostome Yapélé explained that 'they' did not want to kill Muslims but the Seleka because 'there was

⁴⁰⁸ [Decision on the Appointment of Duty Counsel](#), ICC-01/14-01/18-857; [Notification of the Appointment of Mr Jacob Sangone as Legal Adviser to Witness P-1077](#), 12 August 2022, ICC-01/14-01/18-1543 (with confidential Annexes I and II).

⁴⁰⁹ P-1077 Interview Transcripts, CAR-OTP-2107-3366-R01; CAR-OTP-2107-3394-R01; CAR-OTP-2107-3396-R01; CAR-OTP-2107-3428-R01; CAR-OTP-2107-3454-R01; CAR-OTP-2107-3483-R01; CAR-OTP-2107-3500-R01; CAR-OTP-2107-3530-R01; CAR-OTP-2107-3554-R01; CAR-OTP-2107-3584-R01; CAR-OTP-2107-3610-R01; CAR-OTP-2107-3636-R01; CAR-OTP-2107-3666-R01; and its associated items, CAR-OTP-2083-0130; CAR-OTP-2083-0131; CAR-OTP-2083-0132; CAR-OTP-2001-4257; CAR-OTP-2003-1654, at 1736; CAR-OTP-2030-0248; CAR-OTP-2030-0445; CAR-OTP-2030-2280; CAR-OTP-2107-6899; CAR-OTP-2107-7027; CAR-OTP-2059-0026; CAR-OTP-2066-1601, at 1655-57; CAR-OTP-2020-0413; [Fourteenth Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies under Rule 68\(3\) of the Rules concerning Witnesses P-2556 and P-1077](#), 14 June 2022, ICC-01/14-01/18-1457, para. 28, p. 12; P-1077: T-149, p. 9, lines 9-11.

⁴¹⁰ See e.g. [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 232-233.

⁴¹¹ See e.g. [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 256.

⁴¹² [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 256. See also paras 240, 243, 255-256.

a difference’ and ‘some’ Anti-Balaka were not educated and thought that Seleka were Muslims and did not distinguish between them.⁴¹³

319. Moreover, Chrysostome Yapélé was shown in court a video footage in which he appears introducing himself as ‘the person responsible for the Anti-Balaka in Mambere-Kadei’ and offering to show the reporter to ‘take a Muslim and come kill [them] before her’.⁴¹⁴ Asked why he used the term ‘Muslim’ instead of ‘Seleka’, the witness said that this was because he was answering ‘in response to their questions’.⁴¹⁵ Chrysostome Yapélé, asked about his response to a similar question in his interview with the Prosecution about why he used the term ‘Muslim’, said that ‘in the majority, the Seleka were Muslims and especially the Muslim Selekas committed a lot of torture’ against the CAR civilian population, so ‘when we talk about the Seleka, we were talking about Muslims’; and in the same answer also said ‘when we talk about Muslims, we were talking *only* about the Seleka’.⁴¹⁶ In his interview with the Prosecution, he had said that, at that time, ‘all the S[eleka] were Muslims, so sometimes we would say the Muslims’.⁴¹⁷
320. Further, the witness’s own interpretation of what ‘Seleka’ were is further exemplified by his description of the events in Berbérati, regarding which he stated in a generalised manner that the Muslim neighbourhood was targeted, and specifically Chadian and Fulbe individuals, because the majority were part of the Seleka,⁴¹⁸ and even saying that he warned that the Anti-Balaka would attack Muslims as they did not know the difference between Muslims and Seleka.⁴¹⁹ At the same time, the witness claimed that acts like killing and pillaging were carried out by Anti-Balaka elements who ‘acted in their own way’, and of which he was not a part.⁴²⁰

⁴¹³ P-1077: T-149, p. 22, line 10 – p. 23, line 10.

⁴¹⁴ P-1077: T-149, p. 49, line 16 – p. 52, line 5 *referring to* Video, CAR-OTP-2030-2280; Translation, CAR-OTP-2107-7027.

⁴¹⁵ P-1077: T-149, p. 53, lines 6-14.

⁴¹⁶ P-1077: T-149, p. 54, line 3 – p. 55, line 18 (emphasis added).

⁴¹⁷ P-1077 Interview Transcript, CAR-OTP-2107-3636-R01, at 3660-63, lines 843-954; *see also* P-1077: T-149, p. 49, line 16 – p. 55, line 18.

⁴¹⁸ P-1077 Interview Transcript, CAR-OTP-2107-3601-R01, at 3631-33, lines 764-867; P-1077: T-149, p. 34, line 20 – p. 36, line 8.

⁴¹⁹ P-1077: T-149, p. 24, line 11 – p. 25, line 1.

⁴²⁰ P-1077: T-149, p. 29, lines 18 – 21, p. 57, line 20 – p. 59, line 24.

321. Having regard to the above, the Chamber has only relied on the evidence provided by Chrysostome Yapele on a very limited aspect in its evidentiary analysis below.

iv. P-1193

322. P-1193, a former Anti-Balaka element who was part of Mr Yekatom's group, testified with in-court protective measures,⁴²¹ with the assistance of counsel appointed pursuant to Rule 74 of the Rules.⁴²² His prior recorded testimony was introduced pursuant to Rule 68(3) of the Rules.⁴²³

323. All parties rely on P-1193 in support of their arguments.⁴²⁴ The Yekatom Defence points to limited aspects of his evidence that, it argues, are based on his 'rudimentary understanding' of the functioning of Mr Yekatom's group.⁴²⁵

324. P-1193 testified that it might have been in [REDACTED] 2014 when he became member of the Anti-Balaka.⁴²⁶ P-1193 joined Mr Yekatom's group in 2014 and had [REDACTED] knowledge of the events that occurred after he joined, including the Brazzaville talks and his personal interactions with Mr Ngaïssona. P-1193 also provided several documents to the Prosecution, including lists of Anti-Balaka elements.

325. The Chamber notes that P-1193 was able to provide specific details relating to the structure and functioning of this group and the Anti-Balaka more generally but only related to events

⁴²¹ P-1193: T-124; T-125; T-126; T-127; [Decision on In-Court Protective Measures](#), ICC-01/14-01/18-906-Red, paras 33-34, p. 41.

⁴²² [Decision on the Appointment of Duty Counsel](#), ICC-01/14-01/18-857; [Notification of the Appointment of Ms Claudine Bagaza-Dini as Legal Adviser to Witness P-1193](#), 3 December 2021, ICC-01/14-01/18-1198 (with confidential Annexes I and II).

⁴²³ P-1193 Statement, CAR-OTP-2045-0048-R03; P-1193 Translation, CAR-OTP-2051-0353-R02; P-1193 Corrections, CAR-OTP-2135-2773-R01; and its associated items, CAR-OTP-2039-0018; CAR-OTP-2039-0019; CAR-OTP-2039-0020; CAR-OTP-2039-0024; CAR-OTP-2039-0031; CAR-OTP-2039-0050; CAR-OTP-2039-0063; CAR-OTP-2039-0067; CAR-OTP-2057-0230; CAR-OTP-2039-0071; CAR-OTP-2039-0072; [Eighth Rule 68\(3\) Decision](#), ICC-01/14-01/18-1186-Red, para. 15, p. 14; P-1193: T-124, p. 14, line 25 – p. 15, line 4.

⁴²⁴ See e.g. [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, paras 358, 393, 399, 460, 492, 494; Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 194-198, 237, 252, 329, 336, 345, 352-353; [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 54, 146, 149, 233-234, 240, 260, 267, 414, 441, 509, 511, 541-542.

⁴²⁵ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 281.

⁴²⁶ P-1193: T-124, p. 11, lines 19-23.

that occurred in 2014. P-1193 said that before [REDACTED] 2014, he had had ‘no contact’ with Mr Ngaïssona.⁴²⁷

326. In the Chamber’s view, the witness appeared to show a tendency to portray favourable pictures of both accused. For example, P-1193 said that Mr Yekatom ‘protected’ some Muslims in Lobaye by bringing them to MISCA to be sent to safety in Bangui,⁴²⁸ and that Mr Yekatom was ‘protecting the population in PK9’ by setting himself up behind the bridge as there was no state control.⁴²⁹
327. In a similar vein, P-1193 testified that ‘Mr Ngaïssona was a man of peace and [...] a God-fearing man’,⁴³⁰ that ‘because of the patriotism of Ngaïssona’, he ‘save[d] the partition of the country’ and tried to facilitate peace, and that they had ‘to be grateful of this because of the acts or actions he undertook’.⁴³¹ P-1193 described Mr Ngaïssona as a ‘firefighter’ who never asked the Anti-Balaka to do anything and did not have any men at his disposal; according to the witness, Mr Ngaïssona acted for peace and opposed violence and the commission of crimes and his willingness to stop the atrocities, looting and banditry made him look ‘weak’ in the eyes of the Anti-Balaka.⁴³² P-1193, asked to explain what he meant with the qualification of Mr Ngaïssona as a ‘firefighter’, said that he did not see it himself but knew from the media that there was a lot of disorder and that Mr Ngaïssona would give instructions for it to stop because he always vouched for peace.⁴³³ Asked which timeframe this was referring to, P-1193 agreed that it referred to [REDACTED] June 2014, and that before that time, he had ‘no information’; once the Anti-Balaka merged, that is when he got to know Mr Ngaïssona; and in the meetings that were held, Mr Ngaïssona ‘never ever gave instructions or orders to go and do harm’ or ‘advocat[ed] hatred’.⁴³⁴

⁴²⁷ P-1193: T-124, p. 64, lines 22-24.

⁴²⁸ P-1193 Statement, CAR-OTP-2045-0048-R03, at 0058-59, para. 67.

⁴²⁹ P-1193: T-126, p. 17, line 8 – p. 19, line 3.

⁴³⁰ P-1193: T-125, p. 43, lines 16-23. *See also* T-124, p. 67, line 25 – p. 68, line 19, p. 78, lines 5-12; T-125, p. 4, line 17 – p. 5, line 17, p. 6, line 23 – p. 7, line 4, p. 20, lines 7-13, p. 37, lines 7-15, p. 38, lines 17-25, p. 42, lines 3-13, p. 66, lines 15-22.

⁴³¹ P-1193: T-125, p. 63, line 18 – p. 65, line 17.

⁴³² P-1193 Statement, CAR-OTP-2045-0048-R03, at 0055, para. 42.

⁴³³ P-1193: T-125, p. 8, line 17 – p. 9, line 7.

⁴³⁴ P-1193: T-124, p. 56, lines 6-17.

328. Furthermore, the Chamber considered less credible the witness's assertion that what he knew about crimes against civilians he heard only from media and did not see it himself.⁴³⁵
329. Having regard to the above, the Chamber has assessed the veracity of P-1193's claims and opinions in light of other evidence received.

v. P-1339

330. P-1339, a former Anti-Balaka element in Mr Yekatom's group, testified fully live with in-court protectives measures,⁴³⁶ and received Rule 74 assurances.⁴³⁷ P-1339 participated in the 5 December 2013 attack on Bangui and during this time also [REDACTED]. He testified about, *inter alia*, the preparation and execution of the attack on Bangui, the attack on and destruction of the mosque in Boeing, and Djido Saleh's death.
331. The Yekatom Defence argues that the accounts of four witnesses, including that of P-1339, are 'wholly unreliable and as such should be disregarded'.⁴³⁸ In particular, it submits that as a result of P-1339's narrative shifting readily, compounded with 'his apparent incentive to secure personal gains from his testimony', P-1339's testimony is full of major and minor (inter- and intra-) contradictions as well as baseless allegations.⁴³⁹ Specifically, the Yekatom Defence alludes to (i) P-1339's comments on the veracity of his prior statement, in the context of which he raised 'numerous issues' 'in an attempt to explain the increasing contradictions' between his testimony and his prior statement, yet evaded his responsibility;⁴⁴⁰ (ii) his unreliable account, inconsistencies and/or contradictions regarding [REDACTED], Mr Yekatom's orders, the 'destruction' of the mosque in Boeing, the '5th December Operation' (in particular the 'Boeing Market incident' and the group's retreat),

⁴³⁵ See e.g. P-1193; T-124, p. 18, lines 12-21, p. 22, lines 11-21.

⁴³⁶ P-1339; T-151; T-152; T-153; T-154; T-155; T-156; T-157; T-158; T-159; T-160; [Decision on In-Court Protective Measures](#), ICC-01/14-01/18-906-Red, paras 50, 52, p. 41.

⁴³⁷ P-1339; T-152; T-157; T-158; T-160. See also [Decision on the Third Prosecution Request for Appointment of Duty Counsel for Purposes of Rule 74 of the Rules](#), 29 June 2022, ICC-01/14-01/18-1491; [Notification of the Appointment of Mr Jad Khalil as Legal Adviser to Witness P-1339](#), 28 June 2022, ICC-01/14-01/18-1487 (with confidential Annexes I and II); Urgent Application for Assurances Under Rule 74, 31 August 2022, ICC-01/14-01/18-1562-Conf, paras 9-10; email from the Chamber, 1 September, at 09:48.

⁴³⁸ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 78.

⁴³⁹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 106.

⁴⁴⁰ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 107-114, 135.

and the procurement of weapons;⁴⁴¹ and (iii) his provision of false information about other witnesses in this case.⁴⁴²

332. Having assessed P-1339's testimony overall, considering the inconsistencies pointed out by the Yekatom Defence, the Chamber concludes that the witness's testimony is, nonetheless, generally credible. The Chamber notes that there are indeed some discrepancies between P-1339's prior statement and his testimony. For example, P-1339's recollection that P-1839 and Stéphane Chrisostome Dawili were in Mr Yekatom's group prior to 5 December 2013 does not match their respective testimonies that they joined only after 5 December 2013 when Mr Yekatom's group was stationed at Yamwara.⁴⁴³ The Chamber considers these inconsistencies immaterial and, in any event, understandable given the passage of time. Similarly, the Chamber notes that P-1339's account of when and how exactly he assumed the [REDACTED] in Mr Yekatom's group is unclear. In the view of the Chamber, this did not discredit P-1339's remaining testimony, nor the fact that he did, at some point in 2013, [REDACTED].
333. Further, the Chamber is of the view that P-1339 showed a genuine disposition to answer the questions put to him truthfully, and did not hesitate to correct himself or admit that he had made a mistake when pointed out to him. The Chamber found his explanations in this regard generally reasonable and credible. The Chamber considers that these discrepancies did not render his testimony wholly unreliable.
334. In addition, given his being part of Mr Yekatom's group, the Chamber notes that the witness was forthcoming about the words and actions of Mr Yekatom and Habib Beina.⁴⁴⁴ For example, he clearly distinguished between acts committed by Mr Yekatom's group or the Anti-Balaka movement and others, such as the local population.⁴⁴⁵

⁴⁴¹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 115-133.

⁴⁴² [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 134.

⁴⁴³ See also paragraph 3043 below.

⁴⁴⁴ See e.g. P-1339: T-155, p. 49, line 17 – p. 56, lines 23 referring to Video, CAR-OTP-2065-0436; T-160, p. 6, lines 3-22, p. 8, line 5 – p. 9, line 3, p. 51, lines 7-15.

⁴⁴⁵ See e.g. P-1339: T-152, p. 71, line 17 – p. 72, line 5, p. 74, lines 10-20. The Chamber further notes its discussion on P-1339's evidence regarding the 'attack' on the mosque in Boeing, which P-1339 attributes to Mr Yekatom's group, and its subsequent 'destruction' or dismantling, which he attributes to the local population (see paragraphs 2621-2640 below). See also e.g. P-1339: T-154, p. 52, lines 1-7.

335. With regard to his notebook, the Chamber notes the Yekatom Defence's allegation that contrary to P-1339's initial explanation, he could not have written it in 2013 because the photographs on its cover were of events that occurred in 2014.⁴⁴⁶ It further notes the Yekatom Defence's suggestion that when confronted with this discrepancy during his testimony, P-1339 provided various different explanations.⁴⁴⁷ The Chamber considers that the witness's answers show that he did not understand the Yekatom Defence counsel's questions in the first place and appeared not to remember the photographs depicted on the cover of this notebook.⁴⁴⁸ In any event, the Chamber considers reasonable P-1339's indication that he [REDACTED].⁴⁴⁹ Further, the Chamber does not find any indication that the notebook or the information contained therein was fabricated. In any event, and bearing in mind the above, the Chamber has not relied on this item of evidence.
336. Regarding the Yekatom Defence's argument that P-1339 'fabricated' his account on the procurement of weapons, the Chamber notes that the purported inconsistencies in this account appeared to be the result of the witness's confusion when answering the counsel's questions rather than of a deliberate intention to lie.⁴⁵⁰ In the view of the Chamber, and similar to the above, these inconsistencies in P-1339's account were not such that rendered his testimony wholly unreliable on this aspect. The Chamber therefore relied on the limited aspects of his account concerning the procurement of weapons to the extent that it considered them credible.⁴⁵¹
337. Having regard to the above, the Chamber has generally relied on the evidence provided by P-1339, with specific inconsistencies in his testimony pointed to by the parties being assessed, as appropriate, in the context of other evidence received by the Chamber, in the evidentiary analysis further below.

⁴⁴⁶ See [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 120 *referring to* Notebook, CAR-OTP-2041-0768, at 0768; Screenshots, CAR-D29-0002-0134; CAR-D29-0002-0135.

⁴⁴⁷ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 120-121.

⁴⁴⁸ See P-1339: T-160, p. 9, line 7 – p. 12, line 19, p. 13, lines 5-23. *See also* T-160, p. 10, lines 9-16, p. 13, lines 20-23, p. 14, lines 3-8, p. 17, line 7 – p. 18, line 5, p. 21, line 20 – p. 22, line 2.

⁴⁴⁹ P-1339: T-160, p. 9, line 12 – p. 23, line 3.

⁴⁵⁰ P-1339: T-158, p. 42, line 25 – p. 75, line 4.

⁴⁵¹ *See* paragraph 2418 below.

vi. P-1521

338. P-1521, a former [REDACTED] Anti-Balaka, testified fully live with in-court protective measures.⁴⁵²
339. P-1521 joined the Anti-Balaka [REDACTED], participated in the attack on Bangui on 5 December 2013 and was later [REDACTED] in the context of the DDR process and national reconciliation.⁴⁵³
340. All parties rely on parts of his evidence in support of their arguments.⁴⁵⁴
341. Having reviewed his testimony, the Chamber notes that parts of P-1521's evidence stood in contrast with other evidence before it. For example, P-1521, as someone who participated in the attack on Bangui on 5 December 2013 and continued to remain part of the Anti-Balaka during 2014, testified that he was unaware of an attack on Bossangoa on the same day.⁴⁵⁵
342. Further, in the view of the Chamber, although P-1521 said that '[he] explained what [he] experienced in the Anti-Balaka movement' and did not 'exonerate [himself] or to protect Ngaïssona or the Anti-Balaka',⁴⁵⁶ he appeared to present a one-sided, favourable and passive view of Mr Ngaïssona's role in 2014.
343. On the one hand, P-1521 confirmed the suggestion that Mr Ngaïssona did not have the power to chase the ComZones from their positions and said that Mr Ngaïssona was 'even attacked by some ComZone commanders several times' and 'didn't have the power to decide on a ComZone leader' or 'exert pressure' on the ComZones (*'Il n'a pas de pression en tant que telle sur les commandants de zone'*).⁴⁵⁷ P-1521 also confirmed the suggestion that

⁴⁵² P-1521: T-080; T-081; T-082; T-083; T-084; [Decision on In-Court Protective Measures](#), ICC-01/14-01/18-906-Red, paras 33-35, 40, p. 41.

⁴⁵³ P-1521: T-080, p. 19, line 19 – p. 20, line 4; T-081, p. 37, line 23 – p. 38, line 23, p. 41, lines 8-20, p. 43, lines 2-16, p. 66, line 25 – p. 67, line 12, p. 68, line 12 – p. 69, line 7.

⁴⁵⁴ See e.g. Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, paras 61, 64-65, 71, 100, 214, 226, 231, 296, 298, 301, 315, 400, 546-547; Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, paras 1, 19, 43, 59, 142, 145, 149, 159, 180, 187, 194; Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 29, 54, 148, 172, 190, 194, 198, 204, 209, 213.

⁴⁵⁵ P-1521: T-081, p. 68, lines 1-8.

⁴⁵⁶ P-1521: T-083, p. 91, line 18 – p. 92, line 14.

⁴⁵⁷ P-1521: T-083-ENG, p. 36, lines 9-16; T-083-FRA, p. 36, line 25 – p. 37, line 5.

Mr Ngaïssona signed some mission orders but ‘others’ could have signed them as well.⁴⁵⁸ P-1521 also confirmed the suggestion that Mr Ngaïssona’s signatures were forged at some point, but did not provide any further details as regards the basis of this information.⁴⁵⁹ Further, P-1521 confirmed that Maxime Mokom wanted to be the head of the Anti-Balaka movement and acted without the order or authority of Mr Ngaïssona;⁴⁶⁰ and added that there were ‘misunderstandings’ between them and that sometimes Mokom carried out visits in the hinterland without Mr Ngaïssona’s orders.⁴⁶¹ On the other hand, P-1521 suggested that Mr Ngaïssona had sufficient authority to demand the Anti-Balaka to take down the roadblocks. For example, P-1521, when asked in relation to evidence concerning Mr Ngaïssona asking the ComZones to erect roadblocks or provoke disorder, testified that it was ‘Ngaïssona himself who called us and asked us to tell those people to dismantle the roadblocks that they had set up’.⁴⁶²

344. Nonetheless, in the view of the Chamber, these claims and opinions did not render P-1521’s testimony wholly unreliable.

345. As regards other aspects of his evidence, P-1521 appeared generally forthcoming about his involvement in the preparation and participation in the attack on Bangui on 5 December 2013 and how the attack unfolded.⁴⁶³ [REDACTED],⁴⁶⁴ P-1521 was able to explain the routes taken for the attack and answer questions about locations on an annotated map.⁴⁶⁵ P-1521 was knowledgeable and forthcoming about several individuals of interest to the case, including Andjilo, Yvon Konaté, Thierry Lebene, Richard Bejouane, Sebastien Wenezoui and Ngremangou, among others.⁴⁶⁶ His account concerning his involvement in the attack on Bangui on 5 December 2013 is largely internally coherent and consistent with other

⁴⁵⁸ P-1521: T-083, p. 62, lines 19-23.

⁴⁵⁹ P-1521: T-083, p. 62, line 24 – p. 63, line 4.

⁴⁶⁰ P-1521: T-083, p. 16, line 24 – p. 17, line 18.

⁴⁶¹ P-1521: T-083, p. 17, line 11 – p. 18, line 9.

⁴⁶² P-1521: T-083, p. 63, lines 5-20.

⁴⁶³ See e.g. P-1521: T-081, p. 37, line 23 – p. 38, line 23, p. 41, lines 8-20, p. 43, lines 2-16, p. 66, line 25 – p. 67, line 12, p. 68, line 12 – p. 69, line 7.

⁴⁶⁴ P-1521: T-081, p. 4, lines 12-23; T-082, p. 51, lines 6-15, p. 53, lines 6-12, p. 54, lines 11-20.

⁴⁶⁵ P-1521: T-081, p. 48, line 19 – p. 49, line 13 *referring to* Map (annotated by P-1521), CAR-OTP-2046-0629.

⁴⁶⁶ See e.g. P-1521: T-081, p. 54, lines 19-22; p. 23, line 12 – p. 24, line 4, p. 27, line 12 – p. 28, line 2; T-082, p. 5, lines 2-17, p. 23, lines 1-20, p. 20, lines 13-19; T-083, p. 85, lines 3-13.

evidence. Further, P-1521, [REDACTED],⁴⁶⁷ was in a position to observe the in-group dynamics between civilians and FACA members within the groups that were advancing to Bangui for the attack on 5 December 2013.⁴⁶⁸

346. P-1521 was less knowledgeable about Mr Yekatom's actions during the attack on Bangui and how the attack unfolded in other parts of Bangui, where he was himself not participating.⁴⁶⁹ The Chamber has considered this when assessing his testimony.

347. Having regard to the above, the Chamber has assessed the veracity of P-1521's claims and opinions in light of other evidence received.

vii. P-1719

348. P-1719, a former Anti-Balaka element, testified fully live with in-court protective measures,⁴⁷⁰ with the assistance of counsel appointed pursuant to Rule 74 of the Rules.⁴⁷¹

349. The Ngaïssona Defence argues that the witness is not credible because he is 'volatile', 'easy to manipulate and to corrupt', and participated in an alleged scheme to falsely accuse Mr Ngaïssona.⁴⁷² The Ngaïssona Defence also argues that the witness's demeanour was 'revealing' in that when responding to questions he 'repeatedly chose not to elaborate on his answers, limiting himself to referring to his statement' while also providing 'crucial information' during his testimony which is absent from his prior statement, without a convincing explanation.⁴⁷³

350. The Chamber notes that the Ngaïssona Defence's submissions in support of these arguments rely mostly on [REDACTED]'s evidence.⁴⁷⁴ Having reviewed the information provided by

⁴⁶⁷ P-1521: T-081, p. 4, lines 12-23.

⁴⁶⁸ P-1521: T-081, p. 44, line 1 – p. 45, line 6.

⁴⁶⁹ See e.g. P-1521: T-081, p. 34, line 14 – p. 35, line 5, p. 66, lines 5-24.

⁴⁷⁰ P-1719: T-141; T-142; T-143; T-144; [Decision on In-Court Protective Measures](#), ICC-01/14-01/18-906-Red, paras 50, 52, p. 41.

⁴⁷¹ [Decision on the Appointment of Duty Counsel](#), ICC-01/14-01/18-857; [Notification of the Appointment of Mr Emile Aoun as Legal Adviser to Witness P-1719](#), 8 July 2022, ICC-01/14-01/18-1506 (with confidential Annexes I and II).

⁴⁷² [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 42, 56. See also paragraphs 233-247, 266-273 above, paragraphs 365-373, 428-433 below.

⁴⁷³ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 57.

⁴⁷⁴ [REDACTED]

the latter, the Chamber observes that [REDACTED] appeared to have had some contact with P-1719 and was able to provide evidence about P-1719's role and activities in Douala and in the CAR, including in Bangui, as well as his work [REDACTED] in 2015.⁴⁷⁵ However, the Chamber is of the view that [REDACTED]'s impressions that P-1719's was 'volatile' and 'easy to corrupt' appeared to be based on his own reading of P-1719's behaviour as he did not point to any objective information in support, and more importantly, that could affect P-1719's reliability.⁴⁷⁶

351. Further, [REDACTED]'s allegations that P-1719 lied about Mr Ngaïssona were, in the view of the Chamber, based on speculations and hearsay.⁴⁷⁷ [REDACTED] stated that P-1719 and Juvénal Ngouakossi had lied about Mr Ngaïssona for money 'surely' and had been used by Samba-Panza to give her information about what was going on in Boy-Rabe.⁴⁷⁸ This seems to be solely based on [REDACTED]'s assumptions having had contact with P-1719 over telephone during which the latter asked about his positions.⁴⁷⁹ [REDACTED] did not offer any further information that could assist the Chamber in assessing the source of his claims.⁴⁸⁰

352. As to P-1719's demeanour in court, it did not appear to the Chamber that he was attempting to withhold information. Rather, in the specific examples cited by the Ngaïssona Defence, the Chamber finds that the witness was forthcoming, provided detailed information and answered when additional clarification was needed. For example, when asked to specify the identity of an individual with whom he was in contact through Facebook, the witness provided a long answer, at the end of which he said, 'I'm going to stop here', adding that '[p]erhaps there may be further questions which you are going to put me as regards what I've just told you'.⁴⁸¹ After a follow-up question, the witness again provided a long answer and ended with, 'I think I'll stop here on this particular point. If there are any questions, I

⁴⁷⁵ [REDACTED]

⁴⁷⁶ [REDACTED]

⁴⁷⁷ [REDACTED]

⁴⁷⁸ [REDACTED]

⁴⁷⁹ [REDACTED]

⁴⁸⁰ [REDACTED]

⁴⁸¹ P-1719: T-142, p. 52, line 6 – p. 54, line 7.

will do my best to answer them’.⁴⁸² In the Chamber’s view, this demeanour does not show any unwillingness to respond to questions.

353. Furthermore, in relation to the alleged omission of ‘crucial information’ from his prior statement, the Chamber considers that this does not render P-1719’s testimony unreliable, as such. The Chamber notes that this concerns instructions coming from Yaoundé, which he mentioned during his testimony.⁴⁸³ In the Chamber’s view, P-1719 adequately explained why he only mentioned this in court. Indeed, P-1719 said that what prompted him to mention it was that the ‘personalities’, who were ‘part of the general staff’ and who are mentioned in his prior statement, ‘were in permanent coordination with Yaoundé’, although he clarified that he did not receive any instructions directly ‘from the authority’.⁴⁸⁴ The Chamber is of the view that the witness was simply providing a further clarification to his prior statement and that the fact that he only mentioned Yaoundé in court does not affect the credibility of this account.

354. Having regard to the above, the Chamber concludes that P-1719’s testimony is generally credible. The Chamber has considered it within the context of other evidence before it.

viii. P-1839

355. P-1839, a former Anti-Balaka element in Mr Yekatom’s group, testified fully live with in-court protective measures,⁴⁸⁵ and received Rule 74 assurances.⁴⁸⁶

356. P-1839, [REDACTED], joined Mr Yekatom’s group at Yamwara after 5 December 2013 and followed the group on their advance along the PK9-Mbaïki axis, carrying out various roles, including [REDACTED]. As such, she testified about, *inter alia*, her experience at Yamwara, including training the elements received there; the advance of Mr Yekatom’s group along the axis, including instructions on the targeting of Muslims; weapons and

⁴⁸² P-1719: T-142, p. 54, line 8 – p. 56, line 56, line 17.

⁴⁸³ P-1719: T-143, p. 19, line 13 – p. 22, line 20.

⁴⁸⁴ P-1719: T-143, p. 21, line 10 – p. 22, line 4.

⁴⁸⁵ P-1839: T-170; T-171; T-172; T-173; T-174; T-175; [Decision on In-Court Protective Measures](#), ICC-01/14-01/18-906-Red, paras 50, 52, p. 41. [REDACTED]

⁴⁸⁶ P-1839: T-170, p. 27, lines 9-25, p. 36, lines 22-24, p. 62, lines 3-5. See also [Notification of the Appointment of Mr Mamadou Diarrassouba as Legal Adviser to Witness P-1839](#), 6 October 2022, ICC-01/14-01/18-1598 (with confidential Annexes I and II).

ammunition of the group along the axis; Mr Yekatom's relationship with Mr Ngaïssona; [REDACTED]; as well as the meeting at the Mbaïki church and Mr Yekatom's 'peace messages' after this meeting. Importantly, the witness also testified about several incidents involving the mistreatment and/or killing of individuals at Yamwara and along the axis by Mr Yekatom and/or elements of his group. P-1839, who [REDACTED], left the Anti-Balaka [REDACTED].

357. All parties rely on parts of P-1839's evidence.⁴⁸⁷ At the same time, the Yekatom Defence alludes to the 'limits' of her account to the extent that she attempted to self-justify her position [REDACTED] and that, [REDACTED] she made erroneous assumptions with regard to any hierarchical command structure within Mr Yekatom's group.⁴⁸⁸ It also submits that 'hearsay evidence sourced from [REDACTED] via P-1839 is particularly unsafe' since '[REDACTED]'.⁴⁸⁹

358. Having reviewed it in light of the above arguments, the Chamber finds that P-1839's evidence is nonetheless fully credible.

359. P-1839's testimony was comprehensive, offering evidence with a level of depth that spoke to her first-hand knowledge and personal experiences in Mr Yekatom's group. For example, she testified in detail about the command structure and hierarchy within the group and the personal interactions and power dynamics between Mr Yekatom and other Anti-Balaka such as Cœur de Lion, Alkanto or Mr Ngaïssona. In this regard, the Chamber considers entirely without merit the Yekatom Defence's submissions that P-1839 lacked military understanding and would not have been privy to these details. The Chamber notes that her evidence in this regard is extensively discussed further below.⁴⁹⁰

⁴⁸⁷ See e.g. [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, paras 341, 428-429, 442, 444, 452-453, 459-460, 466, 471-472, 476, 479, 490, 499, 590, 653-654, 704; [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 86, 100, 163, 192-193, 209, 221-222, 235, 240, 243, 250, 272, 287, 293, 309, 321-322, 344, 348, 422, 425, 431-432, 441, 447-450, 465, 483. See also [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 541-542, 563.

⁴⁸⁸ See e.g. [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 205, 279-281.

⁴⁸⁹ Yekatom Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 504-505.

⁴⁹⁰ See sections IV.D, IV.E below.

360. In the view of the Chamber, P-1839 provided an internally coherent and consistent testimony, which was also clear and detailed. She was forthcoming and appeared to be honest, including in relation to her involvement with the Anti-Balaka more generally and to her participation in certain incidents more specifically. For example, P-1839 testified that she joined Mr Yekatom's group of her own free will,⁴⁹¹ and that she [REDACTED].⁴⁹² She also spontaneously testified about [REDACTED].⁴⁹³
361. P-1839 explained how she came to have certain information, distinguishing between events she personally witnessed and information she was given by others, for example in relation to the events that took place at Yamwara on and around 24 December 2013,⁴⁹⁴ or the incident in which Mr Yekatom reportedly killed two of his bodyguards.⁴⁹⁵ P-1839 was also clear about events or details she could not recall or did not know, for example in relation to the presence of other Anti-Balaka chiefs around Yamwara during the abovementioned events,⁴⁹⁶ or when two 'thieves' were reportedly killed at Yamwara.⁴⁹⁷ Similarly, when asked whether she noticed that civilians, Christians, who were not part of the Anti-Balaka attacked Muslims in December 2013, she testified that she had no idea because she had not seen it and so she could not confirm.⁴⁹⁸
362. The Chamber notes that P-1839 asked to be shown the transcript of her interview with the Prosecution investigators on more than one occasion during her testimony. However, on almost every such occasion, P-1839 provided nuanced explanations about her responses to the investigators.⁴⁹⁹
363. P-1839 did not show a tendency to incriminate Mr Yekatom at all cost and therefore her testimony did not reflect a bias against him. For example, the witness testified that at some

⁴⁹¹ P-1839: T-170, p. 13, lines 15-20. The Chamber notes that P-1839 specified that she joined Mr Yekatom's group, and not any other Anti-Balaka group, because [REDACTED] (see P-1839: T-170, p. 13, line 23 – p. 14, line 4). See also P-1839: T-172, p. 72, line 23 – p. 73, line 22.

⁴⁹² P-1839: T-170, p. 28, lines 10-13, p. 29, lines 2-25. See also P-1839: T-170, p. 30, lines 12-19.

⁴⁹³ P-1839: T-171, p. 27, line 4 – p. 28, line 19; T-170, p. 37, line 3 – p. 39, line 21.

⁴⁹⁴ P-1839: T-170, p. 31, lines 4-7.

⁴⁹⁵ P-1839: T-171, p. 78, line 23 – p. 79, line 23.

⁴⁹⁶ P-1839: T-170, p. 31, lines 16-23.

⁴⁹⁷ P-1839: T-170, p. 39, lines 18-21.

⁴⁹⁸ P-1839: T-172, p. 44, lines 13-20.

⁴⁹⁹ See e.g. P-1839: T-172, p. 28, line 17 – p. 29, line 20, p. 35, line 4 – p. 37, line 13.

point, Mr Yekatom ‘did his best so that people could resume their duties from PK9 to Sekia’, calling upon these people, referring to civil servants, to get back to duty ‘in collaboration with his elements’.⁵⁰⁰ She confirmed that Mr Yekatom delivered ‘peace messages’ to Christians after the meeting in Mbaïki.⁵⁰¹ She testified that as Muslims and Anti-Balaka elements exchanged insults when Muslims crossed PK9 on their way out of Mbaïki, Mr Yekatom (‘our chief’) told them not to insult the Muslims and to let them leave.⁵⁰² In relation to the events at Yamwara, she testified that Mr Yekatom was not present when the captives were brought to Yamwara.⁵⁰³

364. Bearing in mind the above, the Chamber is convinced that P-1839 testified truthfully about her personal experiences while being a member in Mr Yekatom’s group, providing particularly relevant and credible testimony in this regard.

ix. P-1847

365. P-1847, a former [REDACTED] the CAR, testified fully live with in-court protective measures.⁵⁰⁴ The Chamber introduced P-1847’s prior recorded testimony (the ‘Statements’) into evidence pursuant to Rule 68(2)(d) of the Rules, as it found that the witness had been subjected to interference.⁵⁰⁵

366. P-1847 [REDACTED] at the Hilton hotel in Yaoundé following the Seleka coup, and [REDACTED]. In his Statements, P-1847 discusses, *inter alia*, his relations with François Bozizé and the latter’s activities in Cameroon; interacting with individuals in Yaoundé; meetings or activities of groups such as COCORA and FROCCA; the objectives,

⁵⁰⁰ P-1839: T-174, p. 33, lines 11-19, p. 34, lines 7-17.

⁵⁰¹ P-1839: T-171, p. 51, line 10 – p. 53, line 23.

⁵⁰² P-1839: T-171, p. 58, lines 3-8.

⁵⁰³ P-1839: T-173, p. 76, lines 22-25.

⁵⁰⁴ P-1847: T-022; T-023; T-024; [Decision on In-Court Protective Measures](#), ICC-01/14-01/18-906-Red, paras 33-34, p. 41.

⁵⁰⁵ P-1847 First Statement, CAR-OTP-2061-1534; P-1847 Translation, CAR-OTP-2107-0102-R01; its associated items CAR-OTP-2061-1576-R01; CAR-OTP-2061-1578-R01; P-1847 Second Statement, CAR-OTP-2122-8251-R01; Decision on the Prosecution Request for Formal Submission of Prior Recorded Testimony pursuant to Rule 68(2)(d) of the Rules, 6 October 2023, ICC-01/14-01/18-2126-Conf (public redacted version notified on 31 October 2023, ICC-01/14-01/18-2126-Red) (the ‘[P-1847 Rule 68\(2\)\(d\) Decision](#)’). *See also* Appeals Chamber, Judgment on the appeal of Mr Patrice Edouard Ngaïssona against the decision of Trial Chamber V of 6 October 2023 entitled “Decision on the Prosecution Request for Formal Submission of Prior Recorded Testimony pursuant to Rule 68(2)(d) of the Rules”, 20 May 2024, ICC-01/14-01/18-2501-Conf (public redacted version notified the same day, ICC-01/14-01/18-2501-Red) (the ‘[Judgment on the P-1847 Rule 68\(2\)\(d\) Decision](#)’).

organisation, hierarchy and financing of the Anti-Balaka, the roles of both accused within the movement, as well as attacks it executed, including the attack on Bangui on 5 December 2013.

367. The Prosecution cites to parts of P-1847's evidence in support of some of its allegations.⁵⁰⁶

The Ngaïssona Defence submits that the Chamber should attribute minimal weight to P-1847's Statements, especially where his statements and live testimony are 'completely inconsistent with respect to Mr N[gaïssona]'s alleged acts and conduct'.⁵⁰⁷ In particular, it argues that it is impossible to reconcile the Statements with his live testimony; that the Chamber made no findings on 'P-1847 changing his testimony at the behest of Mr N[gaïssona] or someone close to him'; that there is evidence of this witness's prior involvement in a scheme to incriminate Mr Ngaïssona; and that given the lack of evidence on P-1847's reasons for recanting his Statements, it cannot be inferred beyond reasonable doubt that his Statements are true whereas his live testimony is false.⁵⁰⁸ The Ngaïssona Defence also argues that P-1847's Statements are (i) internally inconsistent, (ii) hearsay, (iii) largely uncorroborated, and (iv) contradicted by other, direct, evidence.⁵⁰⁹

368. At the outset, the Chamber recalls that it introduced P-1847's Statements into evidence pursuant to Rule 68(2)(d) of the Rules after finding that the witness had failed to testify on material aspects included in the Statements and that such failure was due to him having been materially influenced by improper interference.⁵¹⁰ Noting that the Statements made extensive references to the acts and conduct of both accused, the Chamber decided not to rely on the paragraphs of the Statements mentioning Mr Yekatom's acts and conduct to the extent that they would be unduly prejudicial to him.⁵¹¹ As for the references to Mr Ngaïssona, the Chamber found that this situation could be distinguished in that despite the Prosecution's attempts to elicit incriminating evidence contained in the Statements, P-1847 'plainly failed to give evidence on material aspects', with the Ngaïssona Defence being put 'in a position

⁵⁰⁶ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, paras 16, 34-36, 38, 45, 47-49, 53-54, 56, 69, 72, 92, 94, 100, 108-109, 120, 122-124, 128, 135, 161, 172, 201, 209, 220, 223, 256, 298, 546.

⁵⁰⁷ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 27-28.

⁵⁰⁸ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 27.

⁵⁰⁹ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 28.

⁵¹⁰ [P-1847 Rule 68\(2\)\(d\) Decision](#), ICC-01/14-01/18-2126-Red, paras 54, 72, 90.

⁵¹¹ [P-1847 Rule 68\(2\)\(d\) Decision](#), ICC-01/14-01/18-2126-Red, paras 99-102, p. 36.

to fully and meaningfully question the Witness'.⁵¹² Importantly, the Chamber notes that this decision was upheld by the Appeals Chamber.⁵¹³

369. Turning to the Ngaïssona Defence's arguments, the Chamber first notes its submission that it is 'likely' that P-1847's evidence was contaminated in the context of the scheme or plot against Mr Ngaïssona and that his account of Mr Ngaïssona's contribution to the Anti-Balaka movement, 'riddled with inconsistencies', should be examined in light of the witness's close relationship to [REDACTED] involvement in the abovementioned plot.⁵¹⁴ The Chamber considers that these allegations, based on P-1847's relationship with other individuals and the *likelihood* of his evidence being contaminated, are entirely speculative.⁵¹⁵ The Chamber further considers them to be implausible, in that any involvement in a scheme or plot 'against' Mr Ngaïssona would be expected to lead to an in-court testimony less favourable to Mr Ngaïssona, rather than the opposite. Further, the Chamber recalls its findings about the witness being 'materially influenced by improper interference' and notes that this relates to his live testimony, but not to his Statements.
370. Regarding the Ngaïssona Defence's argument that the Chamber made no findings on 'P-1847 changing his testimony at the behest of Mr N[gaïssona] or someone close to him', the Chamber recalls its finding that interference under Rule 68(2)(d) of the Rules need not be attributable to the accused.⁵¹⁶ Significantly, this was confirmed by the Appeals Chamber when finding that the Chamber 'reasonably concluded that the witness had been improperly interfered with in relation to his testimony, and it was not required to make any further findings on the exact nature of such interference'.⁵¹⁷ For the same reasons, the Chamber equally dismisses the argument that '[g]iven this lack of evidence on P-1847's motives for

⁵¹² [P-1847 Rule 68\(2\)\(d\) Decision](#), ICC-01/14-01/18-2126-Red, para. 103.

⁵¹³ [Judgment on the P-1847 Rule 68\(2\)\(d\) Decision](#), ICC-01/14-01/18-2501-Red, p. 3.

⁵¹⁴ Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, paras 51, 53. *See also* para. 52, where the Ngaïssona Defence further argues that (i) pressure on behalf of the government appears to have been exerted on the witness prior to his testimony before the Court; (ii) [REDACTED], who 'disliked' Mr Ngaïssona and 'is a member of the plot against him'; and (iii) it appears that the witness confessed having [REDACTED].

⁵¹⁵ *See also* paragraphs 233-247, 266-273, 348-354 above, paragraphs 428-433 below.

⁵¹⁶ [P-1847 Rule 68\(2\)\(d\) Decision](#), ICC-01/14-01/18-2126-Red, para. 70.

⁵¹⁷ [Judgment on the P-1847 Rule 68\(2\)\(d\) Decision](#), ICC-01/14-01/18-2501-Red, para. 60.

recanting, it cannot be inferred beyond a reasonable doubt that P-1847's prior recorded statements are true whereas his live testimony is false'.

371. As for the Ngaïssona Defence's challenges to the substance of P-1847's evidence, the Chamber notes that it specifically disputes the witness's account on, *inter alia*, (i) meetings at the Golf residence (arguing that the Statements contain hearsay and uncorroborated evidence in this regard);⁵¹⁸ (ii) Joachim Kokaté gathering officers on behalf of FROCCA (arguing that P-1847's source of knowledge is unclear and contradicted by more reliable evidence);⁵¹⁹ (iii) François Bozizé being in touch with the Anti-Balaka in the CAR [REDACTED] (which it qualifies as a speculative and uncorroborated claim);⁵²⁰ (iv) ammunition being provided to the Gobere group by a woman;⁵²¹ (v) Mr Ngaïssona 'regularly' visiting François Bozizé at the Hilton hotel or Golf residence (arguing that it is uncorroborated, based on hearsay and discredited by Didier Ouebio's testimony, further noting that P-1847 subsequently refuted in court having seen Mr Ngaïssona at the Golf residence during François Bozizé's stay);⁵²² (vi) meetings at the Hilton hotel taking place with François Bozizé;⁵²³ (vii) Mr Ngaïssona 'crossing over' to Bouar (arguing that P-1847's sources of information on this aspect are unreliable) and, more generally, his evidence in relation to the border area;⁵²⁴ (viii) Mr Ngaïssona and Bernard Mokom liaising with Anti-Balaka elements at the border from the Golf residence (evidence which it argues is contradicted by other direct evidence);⁵²⁵ (ix) Mr Ngaïssona's role in providing financial assistance to the Anti-Balaka;⁵²⁶ and (x) Mr Ngaïssona giving instructions to Anti-Balaka elements, including in relation to the attack in Bangui on 5 December 2013.⁵²⁷

372. In the view of the Chamber, the arguments raised by the Ngaïssona Defence are not such that they rendered the Statements and his in-court testimony unreliable. In this regard, the

⁵¹⁸ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 173, 433-434.

⁵¹⁹ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 193, n. 705.

⁵²⁰ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-Conf-AnxA-Corr, para. 198.

⁵²¹ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 219.

⁵²² [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 413, n. 1409.

⁵²³ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 428.

⁵²⁴ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 444.

⁵²⁵ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 446.

⁵²⁶ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 494.

⁵²⁷ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 525.

Chamber notes that P-1847 provided [REDACTED] information about François Bozizé's activities in Cameroon – an information which P-1847 obtained in his unique position [REDACTED]. In the view of the Chamber, the witness appeared to be honest and forthcoming when responding to the investigators' questions, also when he did not have the information he was asked about. For example, P-1847 specified that [REDACTED].⁵²⁸ P-1847 also explained the sources of his information, which included Anti-Balaka elements [REDACTED].⁵²⁹

373. In relation to P-1847's Statements, and specifically also with regard to his in-court testimony, the Chamber considered the material aspects on which P-1847 failed to testify,⁵³⁰ as well as the inconsistencies pointed out by the Ngaissona Defence, and has assessed this witness's evidence, as appropriate, in the context of other evidence before it, in the evidentiary analysis below.

x. P-1962

374. P-1962, a former Anti-Balaka [REDACTED],⁵³¹ testified with in-court protective measures,⁵³² and with the assistance of counsel appointed pursuant to Rule 74 of the Rules.⁵³³

⁵²⁸ See e.g. P-1847 First Statement, CAR-OTP-2061-1534, paras 32, 48.

⁵²⁹ See e.g. P-1847 First Statement, CAR-OTP-2061-1534, paras 110, 165, 170; P-1847 Second Statement, CAR-OTP-2122-8251-R01, para. 18.

⁵³⁰ [P-1847 Rule 68\(2\)\(d\) Decision](#), ICC-01/14-01/18-2126-Red, para. 48.

⁵³¹ P-1962: T-138, p. 60, lines 18-22.

⁵³² P-1962: T-138; T-139; T-140; T-141; [Decision on In-Court Protective Measures](#), ICC-01/14-01/18-906-Red, paras 50, 52, p. 41.

⁵³³ [Decision on the Appointment of Duty Counsel](#), ICC-01/14-01/18-857; [Notification of the Appointment of Mr Mamadou Diarrassouba as Legal Adviser to Witness P-1962](#), 16 June 2022, ICC-01/14-01/18-1462 (with confidential Annexes I and II).

His prior recorded testimony was introduced pursuant to Rule 68(3) of the Rules.⁵³⁴ The witness was [REDACTED],⁵³⁵ and [REDACTED] in Boda during the Anti-Balaka attack.⁵³⁶

375. The Prosecution and the Ngaïssona Defence rely on parts of P-1962's evidence in support of their arguments.⁵³⁷
376. The Yekatom Defence argues that P-1962's evidence was untruthful, 'as is clear from the multiplicity of contradictions and inconsistencies, both internal and external', notably concerning his whereabouts and activities during the violence that broke out in Boda in January 2014, and [REDACTED] the Boda Anti-Balaka coordination that was established in the aftermath.⁵³⁸
377. Having reviewed it in light of the Yekatom Defence's arguments, the Chamber finds that P-1962's evidence is nonetheless generally credible. As set out below, the Chamber finds that none of the inconsistencies raised by the Yekatom Defence were such that they threw into question P-1962's entire evidence.
378. First, as regard P-1962's trip to Boda, the Yekatom Defence submits that P-1962's account should not be relied upon because it contradicts the evidence [REDACTED].⁵³⁹ The

⁵³⁴ P-1962 First Statement, CAR-OTP-2068-0037-R04; P-1962 Translation, CAR-OTP-2104-0656; P-1962 Second Statement, CAR-OTP-2071-0003-R02; P-1962 Translation, CAR-OTP-2107-6808; P-1962 Corrections, CAR-OTP-2135-3718; and its associated items, CAR-OTP-2068-0072-R01; CAR-OTP-2068-0073; CAR-OTP-2068-0075; CAR-OTP-2068-0077; CAR-OTP-2068-0079; CAR-OTP-2068-0080; CAR-OTP-2068-0082; CAR-OTP-2068-0083; CAR-OTP-2066-5312; CAR-OTP-2060-0795; CAR-OTP-2071-0021; CAR-OTP-2071-0093; CAR-OTP-2071-0023; [Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies under Rule 68\(3\) of the Rules concerning Witnesses P-1962, P-0925, P-2193, P-2926, P-2927, P-1577 and P-0287, and the Ngaïssona Defence Motion to Limit the Scope of P-2926's Evidence](#), 10 March 2021, ICC-01/14-01/18-907-Conf (public redacted version notified on 1 April 2021, ICC-01/14-01/18-907-Red), para. 28, p. 31; P-1962: T-138, p. 65, lines 20-22. *See also* Decision on Submitted Materials for P-1962 (email from the Chamber, 20 February 2023, at 09:59), in which the Chamber confirmed that the requirements of Rule 68(3) of the Rules had also been met in relation to CAR-OTP-2071-0023, the ERN of which the Prosecution had not initially provided.

⁵³⁵ P-1962 Statement, CAR-OTP-2068-0037-R04, at 0054, para. 80, at 0056, para. 95, at 0059, para. 109; P-1962: T-138, p. 60, line 23 – p. 61, line 1; T-140, p. 62, lines 16-19.

⁵³⁶ P-1962 Statement, CAR-OTP-2068-0037-R04, at 0047, paras 43-44.

⁵³⁷ *See e.g.* [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, paras 16, 296-297, 299-300, 306, 328, 388, 393, 399; [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 240, 250, 258, 261, 264, 266-267, 543, 561.

⁵³⁸ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 136.

⁵³⁹ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 137.

Yekatom Defence also relies on the evidence of, *inter alia*, the latter two individuals to question P-1962's account in relation to his claim that [REDACTED].⁵⁴⁰

379. The Chamber notes that P-1962 provided a considerable number of details about his trip to Boda [REDACTED] 2014 [REDACTED], both in his prior statement and during his testimony. These details included the stops made during the trip, the time, the vehicles used, and individuals they met.⁵⁴¹ P-1962 also provided details about the relationship between different Anti-Balaka elements, including among [REDACTED], and Cœur de Lion, as well as the source of his knowledge.⁵⁴² P-1962 also testified that he remembered [REDACTED].⁵⁴³

380. The Chamber further notes that P-1962 distinguished the sources of his knowledge and provided short, direct and detailed answers when questioned by the Yekatom Defence on his trip to Boda.⁵⁴⁴ As to the fact that [REDACTED] did not place or recognise P-1962 [REDACTED], the Chamber did not consider it necessary to assess the purported contradictions in the context of its evidentiary analysis below.⁵⁴⁵

381. Similarly, having reviewed the accounts of P-1962 [REDACTED] with regard to the attack on Boda in February 2014 holistically, the Chamber is of the view that the credibility of P-1962's account remains unaffected. As to the CDR mentioned by the Yekatom Defence, the Chamber recalls its general considerations above on the probative value of CDR for purposes of ascertaining geographical location.⁵⁴⁶ The Chamber is further of the view that P-1962 also provided coherent details and circumscribed the limits to his knowledge, clarifying that [REDACTED].⁵⁴⁷ The Chamber has had regard to this when assessing P-1962's evidence concerning how the attack unfolded.

⁵⁴⁰ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 138-139, *referring to, inter alia*, [REDACTED].

⁵⁴¹ P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0044, paras 27-29, at 0044-45, paras 31-33, at 0045-46, paras 37-38.

⁵⁴² P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0044, para. 30.

⁵⁴³ P-1962: T-141, p. 18, lines 11-23.

⁵⁴⁴ P-1962: T-141, p. 12, line 19 – p. 20, line 12.

⁵⁴⁵ See paragraphs 2091-2114 below.

⁵⁴⁶ See paragraphs 158-193 above. See also Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 147.

⁵⁴⁷ P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0046-48, paras 39-46.

382. The Chamber now turns to the Yekatom Defence's reliance on Fidèle Soussou's evidence to dispute P-1962's claim that [REDACTED] led by Fidèle Soussou, and to its argument that Fidèle Soussou's account 'should be preferred over that of P-1962'.⁵⁴⁸ In this regard, the Yekatom Defence further submits that P-1962's testimony is inconsistent with his prior statement, and that he could not [REDACTED].⁵⁴⁹
383. Having reviewed their evidence together as regards [REDACTED], the Chamber finds that Fidèle Soussou's evidence did not put into question the credibility of P-1962's evidence overall. The Chamber notes that P-1962 provided details about [REDACTED] in his prior statement, such as [REDACTED].⁵⁵⁰ In the view of the Chamber, P-1962 provided reasonable clarifications in court about [REDACTED].⁵⁵¹ Further, in the Chamber's view, P-1962 did not recant his testimony, as argued, in explaining that [REDACTED].⁵⁵²
384. The Chamber now turns to the Yekatom Defence's submission that P-1962 downplayed his role within the Anti-Balaka. In particular, the Yekatom Defence submits that P-1962 claimed that Habib Soussou was the Anti-Balaka coordinator in Boda, and that P-1962 had a motive [REDACTED].⁵⁵³ The Yekatom Defence notably refers to P-1962's contemporary notes in which Soussou appears as a 'ComZone' as well as to the analysis of the Sangaris commander in Boda.⁵⁵⁴
385. The Chamber notes that P-1962 provided a notable number of details in his statement and was forthcoming during his testimony on the structure of the Anti-Balaka coordination in Boda and its relationship with the national coordination.⁵⁵⁵
386. The Chamber has also considered P-1962's remark that Mr Ngaïssona and the national coordination 'never contributed anything' to the coordination in Boda, 'not even a drop of

⁵⁴⁸ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 140.

⁵⁴⁹ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 141.

⁵⁵⁰ P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0041, para. 11.

⁵⁵¹ P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0041, para. 11; P-1962: T-141, p. 12, line 18 – p. 14, line 8.

⁵⁵² See P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0041, para. 11; P-1962: T-141, p. 13, lines 3-13.

⁵⁵³ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 145-150.

⁵⁵⁴ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 145-146 *referring to* Notes, CAR-OTP-2071-0023; Report, CAR-OTP-2053-0546.

⁵⁵⁵ See P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0054-62, paras 80-124; *see e.g.* P-1962: T-138, p. 66, line 5 – p. 68, line 8; T-139, p. 19, lines 17-23, p. 28, line 8 – p. 29, line 23, p. 48, line 17 – p. 50, line 1, p. 55, lines 15-25, p. 66, lines 1-9.

water’, and that ‘he’ was only giving [REDACTED] advice that they ‘should bring back the peace’.⁵⁵⁶ P-1962 stated that ComZones for Boda were ‘officially’ recognised as such following a meeting of the national coordination and Mr Ngaïssona.⁵⁵⁷

387. The Chamber has also considered P-1962’s statement that [REDACTED] was ‘to bring calm and peace and to make sure that women and children were not harmed’.⁵⁵⁸ P-1962 also explained [REDACTED].⁵⁵⁹

388. Having regard to this, the Chamber considers that the witness was forthcoming both in his prior statement and his in-court testimony when addressing his own role within the Anti-Balaka and provided an adequate level of detail. The Chamber also considers minor the inconsistency raised by the Yekatom Defence regarding P-1962’s role in Boda and how [REDACTED].⁵⁶⁰ In the view of the Chamber, P-1962 did appear, in places, to be minimising his own role in the events. However, in the Chamber’s view, this did not render his evidence wholly unreliable.

389. Having regard to the above, the Chamber has assessed the veracity of P-1962’s claims and opinions in light of other evidence received.

xi. P-2027

390. P-2027, a FACA member who fled to Cameroon after the Seleka coup in 2013, testified with in-court protective measures,⁵⁶¹ with his prior recorded testimony introduced pursuant to Rule 68(3) of the Rules.⁵⁶²

⁵⁵⁶ P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0055, para. 89.

⁵⁵⁷ P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0058, para. 102, 0059, para. 109 *referring to* Title, CAR-OTP-2068-0077.

⁵⁵⁸ P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0054, para. 83.

⁵⁵⁹ P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0055-56, para. 91.

⁵⁶⁰ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 137-139, 142-148.

⁵⁶¹ P-2027: T-039; T-040; email from the Chamber, 31 May 2021, at 12:22. *See also* [Decision on In-Court Protective Measures](#), ICC-01/14-01/18-906-Red, paras 41-42, p. 42.

⁵⁶² P-2027 Statement, CAR-OTP-2078-0059-R03; P-2027 Translation, CAR-OTP-2107-2922; P-2027 Translation, CAR-OTP-2118-0965; Second Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies under Rule 68(3) of the Rules concerning Witnesses P 2012, P-0801, P-2027 and P-2841, 22 April 2021, ICC-01/14-01/18-964-Conf, para. 28, p. 14; P-2027: T-039, p. 27, lines 1-17.

391. Both the Prosecution and the Ngaïssona Defence rely on parts of P-2027's evidence in support of their arguments.⁵⁶³
392. Overall, the Chamber noted various discrepancies between the witness's statement and the information he provided in court. However, they did not go to such extent as to render his evidence fully unreliable.
393. For instance, in his statement, P-2027 stated that Mr Ngaïssona gave him money in Cameroon; that Mr Ngaïssona had helped him before in Bangui, that he did this 'out of the goodness of his heart' and helped a lot of people like this, including pensioners in Bangui; and further stated that he felt no obligations towards Mr Ngaïssona nor like he 'owed' him anything because of the money he gave him.⁵⁶⁴ In court, P-2027 said that Mr Ngaïssona would help people in need, including 'retired people who had unpaid arrears', and that Mr Ngaïssona 'wanted to calm down the Anti-Balaka' and give them money to not cause disorder.⁵⁶⁵ P-2027, asked if Mr Ngaïssona would help fellow citizens in exile with money for survival, said that he personally did not know what Mr Ngaïssona did, '[p]erhaps he helped others', '[p]erhaps he paid them from his own pocket', and that he 'really [did not] know anything about this'.⁵⁶⁶ P-2027, when asked, indicated that he did not know whether Mr Ngaïssona gave money for the distribution of weapons or ammunitions.⁵⁶⁷
394. Further, as set out below, in his statement, P-2027 was generally forthcoming about the events in Cameroon, including his direct interactions with other individuals of relevance to the case. P-2027's statement is also largely internally consistent and coherent.
395. As per his statement, P-2027 was in Yaoundé in 2013 and lived in [REDACTED].⁵⁶⁸ P-2027 also met Bernard Mokom and Mr Ngaïssona in Yaoundé.⁵⁶⁹ P-2027 also [REDACTED] with Sebastien Wenezoui in [REDACTED] during the relevant time and would speak to him often

⁵⁶³ See e.g. [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, paras 47-48, 54, 65, 71, 124, 199, 211; Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, paras 200, 205, 264.

⁵⁶⁴ P-2027 Statement, CAR-OTP-2078-0059-R03, at 0069-70, paras 61-62.

⁵⁶⁵ P-2027: T-040, p. 18, line 4 – p. 19, line 4.

⁵⁶⁶ P-2027: T-040, p. 23, lines 10-18.

⁵⁶⁷ P-2027: T-040, p. 23, lines 19-23.

⁵⁶⁸ P-2027 Statement, CAR-OTP-2078-0059-R03, at 0067, at 0070-71, paras 67-68.

⁵⁶⁹ P-2027 Statement, CAR-OTP-2078-0059-R03, at 0067, at 0070, para. 65.

over the phone.⁵⁷⁰ P-2027 stated that he met [REDACTED].⁵⁷¹ He also claimed to have information about the activities of Gbangouma, [REDACTED] in Cameroon, and Ngaikosset, Mboya, and Seregaza.⁵⁷² P-2027 further stated that he was also in contact with [REDACTED] at the time.⁵⁷³ He also indicated that he was in telephone contact with [REDACTED].⁵⁷⁴ At the same time, P-2027 stated that he had ‘never heard that others in exile were preparing a coup. These were just all stories, people were just talking’.⁵⁷⁵

396. In court, P-2027 was not asked in detail about the individuals mentioned above.

397. Having reviewed his testimony, the Chamber finds that P-2027 did not provide a lot of detail about the actions of either accused relevant to the charged incidents, particularly regarding Mr Ngaïssona, despite the high level of details given in his prior statement, and despite the interactions and contacts he stated to have had in his statement. Further, when asked specifically about Mr Ngaïssona’s involvement with the Anti-Balaka, P-2027 gave blanket generalisations and did not offer any details. For example, when asked, P-2027 said that he did not hear from Mr Ngaïssona ‘nor from somebody else in Cameroon’ that Mr Ngaïssona was involved in organising or gave orders to any of his former FACA colleagues to engage in military operations from Cameroon and that ‘[m]aybe’ this happened after P-2027 left.⁵⁷⁶ He also claimed that Mr Ngaïssona ‘himself was trying to advise [the Anti-Balaka] to put down their weapons’.⁵⁷⁷

398. Furthermore, the Chamber notes that during his testimony, the Prosecution and the Ngaïssona Defence asked the witness several questions about certain Facebook exchanges in which he was not the interlocutor, but his name had been mentioned. For example, the witness was asked about an exchange in which two individuals said that P-2027 had received a ‘large’ sum of money and had to be watched because he was a danger for their

⁵⁷⁰ P-2027 Statement, CAR-OTP-2078-0059-R03, at 0067, at 0071, paras 69-70.

⁵⁷¹ P-2027 Statement, CAR-OTP-2078-0059-R03, at 0067, at 0071, para. 74.

⁵⁷² P-2027 Statement, CAR-OTP-2078-0059-R03, at 0072-73, paras 76, 79-81, at 0074, paras 85-86.

⁵⁷³ P-2027 Statement, CAR-OTP-2078-0059-R03, at 0067, para. 50.

⁵⁷⁴ P-2027 Statement, CAR-OTP-2078-0059-R03, at 0074-75, paras 89-93.

⁵⁷⁵ P-2027 Statement, CAR-OTP-2078-0059-R03, at 0073, para. 84.

⁵⁷⁶ P-2027: T-040, p. 22, lines 13-20.

⁵⁷⁷ P-2027: T-040, p. 11, lines 16-22.

movement,⁵⁷⁸ or that P-2027 was mandated to meet with ‘white people’.⁵⁷⁹ Although the witness repeatedly indicated that he had no knowledge about the content of these Facebook exchanges, the Chamber considers that this did not affect the credibility of the information provided in his statement. In this regard, the Chamber recalls that P-2027 did not take part in any of these Facebook exchanges but was merely asked to comment on what others had said.

399. Having regard to all the above, the Chamber has assessed with great caution the veracity of P-2027’s claims and opinions in light of other evidence received.

xii. P-2232

400. P-2232, a former Anti-Balaka member who previously worked as [REDACTED], testified fully live with in-court protective measures.⁵⁸⁰

401. Both Defence teams cite to parts of P-2232’s evidence in support of their arguments,⁵⁸¹ while disputing other parts of his evidence. Notably, the Yekatom Defence disputes his account about Mr Yekatom (i) regularly meeting ‘Mokom’ whilst in Zongo and being in contact with him,⁵⁸² and (ii) being the ‘chef’ of the sector up to Lobaye and Boda.⁵⁸³ Likewise, the Ngaïssona Defence disputes P-2232’s evidence on (i) contacts between Mr Yekatom and Mokom while in Zongo and after they left the area,⁵⁸⁴ (ii) Mr Ngaïssona joining Bernard Mokom in Cameroon to set up ‘a crisis office’ called FROCCA;⁵⁸⁵ (iii) the attack organised by Yambété at the border;⁵⁸⁶ (iv) the procurement of weapons by the ‘Gobere Group’;⁵⁸⁷ (v) Mr Ngaïssona financing the Anti-Balaka for the purchase of weapons and ammunition after

⁵⁷⁸ P-2027: T-039, p. 40, lines 14-15, 42, line 25 – p. 44, line 6.

⁵⁷⁹ P-2027: T-040, p. 39, line 9 – p. 40, line 8.

⁵⁸⁰ P-2232: T-075; T-076; T-077; T-078; T-079; [Decision on In-Court Protective Measures](#), ICC-01/14-01/18-906-Red, paras 50, 52, p. 41.

⁵⁸¹ See e.g. [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 168, 170, 172, 252, 257, 355, 360, 362; Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, paras 149-150, 211, 264, 415, 417, 516, 591.

⁵⁸² [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 226-227.

⁵⁸³ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 281.

⁵⁸⁴ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 202.

⁵⁸⁵ Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, paras 172, 408.

⁵⁸⁶ Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, para. 172.

⁵⁸⁷ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 219.

the 5 December 2013 attack;⁵⁸⁸ and (vi) the frequency of contacts between ‘Mokom’ and his father.⁵⁸⁹

402. Having assessed P-2232’s testimony overall, the Chamber finds it generally credible. In this regard, the Chamber found P-2232 forthcoming and truthful, and able to distinguish and clarify in court his sources of knowledge. The Chamber is also of the view that the witness did not show any bias towards any of the accused – if anything, he attempted not to incriminate Mr Ngaïssona at all costs, indicating that he had never heard Mr Ngaïssona’s name before 5 December 2013. In the view of the Chamber, the issues raised by the Defence were not such that they would render his testimony wholly unreliable. The Chamber has considered them when assessing P-2232’s evidence in light of other evidence before it, in its evidentiary analysis below.

xiii. P-2251

403. P-2251, a [REDACTED] former Anti-Balaka, testified with in-court protective measures.⁵⁹⁰ His prior recorded testimony was introduced pursuant to Rule 68(3) of the Rules.⁵⁹¹

404. P-2251, a civilian at the time, fled to the bush in June 2013 and joined the Anti-Balaka in Gobere in July 2013.⁵⁹² P-2251 met Thierry Lebene aka Douze Puissances and other Anti-Balaka chiefs in Gobere where he stayed until September 2013.⁵⁹³ P-2251 participated

⁵⁸⁸ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 507.

⁵⁸⁹ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 539.

⁵⁹⁰ T-043; T-044; [Decision on In-Court Protective Measures](#), ICC-01/14-01/18-906-Red, paras 33-34, p. 41.

⁵⁹¹ P-2251 Statement, CAR-OTP-2093-0045-R01; P-2251 Translation, CAR-OTP-2107-6230-R01; and its associated items, CAR-OTP-2093-0083; CAR-OTP-2093-0084; CAR-OTP-2093-0087; CAR-OTP-2093-0088; CAR-OTP-2093-0094; CAR-OTP-2093-0096; CAR-OTP-2093-0097; CAR-OTP-2093-0098; CAR-OTP-2039-0031-R01; CAR-OTP-2001-4441; CAR-OTP-2001-6251; CAR-OTP-2068-0118; CAR-OTP-2030-0232; Corrected version of ‘Third Decision on Prosecution Requests for Formal Submission of Prior Recorded Testimonies under Rule 68(3) concerning Witnesses P-2673 and P-2251’, 28 May 2021, ICC-01/14-01/18-998-Conf-Corr (decision originally notified on 19 May 2021), para. 20, p. 10; T-043, p. 12, lines 10-15. In court, P-2251 stated that a few details in his witness statement were not consistent with what he had said, including certain things that he did not recognise. The Chamber gave the witness extra time to review his witness statement and provide corrections. The witness provided those corrections during the break. These corrections were communicated to the Chamber and the participants by email. In the opinion of the Chamber, these discrepancies were not major. The Presiding Judge directed the Prosecution to go through the three discrepancies and ask the witness in court what he wanted to change in those paragraphs (see P-2251: T-043, p. 7, line 25 – p. 12, line 8).

⁵⁹² P-2251 Statement, CAR-OTP-2093-0045-R01, at 0048, para. 16, at 0051, para. 39; P-2251: T-043, p. 12, line 18 – p. 13, line 2.

⁵⁹³ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0048-50, paras 18, 21, 32; P-2251: T-043, p. 13, lines 3-6.

in the attacks on Bossangoa, Bouca and Bogangolo in September 2013 and then participated in the attack on Bangui on 5 December 2013.⁵⁹⁴ In the first few months of 2014, P-2251 lived with other Anti-Balaka elements [REDACTED] in Bangui.⁵⁹⁵

405. All parties cite parts of P-2251's evidence in support of their arguments.⁵⁹⁶ In addition to relying on him, the Ngaïssona Defence points to certain inconsistencies in his testimony with other evidence before the Chamber, namely the location of Gobere on a map and the placing of the attack on Bossangoa in September 2013 before the attack on Bouca.⁵⁹⁷

406. The Chamber finds P-2251's testimony generally credible. P-2251 had first-hand information and was knowledgeable about the individuals who were in Gobere from July to September 2013, including their activities,⁵⁹⁸ and was able to comment generally on the relations between civilian and FACA elements there until their advance to Bangui.⁵⁹⁹ P-2251 was forthcoming when he did not have further details about some of these individuals or their activities.⁶⁰⁰ The witness was generally able to explain when his observation and/or knowledge of the events were limited. On at least two occasions, P-2251 admitted to not having all the details because he was 'just an element'.⁶⁰¹

407. In the view of the Chamber, P-2251's prior statement was largely internally coherent as regards the assembly and movement of Anti-Balaka groups prior to the attack on Bangui on 5 December 2013, use of *gris-gris*, creation of Anti-Balaka ID cards, and the existence and

⁵⁹⁴ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0052-56, paras 44-70; P-2251: T-043, p. 21, lines 7-15, p. 23, line 9 – p. 24, line 25, p. 26, lines 4-19, p. 31, lines 9-19.

⁵⁹⁵ P-2251: T-044, p. 38, lines 18-24.

⁵⁹⁶ See e.g. [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, paras 65, 132, 214-215, 231, 236, 284; [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 197, 199-200, 211, 213-215, 217-218, 220, 234, 243. See also Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 421, n. 1407.

⁵⁹⁷ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 211, 220.

⁵⁹⁸ See e.g. P-2251 Statement, CAR-OTP-2093-0045-R01, at 0050-51, paras 35-37, at 0077-78, paras 208-216. The Chamber notes the Ngaïssona Defence's reference to P-2251's evidence in relation to the location of Gobere on a map annotated by him, which, it argues, is inconsistent with P-2602's evidence (see [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 211 referring to Annex A.14 to the Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA.14). Having regard to P-2251's age and level of schooling at the time, the Chamber considers this inconsistency to be minor and, in any event, not affecting his credibility *per se*.

⁵⁹⁹ See e.g. P-2251 Statement, CAR-OTP-2093-0045-R01, at 0077, paras 211-212; P-2251: T-044, p. 31, line 3 – p. 32, line 12.

⁶⁰⁰ See e.g. P-2251 Statement, CAR-OTP-2093-0045-R01, at 0051, para. 37, at 0077, para. 212; P-2251: T-043, p. 15, line 22 – p. 16, line 7, p. 19, lines 24 – p. 20, line 5.

⁶⁰¹ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0051, para. 37, at 0057, para. 74.

general organisation of Anti-Balaka bases in Bangui. P-2251's account in court did not substantively contradict his prior statement.

408. Having regard to his evidence as a whole, the Chamber notes the following two sets of claims made by P-2251 that stood out in complete contrast to other evidence before it.
409. First, as regards the Anti-Balaka activities prior to December 2013, P-2251 said that he did not see any training taking place in Gobere.⁶⁰² P-2251 said that there was 'no political party or politician behind the Anti-Balaka'.⁶⁰³ P-2251 also recalled seeing Konaté in Gobere,⁶⁰⁴ and the latter having participated in the attack on Bossangoa in September 2013.⁶⁰⁵ P-2251 also placed the Bossangoa attack in September 2013 as having taken place before the attack on Bouca.⁶⁰⁶
410. Second, as regards the commission of crimes against Muslim civilians, P-2251 said that 'there were no Muslims' when they arrived to Bouca and had 'no idea about what might have happened to the Muslims' there.⁶⁰⁷ When confronted with the killings of Muslim civilians in places like Bossangoa, Bouca and Bogangolo, where he had participated in attacks, P-2251 said that he did not see 'any dead bodies until [he] got to B[angui]'.⁶⁰⁸ P-2251 also said that during the events of December 2013, he did not know where the Muslims were and so was not able to know whether they were direct victims.⁶⁰⁹ P-2251 said that the Anti-Balaka would not harm anyone who did not have any association with the Seleka.⁶¹⁰ P-2251 heard that Andjilo did kill Muslims during the conflict, but he did not know if he did so in Bossangoa or Bouca and said that he did not hear about other Anti-Balaka chiefs killing Muslims during the conflict.⁶¹¹

⁶⁰² P-2251 Statement, CAR-OTP-2093-0045-R01, at 0052, para. 41; P-2251: T-043, p. 19, lines 4-10.

⁶⁰³ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0068, para. 146; P-2251: T-044, p. 35, lines 14-18.

⁶⁰⁴ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0077-0078, para. 213; P-2251: T-043, p. 14, lines 15-20.

⁶⁰⁵ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0053, para. 51, at 0078, para. 217; P-2251: T-043, p. 25, line 23 – p. 26, line 3.

⁶⁰⁶ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0053, para. 52.

⁶⁰⁷ P-2251: T-043, p. 23, lines 9-19.

⁶⁰⁸ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0056, para. 70; P-2251: T-043, p. 24, lines 13-25.

⁶⁰⁹ P-2251: T-043, p. 54, lines 9-21.

⁶¹⁰ P-2251: T-044, p. 5, line 23 – p. 6, line 11. *See also* P-2251 Statement, CAR-OTP-2093-0045-R01, at 0052, para. 46.

⁶¹¹ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0056, para. 69; P-2251: T-043, p. 26, lines 4-19.

411. Further to this, the Chamber had regard to P-2251's opinions about [REDACTED] and Mr Ngaïssona's role during the relevant period.
412. In the view of the Chamber, P-2251 seemed to over-emphasise [REDACTED] having 'protected the Muslims', repeatedly portraying him in better light, and in contrast with Andjilo's character and actions.⁶¹² In this respect, the Chamber has regard to P-2251's past close association with [REDACTED] and the fact that P-2251 was granted in-court protective measures because of his express fears that this person 'would not allow him to testify at the ICC'.⁶¹³ It recalls that P-2251 was this person's [REDACTED] in 2014,⁶¹⁴ and remained based in Bangui in [REDACTED].⁶¹⁵ P-2251 also [REDACTED].⁶¹⁶ P-2251 also spoke about being in contact with this person prior to meeting the Prosecution, and also said that the latter would not be 'happy' if he found out that P-2251 was meeting with the Prosecution.⁶¹⁷
413. Furthermore, as regards Mr Ngaïssona's role, P-2251 viewed the latter's financial contributions to the Anti-Balaka as humanitarian in nature, suggesting that parts of such sustenance were necessary to avoid crimes.⁶¹⁸
414. In relation to the abovementioned aspects of his evidence, the Chamber has assessed the veracity of P-2251's claims and opinions in light of other evidence received. Overall, the Chamber has considered P-2251's evidence within the context of other evidence before it.

⁶¹² See e.g. P-2251 Statement, CAR-OTP-2093-0045-R01, at 0056, para. 68, at 0062, para. 110; P-2251: T-043, p. 26, lines 4-19. [REDACTED] (see P-2251 Statement, CAR-OTP-2093-0045-R01, at 0071, para. 171; P-2251: T-044, p. 47, lines 7-19).

⁶¹³ Decision on In-Court Protective Measures, ICC-01/14-01/18-906-Conf-Exp, para. 34, p. 45. See also Annex to the Prosecution's Request for in-court protective measures, 7 December 2020, ICC-01/14-01/18-757-Conf-Exp-Anx, confidential *ex parte*, only available to the Prosecution and the VWU (confidential redacted version of the annex notified on 14 August 2022, ICC-01/14-01/18-757-Conf-Anx-Red), p. 2, entry 1.

⁶¹⁴ P-2251: T-043, p. 41, lines 16-22; P-2251 Statement, CAR-OTP-2093-0045-R01, at 0063, para. 115, at 0069, para. 154. The Chamber notes that the witness places these events after Mr Ngaïssona's return to Bangui.

⁶¹⁵ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0072, para. 175.

⁶¹⁶ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0070, para. 158.

⁶¹⁷ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0080, paras 229-230. See also P-2251: T-043, p. 34, lines 3-13.

⁶¹⁸ See e.g. P-2251 Statement, CAR-OTP-2093-0045-R01, at 0063-0064, paras 117-118, at 0069, para. 150; P-2251: T-043, p. 41, line 23 – p. 43, line 11, p. 44, lines 3-20, p. 46, line 22 – p. 47, line 6.

xiv. P-2269

415. P-2269, a former FACA member and Anti-Balaka element, was initially expected to testify fully live.⁶¹⁹ Later, the Chamber found that he was unavailable to testify orally and his prior recorded testimony was introduced pursuant to Rule 68(2)(c) of the Rules.⁶²⁰
416. P-2269 fled to Zongo upon the Seleka's arrival in March 2013 and joined the Anti-Balaka in Gobere.⁶²¹ In his statement, P-2269 provides information about the groups in Gobere, the planning and execution of the attacks in Bangui and Bossangoa on 5 December 2013, Mr Yekatom's group, the setting up of the Anti-Balaka national coordination, as well as Mr Ngaïssona's appointment as general coordinator and the alleged financial assistance the latter provided to the elements.
417. The Prosecution and the Ngaïssona Defence rely on parts of P-2269's evidence in support of their arguments.⁶²² At the same time, the Ngaïssona Defence submits that key aspects of P-2269's account with regard to the group in Gobere are uncorroborated and that his narrative is both internally and externally inconsistent.⁶²³
418. In particular, the Ngaïssona Defence argues that P-2269's account is 'wholly unreliable' and that he lied about having been in Gobere;⁶²⁴ and disputes his claims that 'everyone' within the Anti-Balaka 'conflated Muslim civilians and Seleka members', that he reported to Mokom who was in Zongo, that he initiated the movement, that they obtained weapons from a person in Bangui, and that Mr Ngaïssona sent money to his group in Gobere.⁶²⁵ The

⁶¹⁹ See Decision on the Prosecution Requests to Summon Witnesses P-2602 and P-2269, 31 January 2023, ICC-01/14-01/18-1738-Conf (the 'Decision on the Request to Summon P-2602 and P-2269'), paras 12-17, p. 8.

⁶²⁰ Third Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies pursuant to Rule 68(2)(c) of the Rules, 6 October 2023, ICC-01/14-01/18-2127-Conf (public redacted version notified the same day, ICC-01/14-01/18-2127-Red) (the '[Third Rule 68\(2\)\(c\) Decision](#)'), para. 38, p. 31; See P-2269 Statement, CAR-OTP-2111-0336-R01; P-2269 Translation, CAR-OTP-2118-2197-R01; and its associated items, CAR-OTP-2111-0362; CAR-OTP-2111-0364; CAR-OTP-2111-0367.

⁶²¹ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0339, paras 19, 23, at 0342, paras 42, 47.

⁶²² See e.g. [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, paras 47, 61, 72, 129, 226, 230, 244, 328, 440, 544, 621; [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 197, 203, 206.

⁶²³ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 12, n. 21. See also Defence Ngaïssona Response to the "Prosecution's Request for Submission of the Prior Recorded Testimony of P-2269 pursuant to Rule 68(2)(c)", 17 July 2023, ICC-01/14-01/18-1986-Conf (public redacted version notified on 13 October 2023, ICC-01/14-01/18-1986-Red).

⁶²⁴ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 197, 493.

⁶²⁵ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 200, 205, 212, 219, 493.

Ngaïssona Defence also challenges the handwritten list P-2269 provided arguing that ‘it fails to corroborate other evidence and to provide an overall picture of the elements present in G[obere]’.⁶²⁶

419. The Yekatom Defence also disputes P-2269’s evidence, in particular his claim that Mr Yekatom would have crossed to Zongo on the day of the Seleka coup with several individuals from ‘the Anti-Balaka Northern Coordination’, arguing that ‘this unique allegation should not be relied on against Mr. Yekatom’.⁶²⁷
420. Having assessed P-2269’s testimony holistically, in light of the Defence’s allegations and in relation to other evidence before it, the Chamber concludes that it is nonetheless generally credible. P-2269 had a vast amount of first-hand knowledge about the events in 2013, especially about the various groups in Gobere, including his own, the movement of some of these groups towards Bangui and their participation in the attack on Bangui on 5 December 2013. The Chamber did not consider this evidence unique in that others like him, including FACA members, testified about the events starting from the formation of Anti-Balaka groups in Gobere and their participation in the attack on Bangui on 5 December 2013. In the view of the Chamber, P-2269 appeared forthcoming and truthful about his own involvement in the Anti-Balaka and his actions in 2013. P-2269’s account was largely internally consistent, and he was able to explain the differences in his interview with the Prosecution sufficiently.
421. As regards the Ngaïssona Defence’s arguments, the Chamber found that none of them individually or taken together discredited the entirety of P-2269’s testimony. Turning to specific inconsistencies raised by it, the Chamber considered that those regarding P-2269’s presence in Gobere were minor and did not throw into question the fact that he himself was present there. This is particularly supported by the detailed account P-2269 provided on the base set up in Gobere, the different groups present there and the activities they carried out.⁶²⁸ Similarly, the Ngaïssona Defence’s arguments concerning the list provided by P-2269 and

⁶²⁶ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 216.

⁶²⁷ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 220, n. 740 referring to [Third Rule 68\(2\)\(c\) Decision](#), ICC-01/14-01/18-2127-Red, paras 25, 36. See also para. 360, n. 1201 referring to Yekatom Defence Response to ‘Prosecution’s Request for Submission of the Prior Recorded Testimony of P-2269 pursuant to Rule 68(2)(c)’, 17 July 2023, ICC-01/14-01/18-1984-Conf (public redacted version notified on 16 October 2023, ICC-01/14-01/18-1984-Red), paras 42-49.

⁶²⁸ See e.g. P-2269 Statement, CAR-OTP-2111-0336-R01, at 0343-44, paras 53-56, at 0346, paras 74-77.

his handwriting are based on speculation and do not make the remainder of his evidence unreliable. As regards the remaining inconsistencies raised concerning his account, in particular on the leadership structure in Gobere and his concrete role in the movement, as well as regarding financial and materiel support, the Chamber has assessed P-2269's evidence together with other evidence before it.

422. As regards the Yekatom Defence's arguments, the Chamber has assessed P-2269's claims about Mr Yekatom crossing to Zongo together with other evidence in its evidentiary analysis below.⁶²⁹
423. Overall, the Chamber has assessed the reliability of P-2269's information on a case-by-case basis and within the context of other evidence before it.

xv. P-2602

424. P-2602, a former FACA member and Anti-Balaka [REDACTED],⁶³⁰ was initially expected to testify fully live.⁶³¹ Later, the Chamber found that he was unavailable to testify orally and his prior recorded testimony was introduced pursuant to Rule 68(2)(c) of the Rules.⁶³²
425. P-2602 testified on the creation, structure, organisation, recruitment and training of the groups based in Gobere, their attacks on the villages around Bossangoa prior to 5 December

⁶²⁹ See section IV.A.2.ii below.

⁶³⁰ P-2602 Interview Transcripts, CAR-OTP-2118-9500-R01, at 9514, lines 482-489; CAR-OTP-2118-9560-R01, at 9568, lines 271-273; CAR-OTP-2118-9525-R01, at 9535, lines 336-343; CAR-OTP-2118-9545-R01, at 9550, lines 149-170; CAR-OTP-2118-9764, at 9765, lines 12-21.

⁶³¹ See Decision on the Request to Summon P-2602 and P-2269, ICC-01/14-01/18-1738-Conf, paras 8-11, 17, p. 8.

⁶³² [Third Rule 68\(2\)\(c\) Decision](#), ICC-01/14-01/18-2127-Red, para. 60, p. 31; P-2602 Interview transcripts, CAR-OTP-2118-9500; CAR-OTP-2118-9525; CAR-OTP-2118-9545; CAR-OTP-2118-9560; CAR-OTP-2118-9579; CAR-OTP-2118-9598; CAR-OTP-2118-9617; CAR-OTP-2118-9641; CAR-OTP-2118-9664; CAR-OTP-2118-9683; CAR-OTP-2118-9705; CAR-OTP-2118-9714; CAR-OTP-2118-9737; CAR-OTP-2118-9764; CAR-OTP-2118-9785; CAR-OTP-2118-9807; P-2602 Translations, CAR-OTP-2122-5161; CAR-OTP-2122-5189; CAR-OTP-2122-5211; CAR-OTP-2122-5228; CAR-OTP-2122-5250; CAR-OTP-2122-5271; CAR-OTP-2122-5293; CAR-OTP-2122-5320; CAR-OTP-2122-5346; CAR-OTP-2122-5368; CAR-OTP-2122-5393; CAR-OTP-2122-5404; CAR-OTP-2122-5430; CAR-OTP-2122-5460; CAR-OTP-2122-5483; CAR-OTP-2122-5507; and its associated items, CAR-OTP-2120-0261; CAR-OTP-2120-0262; CAR-OTP-2120-0263; CAR-OTP-2101-0214; CAR-OTP-2005-0197. See also Appeals Chamber, Judgment on the appeal of Mr Patrice Edouard Ngaïssona against the decision of Trial Chamber V of 6 October 2023 entitled "Third Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies pursuant to Rule 68(2)(c) of the Rules", 20 May 2024, ICC-01/14-01/18-2502-Conf (public redacted version notified the same day, ICC-01/14-01/18-2502-Red), para. 78.

2013, and the planning and execution of the Anti-Balaka attacks on Bangui and Bossangoa on 5 December 2013.

426. All parties have relied on parts of P-2602's evidence in support of their arguments.⁶³³ At the same time, the Ngaïssona Defence submits that key aspects of P-2602's account with regard to the group in Gobere are uncorroborated and that his narrative is both internally and externally inconsistent.⁶³⁴ In particular, it argues that P-2602's evidence is inconsistent with the evidence of other witnesses as regards the location of Gobere, the origins of the 'Gobere group', its organisation and structure, the nature of the training received there, and the command structure and internal hierarchy within the group.⁶³⁵ In addition, the Ngaïssona Defence challenges some aspects of P-2602's account with regard to the attacks on the villages around Bossangoa prior to 5 December 2013. More concretely, it argues that P-2602's evidence is inconsistent with that of other witnesses as to which villages were attacked, when these attacks took place and what the underlying strategy was.⁶³⁶
427. Having assessed P-2602's testimony holistically, in light of the Ngaïssona Defence's allegations and in relation to other evidence before it, the Chamber concludes that it is generally credible. P-2602 had a vast amount of first-hand knowledge about the events in 2013, especially about the various groups in Gobere, [REDACTED], and the attacks in the Bossangoa region. As to the latter, the Chamber finds that the inconsistencies raised by the Ngaïssona Defence concerning the exact circumstances of the attacks on the villages were minor, especially since P-2602 was not present in all of the attacks and did not claim to list them exhaustively in his account.⁶³⁷ In the view of the Chamber, P-2602 appeared forthcoming and knowledgeable about his own involvement in the Anti-Balaka and his

⁶³³ See e.g. [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, paras 64-65, 70, 134, 631; [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 199-200, 205-206, 240, 252; [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 223, 277.

⁶³⁴ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 12, n. 21. See also Defence Response to the "Prosecution Request for the Formal Submission of the Prior Recorded Testimony of P-2602 pursuant to Rule 68(2)(c)", 17 July 2023, ICC-01/14-01/18-1987-Conf (public redacted version notified on 13 October 2023, ICC-01/14-01/18-1987-Red).

⁶³⁵ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 211-215.

⁶³⁶ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 220.

⁶³⁷ P-2602 Interview Transcript, CAR-OTP-2118-9525-R01, at 9532-35, lines 215-333.

actions in 2013.⁶³⁸ P-2602's account was largely internally consistent, he appeared to be generally able to distinguish between the sources of his knowledge and was able to explain the differences in his interview with the Prosecution sufficiently.⁶³⁹ Overall, the Chamber has assessed the reliability of P-2602's information on a case-by-case basis and within the context of other evidence before it.

xvi. *P-2673*

428. P-2673, a member of the FACA who previously worked as [REDACTED], testified with in-court protective measures.⁶⁴⁰ His prior recorded statement was introduced pursuant to Rule 68(3) of the Rules.⁶⁴¹

429. The Ngaïssona Defence argues that P-2673's evidence should be afforded no weight since he 'admitted' that [REDACTED] people in Bangui did not trust him and considered him a traitor, his contacts stopped sharing information with him while he was allegedly gathering incriminating information on Mr Ngaïssona [REDACTED], and because he also 'admitted' that certain people might have had a motive to give him false or misleading information.⁶⁴² The Ngaïssona Defence also submits that the witness participated in a scheme to falsely incriminate Mr Ngaïssona.⁶⁴³ In particular, it argues that P-2673's demeanour was 'unnatural and rehearsed' and to avoid contradicting himself, he 'repeatedly referred to his statement when answering questions'.⁶⁴⁴

⁶³⁸ For example, P-2602 shared detailed firsthand information about the movement of groups during the relevant time (see P-2602 Interview Transcripts, CAR-OTP-2118-9525-R01, at 9535-37, lines 325-392; CAR-OTP-2118-9545-R01, at 9546-48, lines 6-87).

⁶³⁹ For example, P-2602 openly stated when he did not remember certain details and was transparent about the sources of his information (see P-2602 Interview Transcripts, CAR-OTP-2118-9525-R01, at 9529, lines 108-125, at 9535, lines 318-323; CAR-OTP-2118-9737-R01, at 9738-9740, lines 5-85).

⁶⁴⁰ P-2673: T-041; T-042; [Decision on In-Court Protective Measures](#), ICC-01/14-01/18-906-Red, paras 33-35, 39, p. 41.

⁶⁴¹ P-2673 Statement, CAR-OTP-2127-6435-R01; P-2673 Translation, CAR-OTP-2130-1581-R01; and its associated items CAR-OTP-2100-3030; CAR-OTP-2101-6897; CAR-OTP-2102-5143; CAR-OTP-2127-6468; Third Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies under Rule 68(3) of the Rules concerning Witnesses P-2673 and P-2251, 19 May 2021, ICC-01/14-01/18-998-Conf-Corr; P-2673: T-041, p. 5, line 13 – p. 6, line 10.

⁶⁴² Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, para. 36.

⁶⁴³ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 36-37, 43, 47-49; Annex A.04 to Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA.04.

⁶⁴⁴ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 48.

430. The Chamber considers that the witness's in-court testimony was coherent with his prior recorded statement, and that his openness and explanations about why certain individuals did not trust him, as well as admitting that he might have received false or misleading information, reinforced the witness's credibility.⁶⁴⁵ Furthermore, the Chamber notes that the witness provided differentiated answers and made clear that some of the information he received from others turned out to be incorrect, but that he usually attempted to cross-check the information he received. P-2673 was also clear about which events he experienced himself, and distinguished own experiences from matters he heard from others, often specifying sources of the information he received. The Chamber also considers that, in this instance, the fact that these individuals might have had a negative opinion about P-2673 is not in itself sufficient to undermine the witness's credibility overall. The Chamber also considers the Ngaïssona Defence's argument about P-2673's demeanour to be speculative.
431. As to the Ngaïssona Defence's claim that P-2673 was part of a scheme to falsely incriminate Mr Ngaïssona, the Chamber notes, as further detailed below, that it is essentially based on the evidence of [REDACTED], whom the Chamber considers not credible in this regard.⁶⁴⁶ Furthermore, in this instance and taking into account its findings in the preceding paragraph on the witness's candour, the Chamber does not consider that P-2673's testimony was 'rehearsed' or that it lacked spontaneity simply because he 'repeatedly' referred to or stood by his prior recorded testimony during his examination in court, but rather merely referred to information which he already provided.
432. The Chamber further notes that the Ngaïssona Defence points to aspects in P-2673's testimony that it argues were inaccurate, speculative and inconsistent, and therefore, cannot be relied on to reach any conclusions.⁶⁴⁷ These relate, *inter alia*, to his testimony concerning Mr Ngaïssona's stay in Cameroon,⁶⁴⁸ links between the FROCCA and the Anti-Balaka,⁶⁴⁹ and Mr Ngaïssona's activities at the border with Cameroon, including financing of

⁶⁴⁵ See P-2673: T-042, p. 64, line 7 – p. 66, line 23.

⁶⁴⁶ See also [REDACTED].

⁶⁴⁷ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 173, 190, 444-446, 453, 474-477.

⁶⁴⁸ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 173.

⁶⁴⁹ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 190.

elements.⁶⁵⁰ The Chamber considered that these aspects, as such, did not render P-2673's testimony unreliable.

433. Having regard to the above, the Chamber has assessed P-2673's testimony holistically, in light of the other evidence received before it.

xvii. *P-2843*

434. P-2843, who [REDACTED] and was a member of the KNK party, testified fully live with in-court protective measures,⁶⁵¹ and received Rule 74 assurances.⁶⁵²

435. The Prosecution and the Ngaïssona Defence rely on parts of P-2843's evidence in support of their arguments.⁶⁵³ The Prosecution relies on P-2843's evidence, especially his emails and Facebook exchanges, to show Mr Ngaïssona's coordinating role in the Anti-Balaka.⁶⁵⁴ In particular, the Prosecution refers to P-2843's testimony about emails concerning [REDACTED] 'requests for military, financial, and material assistance for Anti-Balaka elements in the field' to Mr Ngaïssona.⁶⁵⁵

436. Concerning these emails, the Ngaïssona Defence argues that P-2843 testified that the contents of the email exchanges 'were entirely fabricated as a ruse to extort money' from Mr Ngaïssona.⁶⁵⁶ It also argues that the email exchanges between P-2843 and Mr Ngaïssona do not have sufficient indicia of reliability 'as the timestamps are not consistent for email threads containing the same exchange'.⁶⁵⁷ The Ngaïssona Defence further argues that P-2843

⁶⁵⁰ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 444-446, 474-477.

⁶⁵¹ P-2843: T-073; T-074; [Decision on In-Court Protective Measures](#), ICC-01/14-01/18-906-Red, paras 33-34, p. 41.

⁶⁵² P-2843: T-073. *See also* [Notification of the Appointment of Mr Hédi Aouini as Legal Adviser to Witness P-2843](#), 29 October 2021, ICC-01/14-01/18-1157 (with confidential Annexes I and II); emails from the Chamber, 3 November 2021, at 16:00, 4 November 2021, at 19:08.

⁶⁵³ *See e.g.* [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, paras 16, 79, 185-185, 195; [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 147, 414-415, 499-502, 504, 551.

⁶⁵⁴ *See e.g.* Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, paras 79, 184-185, 195.

⁶⁵⁵ Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, para. 195.

⁶⁵⁶ Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, para. 500. *See also* [Defence Response to the "Prosecution's Application for Submission of Yahoo Email Evidence from the Bar Table Pursuant to Article 64\(9\)" ICC-01/14-01/18-1450-Conf](#), 15 August 2022, ICC-01/14-01/18-1546-Conf (public redacted version notified on 1 November 2022, ICC-01/14-01/18-1546-Red) (with confidential Annex 1), paras 73-74.

⁶⁵⁷ [Defence Response to the "Prosecution's Application for Submission of Yahoo Email Evidence from the Bar Table Pursuant to Article 64\(9\)" ICC-01/14-01/18-1450-Conf](#), 15 August 2022, ICC-01/14-01/18-1546-Conf (public redacted version notified on 1 November 2022, ICC-01/14-01/18-1546-Red) (with confidential Annex 1), paras 15,

confirmed he never discussed with Mr Ngaïssona the Anti-Balaka or military matters during their [REDACTED] exchanges.⁶⁵⁸

437. In the view of the Chamber, considering their past association, P-2843 was well placed to comment on Mr Ngaïssona's email address and the emails he exchanged with Mr Ngaïssona.⁶⁵⁹ P-2843 interacted with Mr Ngaïssona and had [REDACTED] telephone and email contact with him during the relevant period.⁶⁶⁰ P-2843 was also able to observe Mr Ngaïssona from the perspective of [REDACTED].⁶⁶¹ Further, the Ngaïssona Defence's arguments concerning these emails were not such that they affected P-2843's overall credibility.
438. At the same time, the Chamber noted that P-2843 had very limited direct information about Mr Ngaïssona's involvement with the Anti-Balaka. P-2843 claimed that he did not speak to Mr Ngaïssona about military operations.⁶⁶² P-2843 said that he was 'not able to tell' or 'capable of telling' what Mr Ngaïssona was doing as a coordinator of the Anti-Balaka.⁶⁶³ P-2843, asked what Mr Ngaïssona did at the time as the coordinator of the Anti-Balaka, said that since he himself did not belong to the Anti-Balaka, he 'did not really know' what Mr Ngaïssona did.⁶⁶⁴
439. The Chamber also considered that P-2843 provided inconsistent evidence in relation to the content of his Facebook exchanges with [REDACTED]. For example, P-2843 initially denied having discussions about military operations with this individual,⁶⁶⁵ but later confirmed that the word 'matos' was [REDACTED] a reference to military equipment.⁶⁶⁶

17-18; Annex 1 to Defence Response to the "Prosecution's Application for Submission of Yahoo Email Evidence from the Bar Table Pursuant to Article 64(9)" ICC-01/14-01/18-1450-Conf, ICC-01/14-01/18-1546-Conf-Anx1, pp. 85-87. *See also* Defence Response to the "Prosecution's Sixth Application for the Submission of Evidence from the Bar Table" ICC-01/14-01/18-1868-Conf, 23 June 2023, ICC-01/14-01/18-1942-Conf, para. 37.

⁶⁵⁸ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 501. *See also* paras 499-503.

⁶⁵⁹ *See e.g.* P-2843: T-073, p. 28, line 5 – p. 30, line 23, p. 58, lines 12-17. *See also* Emails, CAR-OTP-2130-3372; CAR-OTP-2130-3379.

⁶⁶⁰ P-2843: [REDACTED].

⁶⁶¹ *See e.g.* P-2843: T-073, p. 18, line 21 – p. 20, line 3, p. 27, line 22 – p. 28, line 4, p. 91, line 25 – p. 93, line 16.

⁶⁶² P-2843: T-073, p. 27, line 22 – p. 28, line 4, p. 61, line 13 – p. 64, line 15.

⁶⁶³ P-2843: T-073, p. 85, lines 2-12.

⁶⁶⁴ P-2843: T-073, p. 86, line 23 – p. 87, line 1.

⁶⁶⁵ P-2843: T-073, p. 37, line 1 – p. 39, line 6, p. 46, line 11 – p. 49, line 21.

⁶⁶⁶ P-2843: T-073, p. 72, line 5 – p. 73, line 23.

440. Having regard to the above, the Chamber has assessed the reliability of P-2843's evidence on a case-by-case basis in light of other evidence available before it, in particular the specific aspects of his testimony concerning the emails mentioned above and the related Ngaïssona Defence's arguments are assessed further below.⁶⁶⁷

xviii. D29-3014

441. Fidèle Soussou, a former civil servant from Boda and father of Habib Soussou,⁶⁶⁸ testified without in-court protective measures.⁶⁶⁹ His prior recorded testimony was introduced pursuant to Rule 68(3) of the Rules.⁶⁷⁰

442. As discussed above, the Yekatom Defence relies on the evidence of Fidèle Soussou to dispute P-1962's claims on a number of issues, notably concerning the attack on Boda.⁶⁷¹

443. Fidèle Soussou indicated that he knew P-1962 [REDACTED].⁶⁷² In his prior statement, Fidèle Soussou said that he never [REDACTED].⁶⁷³ He then clarified in court that by 'events' he meant the events in Boda, indicating that he was in Bangui for his medical treatment after the Seleka left Boda in January 2014, and that he only knew about what happened in Boda once he returned there. He also indicated that he could not say anything about what occurred in Bangui.⁶⁷⁴

444. In relation to the above and his claims concerning P-1962 and Boda, the Chamber notes that Fidèle Soussou repeatedly indicated that he was not in Boda during the attack in February 2014 and therefore, had limited evidence concerning the attack on Boda, which did not assist the Chamber in assessing the credibility of P-1962's evidence. Furthermore, the Chamber notes certain claims made by Fidèle Soussou that do not appear reliable. First, the witness testified that he would call members of his family 'from time to time' to tell them about his

⁶⁶⁷ See paragraphs 865-889 below.

⁶⁶⁸ D29-3014: T-265, p. 9, lines 5-12; D29-3014 Statement, CAR-D29-0009-0355, at 0359, para. 25.

⁶⁶⁹ D29-3014: T-265; T-274. See also email from the VWU, 29 January 2024, at 09:13.

⁶⁷⁰ D29-3014 Statement, CAR-D29-0009-0355; Decision on Yekatom Defence Requests for Formal Submission of Prior Recorded Testimonies Pursuant to Rule 68(2)(b) and 68(3), 18 December 2013, ICC-01/14-01/18-2272-Conf, paras 16-17, p. 12; D29-3014: T-265, p. 6, lines 21-25.

⁶⁷¹ See paragraphs 374-389 above.

⁶⁷² D29-3014: [REDACTED]. See also [REDACTED].

⁶⁷³ [REDACTED]

⁶⁷⁴ D29-3014: T-265, p. 13, lines 1-7; T-274, p. 7, line 16 – p. 8, line 2, p. 43, lines 10-13.

health issues when he was in Bangui,⁶⁷⁵ and that he did not have contact with his son Habib Soussou when the latter was in Boda.⁶⁷⁶ The Chamber does not find it probable that Fidèle Soussou was in touch with other family members in Boda at the time, but did not call his son during that period. Second, the Chamber considers it unlikely that Fidèle Soussou did not know at the time that his son was an Anti-Balaka coordinator in Boda,⁶⁷⁷ and that the latter was sanctioned for the alleged commission of serious crimes.⁶⁷⁸ Third, the Chamber also takes note that Fidèle Soussou said that he knew ‘nothing’ about Mr Ngaïssona,⁶⁷⁹ and does not consider credible his statement that he had ‘no information’ concerning the Anti-Balaka, despite being in contact with people in Boda.⁶⁸⁰

445. In any event, the Chamber has not relied on D29-3014 for the purposes of determining any factual allegations.

xix. D30-4504

446. Brice Stanislas Mohi, a former football player who fled to Douala after the Seleka coup, testified without in-court protective measures,⁶⁸¹ with his prior recorded testimony introduced pursuant to Rule 68(3) of the Rules.⁶⁸²

447. The Ngaïssona Defence relies on Brice Stanislas Mohi’s evidence to demonstrate the presence and circumstances of Mr Ngaïssona’s stay in Cameroon in 2013 and to contest the claim that Mr Ngaïssona financed transportation of elements to the Cameroonian border.⁶⁸³

448. At the outset, the Chamber notes that Brice Stanislas Mohi stayed in Douala, visited Mr Ngaïssona’s house and directly interacted with Mr Ngaïssona and his family in 2013.

⁶⁷⁵ D29-3014: T-274, p. 9, lines 4-7.

⁶⁷⁶ D29-3014: T-274, p. 9, lines 8-17, p. 17, lines 9-19, p. 33, lines 7-20.

⁶⁷⁷ D29-3014: T-274, p. 22, line 24 – p. 24, line 3, p. 31, lines 5-15.

⁶⁷⁸ D29-3014: T-274, p. 25, line 25 – p. 28, line 16, p. 43, line 19 – p. 44, line 4.

⁶⁷⁹ D29-3014: T-274, p. 40, lines 19-22.

⁶⁸⁰ D29-3014: T-274, p. 41, lines 7-11.

⁶⁸¹ D30-4504: T-283; T-287; Decision on the Ngaïssona Defence Request for In-Court Protective Measures for D30-4504, 2 May 2024, ICC-01/14-01/18-2472-Conf, para. 7, p. 4.

⁶⁸² D30-4504 Statement, CAR-D30-0023-0001; Decision on the Ngaïssona Defence Request for Formal Submission of D30-4504’s Prior Recorded Testimony pursuant to Rule 68(3) of the Rules, 25 April 2024, ICC-01/14-01/18-2466-Conf, para. 17, p. 8; D30-4504: T-283, p. 10, lines 9-12.

⁶⁸³ See [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 465-466.

449. As set out below, having reviewed his evidence, the Chamber notes that Brice Stanislas Mohi was not forthcoming in his testimony and limited the scope of his knowledge on the events throughout the testimony. In particular, the Chamber finds that the witness downplayed the frequency and nature of his interactions with Mr Ngaïssona in Douala and thereafter in the CAR. At the same time, the witness also overemphasised Mr Ngaïssona's involvement in football-related activities at the time, admitting either not knowing or having heard about Mr Ngaïssona's involvement in anything but football-related activities during the relevant time.⁶⁸⁴ In the view of the Chamber, the witness's claims, in and of themselves, are highly improbable and contradicted by other evidence before it.
450. For example, in his statement, Brice Stanislas Mohi said that in Douala, he would see Mr Ngaïssona 'often', one or two times per month, including on Saturdays, during the weekend.⁶⁸⁵ In court, asked about his visits to Mr Ngaïssona, the witness said that they did not take place often and that '[s]ometimes', he would go there on Saturday or Sunday, if there was nothing to do at home.⁶⁸⁶
451. Furthermore, in court, Brice Stanislas Mohi claimed that in his interactions with Mr Ngaïssona, they did not 'speak about what had happened in the country' and that they would speak 'a lot more about football' and 'sometimes' watch matches together.⁶⁸⁷ Brice Stanislas Mohi, when asked, said that he never had a conversation with Mr Ngaïssona about people going back from Cameroon to the CAR to 'rise in revolt'.⁶⁸⁸ He said that Mr Ngaïssona was not a member of the Anti-Balaka and was 'much more interested in football'.⁶⁸⁹ The witness said that, at the time, 'all Central Africans', including himself, had heard about the Anti-Balaka movement but that he never saw Mr Ngaïssona participate in it and only knew him as the president of the football federation.⁶⁹⁰ Brice Stanislas Mohi also said that during his interactions with Mr Ngaïssona in 2013, he 'never heard' that Mr Ngaïssona supported those who wanted to go back to the country and fight, and repeated that

⁶⁸⁴ See e.g. D30-4504 Statement, CAR-D30-0023-0001, at 0005, paras 18, 20, 36, 40-41.

⁶⁸⁵ D30-4504: Statement, CAR-D30-0023-0001-R02, at 0003, para. 18.

⁶⁸⁶ D30-4504: T-283, p. 24, line 21 – p. 25, line 4.

⁶⁸⁷ D30-4504: T-283, p. 28, line 17 – p. 29, line 9.

⁶⁸⁸ D30-4504: T-283, p. 28, line 25 – p. 29, line 3.

⁶⁸⁹ D30-4504: T-283, p. 29, lines 4-9.

⁶⁹⁰ D30-4504: T-283, p. 29, lines 10-14.

‘he was interested a lot more in football’.⁶⁹¹ He also denied having heard about Mr Ngaïssona participating in meetings in Cameroon with François Bozizé and others, saying that Mr Ngaïssona ‘invested himself in Central African football’ but was not a ‘soldier’.⁶⁹² The witness, when asked if he had heard Mr Ngaïssona being involved in reinstating François Bozizé to power, said that he never heard Mr Ngaïssona say that, but ‘[p]erhaps people spoke about it’.⁶⁹³ The witness also did not hear about Mr Ngaïssona having gone to the border to Bertoua or Garam-Boualai.⁶⁹⁴

452. The Chamber notes that the witness’s claims as outlined above are overly generalised and in part blanket denials deprived of context, in addition to some of these claims being in stark contrast to the evidence before the Chamber.
453. In addition, the Chamber notes that Brice Stanislas Mohi continued to limit his own knowledge about his interactions with other Central African individuals at the ‘Total’ gas station in Douala to football, and said that neither Mr Ngaïssona nor the Anti-Balaka were ever discussed during these conversations.⁶⁹⁵
454. The Chamber also notes that the witness denied having phone contacts with ‘Machin Machin’, Samy Urbain, and Eusebe Emtenu, when shown CDR reflecting such contacts.⁶⁹⁶ When asked whether he was ever in contact with Perrieur Dongombe, Brice Stanislas Mohi said that he did not know him at all and said that perhaps the latter worked for the federation.⁶⁹⁷
455. Regarding the Ngaïssona Defence’s arguments contesting Brice Stanislas Mohi’s claim that Mr Ngaïssona financed the transportation of elements to the Cameroonian border, the Chamber recalls its conclusions concerning the credibility of P-1719’s evidence.⁶⁹⁸

⁶⁹¹ D30-4504: T-283, p. 29, lines 15-20.

⁶⁹² D30-4504: T-283, p. 29, line 21 – p. 30, line 3.

⁶⁹³ D30-4504: T-283, p. 30, lines 4-9.

⁶⁹⁴ D30-4504: T-283, p. 30, lines 10-16.

⁶⁹⁵ D30-4504: T-283, p. 33, lines 15-19, p. 38, line 22 – p. 39, line 1, p. 45, lines 3-9, p. 47, lines 20 – p. 48, line 6.

⁶⁹⁶ See e.g. D30-4504: T-283, p. 51, line 20 – p. 52, line 2, p. 53, lines 15-21; T-287, p. 16, lines 8-22, p. 23, line 7 – p. 24, line 7, p. 25, line 14 – p. 26, line 20, p. 27, line 14 – p. 28, line 8, p. 28, line 16 – p. 29, line 11.

⁶⁹⁷ D30-4504: T-287, p. 29, lines 2-11.

⁶⁹⁸ See [REDACTED].

456. Having regard to the above, the Chamber has assessed with great caution the veracity of Brice Stanislas Mohi's claims and opinions in light of other evidence received.

xx. D30-4679

457. Didier Ouebio, a FACA member and former co-pilot of the presidential helicopter of François Bozizé at the relevant time, testified fully live without in-court protective measures.⁶⁹⁹

458. Didier Ouebio testified about the events that occurred in Cameroon, where he took François Bozizé into exile in March 2013.⁷⁰⁰ Didier Ouebio lived with François Bozizé at the Hilton hotel⁷⁰¹ and then in a villa at the *Cité du Golf*,⁷⁰² leaving Cameroon in April 2014,⁷⁰³ after François Bozizé's departure therefrom.⁷⁰⁴

459. The Prosecution and the Ngaïssona Defence rely on parts of his evidence.⁷⁰⁵ At the same time, the Ngaïssona Defence argues that Didier Ouebio 'did not necessarily have access to secret information, but absent the extra context, could be mistaken to have greater knowledge than he did'.⁷⁰⁶ It argues that Didier Ouebio's use of slang, in particular 'the boss', in his Facebook exchanges can refer to 'many different individuals'.⁷⁰⁷ The Ngaïssona Defence also argues that his testimony does not confirm the veracity of the Facebook exchanges concerning Mr Ngaïssona's alleged military instructions in November 2013.⁷⁰⁸ In addition, it submits that Didier Ouebio's evidence contradicts or refutes that of P-1847 and P-2673 concerning the activities in Cameroon.⁷⁰⁹

460. In the view of the Chamber, despite such close ties with François Bozizé, Didier Ouebio provided little information and repeatedly denied knowing the details of the events and

⁶⁹⁹ D30-4679: T-299; T-300; T-301.

⁷⁰⁰ D30-4679: T-299, p. 22, line 10 – p. 26, line 18.

⁷⁰¹ D30-4679: T-299, p. 29, line 23 – p. 30, line 9.

⁷⁰² D30-4679: T-299, p. 45, line 22 – p. 47, line 5.

⁷⁰³ D30-4679: T-299, p. 57, lines 8-13.

⁷⁰⁴ D30-4679: T-299, p. 56, lines 17-25.

⁷⁰⁵ See e.g. [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, paras 47, 49-50, 60, 83, 117, 122, 126; [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 85, 158, 409, 412-413, 427, 430, 433, 446.

⁷⁰⁶ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 84.

⁷⁰⁷ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 86.

⁷⁰⁸ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 82, 522.

⁷⁰⁹ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 433, 446, 533.

meetings that occurred in Cameroon.⁷¹⁰ While the Chamber did not assume he would have access to ‘secret information’, as argued by the Ngaïssona Defence, his reticence to provide very few details about the events he witnessed himself suggests that he was not forthcoming. The Chamber notes that Didier Ouebio explained that when he was initially approached by the Prosecution in 2020, he was uncomfortable and refused to answer questions about François Bozizé.⁷¹¹ The Chamber found that a similar attitude prevailed during his testimony. Further, due to his position and relationship with François Bozizé, the Chamber considers that Didier Ouebio was not entirely truthful.⁷¹²

461. Concerning the Facebook exchanges shown to him in court, Didier Ouebio did not deny writing them but, in the Chamber’s view, downplayed the content of the messages, insofar as they related to François Bozizé and the activities in Cameroon. For example, Didier Ouebio indicated that all the information he had was ‘based on rumours’⁷¹³ and although the messages included very specific information regarding attacks, he answered that they were mere references to ‘terms [they] used when playing cards’.⁷¹⁴ Further, while acknowledging that the term ‘*le patron*’ mentioned in his messages referred to François Bozizé, Didier Ouebio repeatedly said that those actions indicated by ‘*le patron*’ did not come from François Bozizé but from Didier Ouebio himself.⁷¹⁵ The Chamber also considered unreasonable his ‘spiritual position’ that with the reference to ‘*nos hommes*’, ‘our men’, he meant ‘those who were not the Seleka’.⁷¹⁶
462. Having regard to the above, the Chamber has assessed the veracity of Didier Ouebio’s claims and opinions in light of other evidence received.

⁷¹⁰ See e.g. D30-4679: T-299, p. 45, lines 13-21; T-301, p. 31, lines 2-15.

⁷¹¹ D30-4679: T-301, p. 11, line 6 – p. 12, line 17.

⁷¹² D30-4679: T-299, p. 49, line 2 – p. 51, line 18 (while initially denying that François Bozizé organised meetings at the *Cité du Golf*, Didier Ouebio later acknowledged that he was not present in the meetings and was not in a position to know about them).

⁷¹³ D30-4679: T-300, p. 28, line 22 – p. 33, line 19 referring to Facebook messages, CAR-OTP-2132-1004.

⁷¹⁴ D30-4679: T-300, p. 12, line 23 – p. 14, line 17 referring to Facebook messages, CAR-OTP-2132-6648.

⁷¹⁵ D30-4679: T-300, p. 14, line 19 – p. 25, line 12 referring to Facebook messages, CAR-OTP-2131-3310. See also [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 50.

⁷¹⁶ D30-4679: T-300, p. 64, lines 1-24 referring to Facebook messages, CAR-OTP-2132-5088, at 5093.

xxi. D30-4848

463. D30-4848, [REDACTED],⁷¹⁷ testified fully live with in-court protective measures.⁷¹⁸ In 2013, D30-4848 fled from Bangui to the Republic of the Congo and later to Douala, Cameroon, and returned to Bangui after Djotodia's resignation in 2014.⁷¹⁹
464. The Prosecution relies on D30-4848's evidence, especially regarding his Facebook exchanges, to show Mr Ngaïssona's presence and activities in Douala.⁷²⁰ The Ngaïssona Defence relies on parts of this witness's evidence,⁷²¹ while also arguing that his Facebook exchanges are based on rumours and not reliable.⁷²²
465. Having reviewed his evidence holistically, in light of these arguments, the Chamber finds D30-4848 evasive and not forthcoming, despite being in a position to provide direct information about events in Cameroon. For example, when asked about [REDACTED] D30-4848 said that this is 'something that we lived through, but it's something that we heard about, and we were sharing in the conditional sense in order to shed light on matters', adding that they were speaking in the conditional 'because we're seeing the situation from afar'.⁷²³ Similarly, when asked about [REDACTED] D30-4848 said that he did not believe that was the case and that he knew 'nothing more' in this regard.⁷²⁴
466. Further, D30-4848 distanced himself from the activities in Cameroon and downplayed his knowledge, by saying, *inter alia*, that 'in no way was I part of anything when I was in Cameroon' [REDACTED].⁷²⁵ D30-4848 also claimed not to be in a 'good position' to tell the court anything about Mr Ngaïssona's designation as the general coordinator of the Anti-Balaka.⁷²⁶ D30-4848, when asked about [REDACTED], that they would meet as CAR

⁷¹⁷ D30-4848: T-296, p. 10, line 13 – p. 11, line 11.

⁷¹⁸ D30-4848: T-296; T-297; T-298; Decision on the Ngaïssona Defence Request for In-Court Protective Measures for D30-4848, 2 July 2024, ICC-01/14-01/18-2573-Conf, paras 5-6, p. 4; [Notification of the Appointment of Mr Michael Karnavas as Legal Adviser to Witness D30-4848](#), 1 July 2024, ICC-01/14-01/18-2565 (with confidential Annexes I and II).

⁷¹⁹ D30-4848: T-296, p. 20, lines 19-25; T-297, p. 35, line 23 – p. 36, line 2, p. 36, line 15 – p. 37, line 5.

⁷²⁰ See e.g. [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, paras 115, 140.

⁷²¹ See e.g. [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 145, 409-411.

⁷²² Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, paras 81, 524, 530.

⁷²³ D30-4848: T-296, p. 74, line 18 – p. 75, line 20 [REDACTED].

⁷²⁴ D30-4848: T-296, p. 59, line 2 – p. 60, line 19 [REDACTED].

⁷²⁵ See e.g. D30-4848: T-297, p. 5, line 17 – p. 7, line 3, p. 9, lines 15-21, p. 14, line 22 – p. 16, line 10 [REDACTED].

⁷²⁶ D30-4848: T-298, p. 18, line 25 – p. 20, line 7.

compatriots but they never talked ‘about anything’, that ‘I was not close to that environment, I was in my own corner’, and that ‘since we are compatriots, we may just have exchanges, but not on any particular issue’.⁷²⁷

467. Furthermore, the Chamber has noted the answers provided by D30-4848 concerning [REDACTED],⁷²⁸ in the context of assessing his answers on his own involvement during the events relevant to the charges. The Chamber has considered this as one additional factor supporting the Chamber’s conclusion but would have reached the same conclusion based on D30-4848’s overall evasiveness even without considering [REDACTED].

468. Having regard to the above, the Chamber has assessed with great caution the veracity of D30-4848’s claims and opinions in light of other evidence available before it.

xxii. D30-4914

469. D30-4914, [REDACTED] former Anti-Balaka element, testified with in-court protective measures,⁷²⁹ and received Rule 74 assurances.⁷³⁰ His prior recorded testimony was introduced pursuant to Rule 68(3) of the Rules.⁷³¹ D30-4914 explained that he was [REDACTED] at the time he was [REDACTED] Beloko in October 2013, at the CAR border with Cameroon,⁷³² where [REDACTED] a group and participated in the attack against the Seleka in 2014.⁷³³

⁷²⁷ D30-4848: T-296, p. 67, lines 9-21.

⁷²⁸ D30-4848: T-297, p. 47, line 14 – p. 53, line 17.

⁷²⁹ D30-4914: T-302; T-303; Decision on the Ngaïssona Defence Request for In-Court Protective Measures for D30-4914, 19 August 2024, ICC-01/14-01/18-2640-Conf, para. 8, p. 5.

⁷³⁰ [Decision on the Ngaïssona Defence Request for the Appointment of Duty Counsel](#), 20 June 2024, ICC-01/14-01/18-2536; [Notification of the Appointment of Mr Anthony Abato as Legal Adviser to Witness D30-4914](#), 1 July 2024, ICC-01/14-01/18-2568 (with confidential Annexes I and II); D30-4914: T-302, p. 4, lines 13- 20, p. 13, lines 9-14.

⁷³¹ D30-4914 Statement, CAR-D30-0024-0001-R01; D30-4914 Corrections, CAR-D30-0024-0031; and its associated item, CAR-D30-0020-0001; Decision on the Ngaïssona Defence Requests for Formal Submission of Prior Recorded Testimonies pursuant to Rule 68(3) of the Rules concerning Witnesses D30-4914 and D30-4197, 4 April 2024, ICC-01/14-01/18-2435-Conf, para. 30, p. 14; D30-4914: T-302, p. 15, lines 10-14.

⁷³² D30-4914: T-303, p. 64, line 18 – p. 65, line 21.

⁷³³ D30-4914: T-302, p. 77, line 16 – p. 79, line 3; T-303, p. 3, line 23 – p. 4, line 11.

470. The Ngaïssona Defence heavily relies on D30-4914's evidence, including to support its argument that [REDACTED].⁷³⁴
471. Having reviewed his evidence as a whole, the Chamber concludes that D30-4914's account did not appear truthful on certain aspects. In particular, the Chamber notes that D30-4914, when asked, said that the population of Beloko [REDACTED], and that [REDACTED].⁷³⁵ At the same time, D30-4914 denied the existence of the Anti-Balaka before October 2013, claiming that the term only came into being 'after' 20 January 2014,⁷³⁶ which the Chamber notes contradicts the evidence before it. Other similar claims from D30-4914 that stand out have been specifically addressed in the Chamber's evidentiary analysis further below.⁷³⁷
472. Concerning D30-4914's evidence on [REDACTED], the Chamber considers this evidence entirely speculative and based on anonymous hearsay.⁷³⁸
473. In particular, D30-4914 testified that [REDACTED], and provided more details about them.⁷³⁹ D30-4914, when asked, explained that he understood [REDACTED].⁷⁴⁰ When asked about the sources of his information, D30-4914 said generally that he knew how to gather information [REDACTED].⁷⁴¹ He did not provide any further information that could assist the Chamber in evaluating the weight to be given to these claims. Furthermore, when asked [REDACTED], D30-4914 used very qualified language that did not suggest a clear answer; he said that going by the information he had gathered before his testimony, [REDACTED].⁷⁴² Importantly, D30-4914 said, 'I became aware [REDACTED] in the corridors, but I don't know [REDACTED]. But I found out that there was going to be [REDACTED]'.⁷⁴³

⁷³⁴ See e.g. Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, paras 43-47, 49, 56. See also Annex A.04 to the Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA.04; D30-4914: T-303, p. 39, line 23 – p. 43, line 6.

⁷³⁵ D30-4914: T-303, p. 67, line 22 – p. 68, line 14, p. 70, lines 3-6.

⁷³⁶ D30-4914: T-303, p. 5, lines 11-21, p. 31, lines 1-8.

⁷³⁷ See paragraphs 863, 912, 923, 933-934 below.

⁷³⁸ D30-4914: T-303, p. 43, line 11 – p. 47, line 12.

⁷³⁹ D30-4914: T-303, p. 44, lines 20-25, p. 45, lines 15-18. *Regarding further details the witness provided, see p. 45, lines 8-25, p. 46, lines 9-17, p. 47, lines 5-12.*

⁷⁴⁰ D30-4914: T-303, p. 47, lines 5-16.

⁷⁴¹ D30-4914: T-303, p. 45, lines 1-5.

⁷⁴² D30-4914: T-303, p. 46, lines 9-17.

⁷⁴³ D30-4914: T-303, p. 46, lines 9-17.

474. Having regard to the above, the Chamber has assessed the reliability of D30-4914's evidence on a case-by-case basis, in light of other evidence available before it.

c. Crime-base witnesses

i. P-2049

475. P-2049, a Muslim civilian from Bossangoa, testified fully live with in-court protective measures.⁷⁴⁴ He testified about the Anti-Balaka attacks on and near Bossangoa in 2013, including the attack on Bossangoa on 5 December 2013. In particular, he provided evidence on the identities of victims of these attacks.

476. The Prosecution relies on P-2049's evidence in support of some of its arguments.⁷⁴⁵ The Ngaïssona Defence argues that the witness is not credible as his claims are contradictory, implausible, insincere, biased and inconsistent with other reliable evidence.⁷⁴⁶ It also submits that his evidence about the death of individuals in the various attacks in Zere, Benzambé and Bossangoa is unsubstantiated, untruthful and based on anonymous hearsay;⁷⁴⁷ and further argues that P-2049 and his family were associated with the Seleka.⁷⁴⁸

477. As set out below, having reviewed his testimony in light of these allegations, the Chamber nonetheless considers P-2049's account generally credible.

478. In the view of the Chamber, P-2049 was clear about how he became aware of the events that occurred in and around Bossangoa, and explained his sources of knowledge.⁷⁴⁹ The Chamber notes that throughout his testimony, P-2049 differentiated clearly between his personal experiences and the information he came to learn from others. For example, P-2049, when asked about an individual selling *gris-gris*, stated that he 'did not see those products with [his] own eyes' and that his information on this was based on what he had heard.⁷⁵⁰ P-2049,

⁷⁴⁴ P-2049: T-100; T-101; T-102; T-103; [Decision on In-Court Protective Measures](#), ICC-01/14-01/18-906-Red, para. 55, p. 41.

⁷⁴⁵ See e.g. [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, paras 132, 134, 598-599, 604-605, 609-610.

⁷⁴⁶ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 317-320, 342-343, 391-393. See also Annex A.17 to the Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA.17, pp. 2-46.

⁷⁴⁷ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 317-320.

⁷⁴⁸ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 392-393.

⁷⁴⁹ See e.g. P-2049: T-100, p. 29, line 11 – p. 30, line 21, p. 42, line 7 – p. 43, line 15; T-102, p. 28, lines 5-23.

⁷⁵⁰ P-2049: T-100, p. 13, lines 14-25.

when asked about ‘*Caporal* Ndangba’, said that he had ‘heard people talk about him’,⁷⁵¹ and explained the source of his information.⁷⁵² P-2049, when asked if he was ‘informed about everything that was happening’ in Bossangoa at the time, said that one had to ‘make a distinction’ and that, at the *École de la Liberté*, it was possible for him to receive information because he was present but could not receive information about what was happening in their area or in the bush.⁷⁵³

479. The Chamber considered P-2049 forthcoming about not knowing certain details of the events in general. For example, P-2049 denied knowing details about the Seleka bases or elements in Bowaye, and stated that he ‘had not been to Bowaye for more than 10 or 20 years’ and did not have any information as he did not have ‘any friend or family member in Bowaye’.⁷⁵⁴ Similarly, P-2049 said that he did not know whether certain Muslim civilians were armed during the attacks in Benzambé, Koro-Mpoko and Sadjo since he was not there,⁷⁵⁵ and that he also did not know about Muslim traders giving money to the Seleka in Ouham-Bac.⁷⁵⁶ Shown a video footage in court, P-2049 recalled seeing the footage and having provided it to the Prosecution, but acknowledged that he did not know how the images were taken and qualified his answers about the location depicted in the video with ‘I believe’.⁷⁵⁷
480. The Chamber notes that P-2049 continued to remain discerning about his source of knowledge and limits thereof also when it concerned the details of the victims of the attack on Bossangoa on 5 December 2013. For example, P-2049, when asked whether one of the victims he had listed was a young boy, said that ‘these people’ were not his family members and that he was not able to know the ages of everyone.⁷⁵⁸

⁷⁵¹ P-2049: T-100, p. 67, lines 13-21.

⁷⁵² P-2049: T-101, p. 33, line 18 – p. 35, line 1.

⁷⁵³ P-2049: T-102, p. 28, lines 5-23.

⁷⁵⁴ P-2049: T-102, p. 42, line 10 – p. 43, line 20.

⁷⁵⁵ P-2049: T-102, p. 45, lines 1-17.

⁷⁵⁶ P-2049: T-103, p. 46, line 6 – p. 47, line 6.

⁷⁵⁷ P-2049: T-100, p. 52, line 20 – p. 55, line 13 *referring to* Video, CAR-OTP-2073-1329.

⁷⁵⁸ P-2049: T-101, p. 63, lines 18-25.

481. In light of this, the Chamber finds baseless the Ngaïssona Defence's arguments that P-2049 claimed to be 'aware of everything when it suited him but nothing when it did not, while extensively resorting to hearsay'.⁷⁵⁹
482. Turning to the inconsistencies raised by the Ngaïssona Defence, the Chamber finds that they were minor and did not affect P-2049's credibility. This includes the alleged inconsistencies regarding P-2049's studies,⁷⁶⁰ the time of Achille Godonam's return to the CAR,⁷⁶¹ and people speaking to the imam about seeking refuge.⁷⁶²
483. As to the Ngaïssona Defence's argument that P-2049 repeatedly referred to his prior statement to avoid contradicting himself,⁷⁶³ the Chamber considered that this did not affect his credibility negatively but rather positively. P-2049 was not only able to provide plausible explanations whenever such occasions arose, he specified clearly when he was not able to recall the specific names of victims as written in his notebook, which he was not able to bring to the courtroom.⁷⁶⁴
484. Turning to the Ngaïssona Defence's argument that P-2049 provided untruthful evidence concerning the victims of the attacks in Zere and Benzambé,⁷⁶⁵ the Chamber has assessed this evidence in light of other evidence received.⁷⁶⁶
485. As regards the Ngaïssona Defence's arguments that his testimony about a photograph that was supposedly taken in Bossangoa was untruthful,⁷⁶⁷ the Chamber considers that P-2049 was clear that he did not take the photograph himself, but that it was shown to him by someone else who had said that the bodies depicted therein were people who had been killed

⁷⁵⁹ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 392 *referring to* Annex A.17 to the Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA.17.

⁷⁶⁰ P-2049: T-100, p. 7, lines 14-23; T-101, p. 64, line 7 – p. 65, line 1.

⁷⁶¹ P-2049: T-102, p. 7, line 17 – p. 8, line 21; T-100, p. 17, lines 6-8.

⁷⁶² P-2049: T-100, p. 71, line 13 – p. 72, line 19; T-103, p. 60, line 20 – p. 62, line 4.

⁷⁶³ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 392 *referring to* Annex A.17 to Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA.17, pp. 16-21.

⁷⁶⁴ *See e.g.* P-2049: T-100, p. 31, line 8 – p. 34, line 5; T-101, p. 58, line 23 – p. 59, line 10.

⁷⁶⁵ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 318-319.

⁷⁶⁶ *See* section IV.A.6.ii below.

⁷⁶⁷ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 320 *referring to, inter alia*, Photograph, CAR-OTP-2088-2207. *See also* Annex A.18 to Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA.18; Ngaïssona Defence Closing Statements: T-309, p. 74, lines 1-17.

on 5 December 2013.⁷⁶⁸ In any event, the Chamber has not relied on this photograph to reach any conclusions on this attack. Concerning the Ngaïssona Defence's arguments that P-2049 made unsubstantiated and false claims against Mr Ngaïssona in that he would have had 'declared publicly that he had 10,000 men' and that this 'was known by everybody', the Chamber has not relied on P-2049's general claim in this regard.⁷⁶⁹

486. Turning to the Ngaïssona Defence's arguments regarding P-2049's and his family's alleged association with the Seleka,⁷⁷⁰ the Chamber notes that these arguments are based on generalisations and the anonymous hearsay account provided by another witness, who said that she 'only heard' but never saw P-2049 bearing a machete and speculated generally that the Seleka and the Muslims had a 'perfect understanding' between them.⁷⁷¹ The Chamber also cannot draw any conclusions from the comparison of audio-visual material used by the Ngaïssona Defence to show that it was P-2049 holding a machete in a video.⁷⁷²
487. Further, in the Chamber's view, P-2049 did not show bias towards either the Anti-Balaka or the Seleka. He referred to the Seleka as 'rebels', testified about crimes committed by both the Seleka and the Anti-Balaka, and attributed his suffering to both equally.⁷⁷³
488. Having regard to the above, the Chamber has considered P-2049's evidence within the context of other information before it. Specifically, as regards his evidence concerning the identity of the victims of the attack on Bossangoa on 5 December 2013, the Chamber has addressed them in its evidentiary analysis below.⁷⁷⁴

⁷⁶⁸ P-2049: T-101, p. 12, line 9 – p. 14, line 14 *referring to* Photograph, CAR-OTP-2088-2207.

⁷⁶⁹ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 392; Annex A.17 to Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA.17, pp. 45-46; P-2049: T-100, p. 11, line 18 – p. 13, line 11; T-103, p. 17, lines 14-17.

⁷⁷⁰ Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, paras 392-393. *See also* Annex A.21 to Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA.21.

⁷⁷¹ [REDACTED]

⁷⁷² *See* Annex A.21 to the Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA.21.

⁷⁷³ *See e.g.* P-2049: T-101, p. 5, line 25 – p. 6, line 9; T-102, p. 12, line 22 – p. 13, line 13, p. 23, line 6 – p. 25, line 10.

⁷⁷⁴ *See* paragraphs 2865-2895 below.

ii. P-2658

489. P-2658, a [REDACTED] civilian who lived in Bossangoa and claimed to [REDACTED], testified with in-court protective measures.⁷⁷⁵ His prior recorded testimony was introduced pursuant to Rule 68(3) of the Rules.⁷⁷⁶ He testified about his experience in the Anti-Balaka in Dedane's group and his involvement in the attacks that occurred on and near Bossangoa in 2013. P-2658 was also present in Bossangoa during the attack on 5 December 2013 and its aftermath.
490. The Ngaïssona Defence argues that P-2658 is not credible as his evidence is contradictory,⁷⁷⁷ based on second-hand information,⁷⁷⁸ and inconsistent with other reliable evidence.⁷⁷⁹
491. At the outset, the Chamber notes that P-2658 was in a unique position as a [REDACTED] in an Anti-Balaka group in and around Gobere and Bossangoa in 2013. Having assessed his testimony holistically, the Chamber considered that P-2658 was forthcoming about his own involvement in the events. P-2658 admitted that he was [REDACTED] because of his links with the Anti-Balaka.⁷⁸⁰ In the Chamber's view, P-2658's openness about this reflected positively on the credibility of his account.
492. Moreover, in the view of the Chamber, P-2658 provided largely consistent and internally coherent evidence.⁷⁸¹ Further, P-2658 clearly differentiated between his personal experiences and information he came to learn from others and was able to explain and point out the sources of his knowledge.⁷⁸² As to the inconsistencies with other evidence, the

⁷⁷⁵ P-2658: T-134; T-135, T-136; [Decision on In-Court Protective Measures](#), ICC-01/14-01/18-906-Red, paras 98-100, p. 41.

⁷⁷⁶ P-2658 Statement, CAR-OTP-2126-0012-R02; P-2658 Translation, CAR-OTP-2118-6221-R02; P-2658 Corrections, CAR-OTP-2135-3476-R01; Tenth Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies under Rule 68(3) of the Rules concerning Witnesses P-1595, P-2658 and P-2453, 15 February 2022, ICC-01/14-01/18-1282-Conf (public redacted version notified the same day, [ICC-01/14-01/18-1282-Red](#)), para. 25, p. 12; P-2658: T-134, p. 9, lines 10-12.

⁷⁷⁷ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 200, 449, 495, 556.

⁷⁷⁸ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 330, 335, 340, 384, 449, 495.

⁷⁷⁹ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 200, 211, 217.

⁷⁸⁰ P-2658: T-135, p. 15, line 16 – p. 16, line 5; T-136, p. 18, line 15 – p. 19, line 19; P-2658 Statement, CAR-OTP-2126-0012-R02, paras 124-125.

⁷⁸¹ The Chamber also notes P-2658's evidence concerning the correction of two locations, Gobere and Gbonguere, during the witness familiarisation process with the VWU. It considers that adequate clarifications were made during his testimony (see P-2658: T-134, p. 28, line 16 – p. 53, line 7).

⁷⁸² See e.g. P-2658: T-134, p. 25, lines 5-15, p. 53, line 10 – p. 55, line 12; T-135, p. 48, lines 1-8, p. 60, lines 12-19.

Chamber notes that when P-2658 was confronted with them in court, he maintained his account and clearly explained what he had personally experienced.⁷⁸³

493. The Chamber notes that while P-2658 had first-hand experience being part of Dedane's group until the Bossangoa attack in September 2013, he was not in a position to be well informed of all the details of the group's circumstances. Indeed, P-2658 did not accompany Dedane on a few trips in 2013.⁷⁸⁴ Further, the time that P-2658 spent with the Anti-Balaka was limited.⁷⁸⁵ In the view of the Chamber, this did not affect the credibility of his account in general. The Chamber has also borne this in mind when assessing the purported issues in his evidence raised by the Ngaïssona Defence.
494. As regards certain inconsistencies pointed out by the Ngaïssona Defence, the Chamber found them immaterial and not affecting the credibility of P-2658's account as a whole. For example, there is no contradiction in P-2658's testimony about Dedane having a group and travelling by motorbike⁷⁸⁶ and Dedane, or the Anti-Balaka, entertaining anti-Muslim sentiment. Similarly, P-2658's evidence concerning the location of Gobere and the activities there did not suggest that he was never there or that his account on this aspect was wholly unreliable.⁷⁸⁷
495. Having regard to the above, the Chamber concludes that P-2658's testimony is generally credible. As regards the issues raised by the Ngaïssona Defence relating to certain other specific aspects of his evidence, as noted above, the Chamber has assessed them holistically, in light of the other evidence received before it, in its evidentiary analysis below.

⁷⁸³ See e.g. P-2658: T-135, p. 38, line 19 – p. 39, line 1, p. 52, line 3 – p. 53, line 23.

⁷⁸⁴ See e.g. P-2658: T-134, p. 63, lines 3-13.

⁷⁸⁵ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0017-18, paras 23-34, at 0024-28, paras 78-104, at 0031-32, paras 122-123.

⁷⁸⁶ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0028-29, para. 107; [REDACTED] Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, para. 200. The Chamber considers P-0966's evidence that he never saw Dedane riding a motorbike during that period or that he never saw any motorbikes. However, in the view of the Chamber, this does not negate P-2658's evidence.

⁷⁸⁷ See also paragraphs 1107-1117, 1144-1160 below.

iii. D30-4608

496. D30-4608, a Catholic [REDACTED] from Bossangoa who was present during the attacks on Bossangoa in September and December 2013, testified with in-court protective measures.⁷⁸⁸ His prior recorded testimony was introduced pursuant to Rule 68(3) of the Rules.⁷⁸⁹
497. The Ngaïssona Defence heavily relies on D30-4608's evidence to counter the arguments made by several witnesses on the events that occurred in Bossangoa in 2013 and 2014.⁷⁹⁰ The Prosecution argues that some of D30-4608's evidence is not reliable as it is based on hearsay, such as claiming that it 'was common knowledge' that there were arms stored in the mosques.⁷⁹¹
498. As set out below, the Chamber considers that D30-4608's claims and opinions concerning the Seleka and the Muslims, when assessed together, indicated a strong bias against the Muslim community in Bossangoa, so much so that they threw into question his evidence on key aspects relevant to the Chamber. Furthermore, these claims were not supported by any other evidence before the Chamber.
499. D30-4608 made broad generalisations about the Muslims in Bossangoa and was unable to explain the source of his knowledge or opinion.⁷⁹² For example, D30-4608 stated that Muslim civilians were armed, even the women, even before the Seleka arrived, such as with Kalashnikovs; that there had always been arms stored at the mosques, even before the rebellion of 2003; and that the Seleka gave arms to the Muslims to protect themselves, and

⁷⁸⁸ D30-4608: T-291; T-292. *See* granting of in-court protective measures at D30-4608: T-291, p. 4, lines 19-23. *See also* Decision on the Ngaïssona Defence Request for In-Court Protective Measures for D30-4608, 14 June 2024, ICC-01/14-01/18-2532-Conf, para. 8, p. 5.

⁷⁸⁹ D30-4608 Statement, CAR-D30-0017-0004-R01; D30-4608 Corrections, CAR-D30-0017-0022; and its associated items, CAR-D30-0011-0015 to CAR-D30-0011-0063; CAR-D30-0011-0076 to CAR-D30-0011-0084; CAR-D30-0011-0086 to CAR-D30-0011-0092; CAR-D30-0011-0094 to CAR-D30-0011-0096; CAR-D30-0011-0098 to CAR-D30-0011-0102; CAR-D30-0011-0113 to CAR-D30-0011-0242; CAR-D30-0011-0247 to CAR-D30-0011-0410; CAR-D30-0011-0412 to CAR-D30-0011-0458; CAR-D30-0011-0460 to CAR-D30-0011-0480; CAR-D30-0017-0003; Decision on the Ngaïssona Defence Request for Formal Submission of Prior Recorded Testimonies pursuant to Rule 68(3) of the Rules concerning Witnesses D30-4608 and D30-4496, 2 May 2024, ICC-01/14-01/18-2476-Conf, para. 18, p. 9; D30-4608: T-291, p. 10, lines 4-6.

⁷⁹⁰ *See e.g.* [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 145, 147, 233, 240, 263-264, 292, 301-305, 310, 318, 339-341, 343-345.

⁷⁹¹ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, paras 605, 617, 633.

⁷⁹² *See e.g.* D30-4608: T-291, p. 52, lines 11-21; T-292, p. 80, lines 4-9.

also protected the traders.⁷⁹³ He further stated that some Muslim civilians joined the Seleka, providing some names, including that of a woman.⁷⁹⁴ During his testimony, when asked whether he had seen Muslim civilians with arms back then, he said that he saw '[n]otably young people', that he remembered one by face and name, and that 'all the young Muslims of Bossangoa, even traders, they all had weapons'.⁷⁹⁵ When asked whether he saw other women besides the one he mentioned in his statement who had weapons, he said that he had 'heard of that' and that 'many people' had seen the woman he mentioned.⁷⁹⁶ When asked how he learnt that there were arms stored in the mosques, he said that 'everybody knew that', that it was 'common knowledge', that he had discovered 'a lot of weapons in the mosque of Paoua' and that '[i]n Bossangoa, everybody talked about it'.⁷⁹⁷ When asked whether his statement that all the Muslims, even the women, were armed, was a generalisation, he said that 'it was more the majority of women', that it was 'known even in the town of Bossangoa' and that '[p]eople knew that'.⁷⁹⁸ He also said that Muslim civilians at the *École de la Liberté* were armed and 'walked around with their arms', 'always' carrying them.⁷⁹⁹

500. Further, D30-4608 testified that 'for the Muslim people, everyone who was not a Muslim was a Christian' and that one has to 'acknowledge this quality they have' in that 'they stick together', and '[i]f you do anything to one member of the Muslim community, you've hurt the entire community, but in the Christian community they will say a particular person was hurt, or shot, or whatever' and this is 'why there was this struggle between Muslims and Christians'.⁸⁰⁰

501. D30-4608, asked if he had heard that there were 90 Muslim civilians killed in Zere in September 2013, only said 'No. No', and when asked if he had heard different numbers, said

⁷⁹³ D30-4608 Statement, CAR-D30-0017-0004-R01, at 0008, para. 25.

⁷⁹⁴ D30-4608 Statement, CAR-D30-0017-0004-R01, at 0008, para. 26.

⁷⁹⁵ D30-4608: T-291, p. 51, lines 12-23.

⁷⁹⁶ D30-4608: T-291, p. 51, line 24 – p. 52, line 5.

⁷⁹⁷ D30-4608: T-291, p. 52, line 11 – p. 53, line 3.

⁷⁹⁸ D30-4608: T-292, p. 80, lines 4-9.

⁷⁹⁹ D30-4608: T-292, p. 21, lines 10-13.

⁸⁰⁰ D30-4608: T-292, p. 66, line 21 – p. 67, line 6.

that all he knew was that ‘they were threatened because the population knew that they were informants and therefore they fled’.⁸⁰¹

502. D30-4608 also said that the Muslims dislocated to the *École de la Liberté* in Bossangoa ‘had what they needed to live’ and all they needed was ‘to take shelter’ there.⁸⁰² D30-4608, asked if these Muslims feared for their lives, said that ‘[t]hat’s what they said’.⁸⁰³
503. Further, his bias appeared to also permeate his answers in favour of the Anti-Balaka. For example, in his prior recorded testimony, D30-4608 denied having had contact with the Anti-Balaka and stated that there were no Anti-Balaka in the bishopric compound in Bossangoa at the relevant time.⁸⁰⁴ However, when asked, D30-4608 admitted that Bertin Namdoka, a spokesperson of the Anti-Balaka, stayed in the bishopric compound, further admitting that he may have contacted this Anti-Balaka to ask what was going on.⁸⁰⁵ D30-4608 explained that, for him, the Anti-Balaka spokesperson was an ordinary civilian as he was not a ‘practitioner’ and ‘did not carry out the [Anti-Balaka] practices’.⁸⁰⁶
504. The Chamber notes that the witness’s whole testimony displayed anti-Muslim animus. In addition, the Chamber considered that parts of his evidence were largely inconsistent with that provided by many other witnesses, including Anti-Balaka insiders.⁸⁰⁷
505. Having regard to the above, the Chamber has only relied on D30-4608’s evidence on a very limited aspect in its evidentiary analysis below.⁸⁰⁸

⁸⁰¹ D30-4608: T-291, p. 46, line 5 – p. 47, line 4.

⁸⁰² D30-4608: T-292, p. 49, lines 3-13, p. 52, lines 11-23.

⁸⁰³ D30-4608: T-292, p. 47, lines 21-23.

⁸⁰⁴ D30-4608 Statement, CAR-D30-0017-0004-R01, at 0011, paras 52-53. *See also* D30-4608: T-292, p. 67, line 10 – p. 68, line 4.

⁸⁰⁵ D30-4608: T-292, p. 67, line 10 – p. 68, line 7, p. 75, lines 1-10, 18-19. The Chamber notes that D30-4608 also confirmed that another Anti-Balaka was at the bishopric (*see* T-292, p. 68, lines 8-25). The Chamber further notes that the Prosecution asked the witness about his contacts with other alleged Anti-Balaka elements, which he denied (*see* T-292, p. 72, line 21 – p. 76, line 22 *referring to* CDR, CAR-OTP-00036594).

⁸⁰⁶ D30-4608: T-292, p. 69, line 21 – p. 70, line 9.

⁸⁰⁷ *See e.g.* paragraph 2802 below.

⁸⁰⁸ *See* paragraph 2762 below.

d. Count 29

i. P-2475

506. P-2475, a former alleged ‘child soldier’ and Anti-Balaka element, testified fully live with in-court protective measures,⁸⁰⁹ and received Rule 74 assurances.⁸¹⁰ He reported being forcibly recruited by Mr Yekatom’s group in Boeing in or about July 2013, and having actively participated in the attack on Bangui on 5 December 2013. He also reported being stationed with Mr Yekatom’s elements at an Anti-Balaka base at Yamwara following the attack on Bangui. He later participated in the ‘child soldier’ demobilisation process in Pissa in August 2014, conducted by *Enfants sans frontières* (hereinafter: ‘ESF’ and the ‘ESF programme’, respectively), was present at the ‘*centre de transit et d’orientation*’ (the ‘CTO’) in Mbaïki, and appears on the list prepared by ESF officials containing the names of children that participated at the Mbaïki CTO (the ‘ESF List’).⁸¹¹

507. The Yekatom Defence has raised several challenges to the reliability of P-2475’s account and argues that P-2475’s ‘obvious lack of regard to his oath’ requires ‘the exclusion of his evidence’.⁸¹² In particular, it argues that P-2475 falsified his identifying details, namely his age;⁸¹³ the death of his mother;⁸¹⁴ his membership in Mr Yekatom’s group;⁸¹⁵ as well as his testimony in respect of (i) his abduction;⁸¹⁶ (ii) the presence of child soldiers in Mr Yekatom’s group;⁸¹⁷ (iii) Muslims being killed and buried at Yamwara;⁸¹⁸ and (iv) the killing of Djido Saleh by the Anti-Balaka.⁸¹⁹ Further, the Yekatom Defence argues that P-2475 provided an inconsistent account concerning, *inter alia*, his section chiefs, the attack

⁸⁰⁹ P-2475: T-129; T-130; T-131; T-132; T-133; [Decision on In-Court Protective Measures](#), ICC-01/14-01/18-906-Red, paras 50, 52, p. 41.

⁸¹⁰ P-2475: T-129; T-130; T-132; T-133. *See also* [Decision on the Second Prosecution Request for Appointment of Duty Counsel for Purposes of Rule 74 of the Rules](#), 13 May 2022, ICC-01/14-01/18-1406; [Notification of the Appointment of Mr Sergei Golubok as Legal Adviser to Witness P-2475](#), 20 May 2022, ICC-01/14-01/18-1419 (with confidential Annexes I and II).

⁸¹¹ ESF List, CAR-OTP-2071-0279.

⁸¹² Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 105.

⁸¹³ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 80-81.

⁸¹⁴ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 82.

⁸¹⁵ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 83-86.

⁸¹⁶ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 87-89.

⁸¹⁷ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 90-91.

⁸¹⁸ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 92.

⁸¹⁹ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 93-95.

on Bangui on 5 December 2013, and P-1839's role in this attack.⁸²⁰ Moreover, it asserts that P-2475 is connected with the certain officials 'in relation to his false testimony', and alleges that P-2475 was motivated by monetary gains to provide an unreliable account.⁸²¹

508. The Chamber notes that the Prosecution has not relied on P-2475's evidence to ascertain his age relevant to Count 29,⁸²² nor to support any other factual allegations.

509. Having considered the documents presented to demonstrate P-2475's age, the Chamber finds the attendant challenges to their reliability and authenticity well founded. First, the year of birth on P-2475's baptism certificate '1994' appears to have been overwritten with '1999' and does not correspond with the purported original copies of the baptism certificate obtained by the Yekatom Defence.⁸²³ Second, P-2475's school certificate appears to have been issued by someone who did not have the authority to do so.⁸²⁴ Third, another one of P-2475's school certificates appears to contain a correction in white ink and overwriting on the years of attendance as '2011-2012', and D29-6011, who issued this certificate, stated that this correction was not done by him.⁸²⁵ For these reasons, the Chamber cannot rely on these documents to enter any findings relating to P-2475's age.

⁸²⁰ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 96-100.

⁸²¹ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 101-104.

⁸²² Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, para. 808. *See also* Prosecution Response to the First Rule 68(2)(b) Request, ICC-01/14-01/18-2249-Conf, para. 11. The Prosecution also indicated that it did not intend to rely on the documents collected by P-2580 namely, P-2475's school records and baptism certificate. This concerns Certificates, CAR-OTP-2128-1197; CAR-OTP-2128-1201; and CAR-OTP-2128-1202. *See further* Prosecution Response to the Yekatom Defence 'Request for the Exclusion of Fabricated Evidence' (ICC-01/14-01/18-2240-Conf), ICC-01/14-01/18-2313-Conf, para. 14.

⁸²³ Certificate, CAR-OTP-2128-1197, at 1198. P-2475, confronted in court about the apparent overwriting on the year of birth, said that he had never seen this document. P-2475, shown Certificate, CAR-D29-0013-0004, a copy of his baptism certificate obtained by the Yekatom Defence mentioning the year of birth '1994' and Baptism register, CAR-D29-0014-0065, maintained that he was born in 1999 and not in 1994. *See* P-2475: T-133, p. 70, line 19 – p. 74, line 6. *See also* Certificate, CAR-D29-0013-0096.

⁸²⁴ Certificate, CAR-OTP-2128-1201. This certificate is issued in October 2020 by someone [REDACTED] who was not the school principal in 2020. *See* List, CAR-D29-0014-0071, that displays a list of principals at the relevant school showing that [REDACTED] was the principal from 2013 to 2016. D29-6011, a director in an elementary school, confirmed in his statement that it was not possible for a former principal to issue a school certificate when they were no longer in that role; only a current principal had that capacity. *See* D29-6011 Statement, CAR-D29-0009-0362-R01, at 0366, para. 27. *See also* P-2084: T-235, p. 3, lines 10-13; Photograph, CAR-OTP-00000366.

⁸²⁵ Certificate, CAR-OTP-2128-1202. D29-6011, the Director of Pissa elementary school from March 2017 onwards was shown Certificates, [REDACTED]. He stated that they appear to be the same document but, in the latter, noted that some corrections appear in white ink; D29-6011 stated that he did not recall having made these corrections; he also did not recognise the handwriting in which the academic year ('2011-2012') had been written. D29-6011 provided

510. In addition, and having reviewed the testimonial evidence presented in relation to P-2475's age, the Chamber finds that it cannot conclude that he was indeed under 15 years of age at the relevant time. In this regard, the Chamber considered the evidence of P-2475's parents, namely [REDACTED] and [REDACTED], whom it finds credible. In particular, both [REDACTED]⁸²⁶ and [REDACTED]⁸²⁷ provided information indicating that P-2475 was not under 15 years at the relevant time.
511. The Chamber also notes the Yekatom Defence's submission that [REDACTED] (P-2580), who was not a witness in this case, may have been involved in falsifying P-2475's documents purporting to show his age.⁸²⁸ A Prosecution investigation report mentions how P-2580 obtained P-2475's baptism certificate, himself saw the information in the church registry,⁸²⁹ and obtained the two school certificates for P-2475, confirming to the Prosecution that he had checked the information in the respective school registry.⁸³⁰
512. The Chamber further notes the evidence of D29-6011, director of Pissa elementary school from March 2017 onwards.⁸³¹ D29-6011 recalled [REDACTED]⁸³² requesting P-2475's schooling certificates⁸³³ and issuing the primary school certificate after having looked at the

that he verified the records in the archives of the school in the school at Pissa and P-2475's name appears in the list of candidates that obtained their certificate in 2010; he confirmed that P-2475's name does not appear for the academic years that followed beginning from years 2010-2011; to him, this confirmed that P-2475 was not registered in Pissa elementary school after the academic year 2010-2011 (see D29-6011 Statement, CAR-D29-0009-0362-R01, at 0366, paras 25-26).

⁸²⁶ [REDACTED] (the witness, P-2475's mother, did not recall P-2475's date of birth, but thought there was quite a gap to P-2475's sibling born in 2000), [REDACTED] (identifying P-2475 in photographs). See also Photographs, [REDACTED]. From these two photoboards, she recognised P-2475 at [REDACTED]. She did not recognise P-2475 in Photographs, [REDACTED] (the witness knew of two persons who had joined the Anti-Balaka during the events, both of whom had died, and notably did not mention P-2475).

⁸²⁷ [REDACTED] (the witness, P-2475's biological father, stated that P-2475 was born in 1994 [REDACTED], and that his mother is still alive, as opposed to deceased as claimed by P-2475 (see P-2475: T-130, p. 73, lines 21-24)), at 0399-0400, para. 21 (the witness confirmed P-2475's date of birth as [REDACTED] 1994, as stated in the baptism card reflected in [REDACTED]). The Chamber notes in this regard also that a Prosecution report of a mission in September 2022 to [REDACTED] shows that P-2475's baptism records state that he was born in the year 1994 (see Report, CAR-OTP-00000320; Photographs, CAR-OTP-00000333; CAR-OTP-00000334). [REDACTED] The witness identified P-2475 in Facebook screenshots, but did not recognise him when shown a still from a video purportedly showing elements being trained at Yamwara (see [REDACTED]).

⁸²⁸ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 64, 101-102.

⁸²⁹ Report, CAR-OTP-2128-1203-R03, at 1206. See also Report, CAR-OTP-00000006-R01.

⁸³⁰ Report, CAR-OTP-2128-1203-R03, at 1205 referring to Certificates, CAR-OTP-2128-1201; CAR-OTP-2128-1202.

⁸³¹ See D29-6011 Statement, CAR-D29-0009-0362-R01, at 0365, para. 17; [REDACTED].

⁸³² D29-6011 correctly recognised [REDACTED] on the first page of ESF Mission Report [REDACTED] (see D29-6011 Statement, CAR-D29-0009-0362-R01, at 0365, para. 19).

⁸³³ D29-6011 Statement, CAR-D29-0009-0362-R01, at 0365-66, paras 18, 21.

school register for year 2009-2010,⁸³⁴ the overwritten years ‘2011-2012’ therefore not being correct. As regards P-2475’s school certificate, the Chamber concludes, as noted above, that it also appears to have been issued by someone who did not have the authority to do so.⁸³⁵ The Chamber notes that P-2475’s name also appears in the school registers for the academic year 2010-2011.⁸³⁶ The Chamber recalls that P-2475, shown the names of principals in connection with his school certificates, said that he did not know how this certificate had been issued, had nothing to do with it and was not the one who produced it.⁸³⁷

513. Furthermore, and regardless of P-2580’s involvement in acquiring P-2475’s age-related documentation, the Chamber is not convinced that P-2475 was ever a member of Mr Yekatom’s group or the Anti-Balaka, as set out below.

514. In this regard, the Chamber heard evidence from P-1839 and [REDACTED], in addition to the testimony of P-2475’s parents mentioned above, which it considers credible on this aspect.

515. P-1839, when asked, did not know a person called ‘[REDACTED]’, a nickname that P-2475 purportedly used during his time with the Anti-Balaka.⁸³⁸ On the other hand, P-2475 correctly identified P-1839 in a photo⁸³⁹ but did not remember her name.⁸⁴⁰

516. [REDACTED] testified fully live⁸⁴¹ and knew P-2475. They met in the period between the attack on Bangui on 5 December 2013 and the arrival of the Anti-Balaka in [REDACTED]. The witness [REDACTED].⁸⁴² The witness said that he would meet P-2475 during this period,⁸⁴³ and would visit P-2475’s family during this time.⁸⁴⁴ The witness said that he was

⁸³⁴ D29-6011 Statement, CAR-D29-0009-0362-R01, at 0366, para. 22.

⁸³⁵ See paragraph 509 above.

⁸³⁶ Photographs, CAR-OTP-00000355; CAR-OTP-00000356; Lists, CAR-OTP-00000349; CAR-OTP-00000350. See also Report, CAR-OTP-00001755. The Chamber also has regard to Certificate, CAR-D29-0013-0070 that appears to show that P-2475 was registered at [REDACTED] for the academic years 2010-2011 and 2011-2012.

⁸³⁷ P-2475: T-133, p. 66, line 15 – p. 67, line 15 referring to Certificate, CAR-OTP-2128-1201; List, CAR-D29-0014-0071.

⁸³⁸ P-1839: [REDACTED].

⁸³⁹ P-2475: [REDACTED].

⁸⁴⁰ P-2475: [REDACTED].

⁸⁴¹ T-259; T-260; T-261; T-262.

⁸⁴² [REDACTED]

⁸⁴³ [REDACTED]

⁸⁴⁴ [REDACTED]

with P-2475 when the Anti-Balaka entered [REDACTED].⁸⁴⁵ He also said that after the Seleka's departure and after the Anti-Balaka entered [REDACTED], [REDACTED].⁸⁴⁶ According to the witness, during this time, P-2475 continued his activities and meeting each other.⁸⁴⁷ The witness said that he never saw P-2475 within the Anti-Balaka movement.⁸⁴⁸

517. The Chamber also has regard to the evidence of other witnesses who also resided in Pissa, [REDACTED] and D29-6048, who knew P-2475 and had no knowledge about his involvement with the Anti-Balaka.⁸⁴⁹

518. The Chamber finds that P-2475 participated in the ESF programme. P-2475 recognised himself in a photograph taken during this programme.⁸⁵⁰ His mother also recognised him in another photograph that shows him within a football team at this programme.⁸⁵¹

519. However, the Chamber is not persuaded that P-2475 participating in this programme meant that he was a 'child soldier' and/or an Anti-Balaka member. Indeed, P-2018, when asked why information about P-2475's age was not found despite P-2580 [REDACTED], said that the verification process was done under UNICEF supervision and he was part of the team but, at the end, it was only UNICEF that did the work in managing the database and giving them the names, so it could be that P-2475 lied about being an unaccompanied child.⁸⁵²

520. Having considered his testimony in totality with the rest of the evidence before it, the Chamber finds that P-2475 was wholly unreliable on his involvement within Mr Yekatom's group.

⁸⁴⁵ [REDACTED]

⁸⁴⁶ [REDACTED]

⁸⁴⁷ [REDACTED]

⁸⁴⁸ [REDACTED]

⁸⁴⁹ [REDACTED] D29-6048, a Pissa inhabitant who also recognised P-2475 in a set of photographs, indicated that P-2475 was in Pissa when the Anti-Balaka arrived there and had never seen P-2475 as a member of the Anti-Balaka, stating also that P-2475 was not absent from Pissa during 2013 and 2014, [REDACTED]. See D29-6048 Statement, CAR-D29-0009-0804-R01, at 0808, paras 28, 30-31, at 0809, para. 35 *referring to* Photograph, CAR-D29-0010-0028, at number 8. D29-6048 recognised him in Photoboard, CAR-OTP-00025616, in the first three photos and in the last one, namely CAR-OTP-00025601, CAR-D29-0019-8020-R01, at 8025, CAR-D29-0010-0194, and CAR-D29-0019-8020-R01, at 8063. See D29-6048 Statement, CAR-D29-0009-0804-R01, at 0809, para. 34.

⁸⁵⁰ P-2475: T-131, p. 7, lines 16-17 *referring to* Photograph, CAR-D29-0010-0024, at number 1.

⁸⁵¹ [REDACTED]

⁸⁵² P-2018: T-225, p. 62, lines 2-17.

521. In light of this, the Chamber considers it unnecessary to address the Yekatom Defence's submissions concerning the inconsistencies in P-2475's evidence about his experiences as an element of Mr Yekatom's group.

ii. P-2476

522. P-2476, a former alleged 'child soldier' and Anti-Balaka element, testified with in-court protective measures,⁸⁵³ with his prior recorded testimony introduced pursuant to Rule 68(3) of the Rules.⁸⁵⁴ P-2476 testified that he was born in Bangui on '[REDACTED] 1999' and is a national of the CAR.⁸⁵⁵ He claimed to have joined Mr Yekatom's Anti-Balaka group in Mbaïki after meeting with Cœur de Lion, who appeared to have enlisted him.⁸⁵⁶

523. In particular, P-2476 claimed that at the time, at which he would have been approximately 14 years of age,⁸⁵⁷ he stayed at an Anti-Balaka base with two other alleged child soldiers, guarding it with a knife when other older Anti-Balaka elements or chiefs went out to fight; and that he himself did not participate in fighting.⁸⁵⁸ P-2476 also said that he was present and heard when the Anti-Balaka were planning their attack on Boda.⁸⁵⁹ P-2476 also attended the ESF programme.⁸⁶⁰

524. Further, P-2476 testified about (i) meeting Cœur de Lion prior to joining the Anti-Balaka; (ii) being present when Cœur de Lion went to attack Boda, which took place on or around

⁸⁵³ P-2476: T-213; T-214; [Decision on In-Court Protective Measures](#), ICC-01/14-01/18-906-Red, paras 62-67, p. 41.

⁸⁵⁴ P-2476 Statement, CAR-OTP-2114-0149-R05; P-2476 Translation, CAR-OTP-2127-0155-R05; P-2476 Corrections, CAR-OTP-00001299-R01; Corrected version of 'Eighteenth Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies under Rule 68(3) of the Rules concerning Witnesses P-1858, P-1823, P-1819, P-1813, P-2476, P-1786, P-2587 and P-0487', 18 November 2022, ICC-01/14-01/18-1661-Conf-Corr, para. 67, p. 33; P-2476: T-213, p. 8, lines 4-6.

⁸⁵⁵ P-2476: T-213, p. 5, line 12 – p. 6, line 23; P-2476 Statement, CAR-OTP-2114-0149-R05, at 0151, para. 11.

⁸⁵⁶ P-2476 Statement, CAR-OTP-2114-0149-R05, at 0154, para. 33.

⁸⁵⁷ P-2476: T-213, p. 5, line 12 – p. 6, line 23. Other documents show his date of birth in [REDACTED] 1999. See P-2476 Statement, CAR-OTP-2114-0149-R05, at 0151, para. 11 (stating that he was born on [REDACTED] 1999 and his birth certificate was issued on [REDACTED] 1999). See Certificate, CAR-OTP-2114-0162 which states '[REDACTED] 1999'.

⁸⁵⁸ P-2476 Statement, CAR-OTP-2114-0149-R05, at 0154-55, para. 35; P-2476: T-213, p. 21, line 22 – p. 22, line 3.

⁸⁵⁹ P-2476 Statement, CAR-OTP-2114-0149-R05, at 0155, para. 37.

⁸⁶⁰ P-2476: T-214, p. 16, line 23 – p. 17, line 9; P-2476 Statement, CAR-OTP-2114-0149-R05, at 0158, paras 57-59.

5 February 2014; and (iii) being privy to the meeting prior to the Boda attack between Cœur de Lion and ‘the prefect of Mbaïki’, which he described in some detail.⁸⁶¹

525. The Yekatom Defence argues that P-2476 was never a member of Mr Yekatom’s group,⁸⁶² and that his account concerning joining the group in Mbaïki is ‘completely unreliable’, pointing to inconsistencies in his account,⁸⁶³ including regarding P-2476 (i) changing his version about the amount of time he spent in Mr Yekatom’s group; (ii) being inconsistent about when he joined the group; and (iii) not being able to initially identify Cœur de Lion in a photoboard.⁸⁶⁴ It further submits that P-2476’s family was present in [REDACTED] when he participated in the ESF programme,⁸⁶⁵ and that the ESF functionaries did not verify his family background even when such contact details were available to them.⁸⁶⁶

526. The Prosecution submits that P-2476 gave a credible and internally consistent account.⁸⁶⁷ It argues that the Yekatom Defence’s arguments are primarily based on P-2476 participating in the ESF programme despite having family in [REDACTED].⁸⁶⁸ It adds that P-2476 not sharing his experience within the Anti-Balaka with his family members is ‘corroborated by P-1974’ and is ‘particularly credible given the limited time of about one week’ that P-2476 spent in the group.⁸⁶⁹ The Prosecution submits that P-2476’s credibility is reinforced by his identification of Cœur de Lion in a photoboard.⁸⁷⁰

527. Having assessed P-2476’s testimony in light of the submissions by the parties, the Chamber finds that there are indeed significant inconsistencies when it comes to his experiences within Mr Yekatom’s group.

⁸⁶¹ P-2476: T-213, p. 26, lines 1-15; P-2476 Statement, CAR-OTP-2114-0149-R05, at 0155, para. 37. *See also* P-2476: T-214, p. 45, lines 4-10. *See further* P-2476: T-214, p. 47, line 24 – p. 48, line 14. For the date of the Boda attack *see* section IV.A.8.ii.c below.

⁸⁶² Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 556, 578.

⁸⁶³ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 578.

⁸⁶⁴ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, n. 2016.

⁸⁶⁵ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 565.

⁸⁶⁶ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 569.

⁸⁶⁷ Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, para. 811.

⁸⁶⁸ Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, paras 812-814.

⁸⁶⁹ Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, para. 815.

⁸⁷⁰ Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, para. 816.

528. As discussed in detail below, the Chamber by majority, Judge Chung dissenting, finds P-2476's account to be wholly unreliable. In the view of the Chamber by majority, Judge Chung dissenting, these inconsistencies are irreconcilable with his remaining account and other evidence before the Chamber, namely, the length of time he spent in Mr Yekatom's group, when and how he joined it, and observing Cœur de Lion's role and actions in relation to Mbaïki and Boda.
529. Judge Chung considers that these inconsistencies were of a minor nature, especially given P-2476's age at the time of the events and his own admission that he was too young at the time to remember all the details correctly.⁸⁷¹
530. The majority appreciates that P-2476 did not need to remember all the details having to do with his experience in Mr Yekatom's group coherently and consistently, especially given his purported age at the time. However, in the view of the majority, the inconsistencies in his testimony were crucial to his account as an alleged child soldier, and such that the majority was unable to resolve the bold claims made by P-2476 about Cœur de Lion's actions with his inability to place himself in time in relation to the latter's death. The same held true for the amount of time that P-2476 allegedly spent in Mr Yekatom's group.
531. The Chamber notes that P-2476 would have arrived in Mbaïki somewhere in mid-2013.⁸⁷² P-2476 said that he did not remember the exact date that he joined the Anti-Balaka and met with Cœur de Lion, but claimed that this was *before* the Muslims were evacuated from Mbaïki,⁸⁷³ which took place at the earliest on or around 6 February 2014, and later agreed that it was *after* the Muslim evacuation.⁸⁷⁴ P-2476 stated that he joined the group in the spirit of revenge against the death of his 'cousin' at the hands of the Seleka.⁸⁷⁵ During the

⁸⁷¹ P-2476: T-214, p. 10, lines 9-13.

⁸⁷² P-2476 Statement, CAR-OTP-2114-0149-R05, at 0152, para. 18; P-2476: T-213, p. 57, line 6 – p. 58, line 5. He also stated that he was in Mbaïki during the Bangui Attack and also subsequently when the Anti-Balaka arrived in Mbaïki (see P-2476 Statement, CAR-OTP-2114-0149-R05, at 0152, para. 22, at 0153, paras 26, 28).

⁸⁷³ P-2476 Statement, CAR-OTP-2114-0149-R05, at 0154, para. 33 (emphasis added).

⁸⁷⁴ P-2476: T-214, p. 44, line 17 – p. 45, line 3 (emphasis added). See further section IV.E.6 below.

⁸⁷⁵ P-2476 Statement, CAR-OTP-2114-0149-R05, at 0154, para. 32. For further testimony concerning P-2476's [REDACTED] death and how he found out about it, see P-2476: T-213, p. 59, line 21 – p. 60, line 15; T-214, p. 4, lines 18-22.

testimony, however, this person referred as a cousin appeared to be his uncle,⁸⁷⁶ a fact that he did not correct when re-reading his statement prior to his testimony.⁸⁷⁷

532. Based on this evidence, the Chamber by majority, Judge Chung dissenting, considers that P-2476 would have been an Anti-Balaka element at the earliest *after* 6 February 2014. In the view of the Chamber by majority, Judge Chung dissenting, this is incompatible with his seemingly substantive interactions with Cœur de Lion, who is known to have died during the attack on Boda on or around 5 February 2014.⁸⁷⁸
533. Judge Chung considers that P-2476's date of joining Mr Yekatom's group is unclear and, on this basis, cannot conclude that it would necessarily have taken place after Cœur de Lion's death.
534. The Chamber notes that P-2476 could not initially identify Cœur de Lion in a photoboard and eventually did so correctly when asked again.⁸⁷⁹ P-2476's claims about the time spent in Mr Yekatom's group varied immensely from about a month to 'some weeks' to 'one week'.⁸⁸⁰ P-2476 testified that he stayed and slept at the base in Mbaïki when he was with the Anti-Balaka.⁸⁸¹ P-2476 could not provide reasonable explanations for why his family members, who [REDACTED] at the time,⁸⁸² were seemingly unaware of his membership and his stay there.⁸⁸³

⁸⁷⁶ P-2476: T-213, p. 16, lines 13-16, p. 59, lines 12-14. *See also* P-2476: T-213, p. 15, lines 17-25 where the witness testified that he mentioned his [REDACTED] death to Cœur de Lion as a reason for wanting to join the Anti-Balaka.

⁸⁷⁷ P-2476 made other minor corrections to his statement when reading it before his testimony. *See* P-2476 Corrections, CAR-OTP-00001299-R01.

⁸⁷⁸ *See* section IV.A.8.ii.c below; P-1786 Statement, CAR-OTP-2058-0200-R03, at 0209, para. 49.

⁸⁷⁹ P-2476: T-214, p. 37, lines 9-12, p. 61, lines 6-18, p. 62, lines 14 – p. 64, line 6. *See also* Photoboard, CAR-D29-0010-0042. *See further* P-1839: T-174, p. 15, line 23 – p. 16, line 15 (identifying Cœur de Lion as number 4 in Photoboard, CAR-D29-0010-0042).

⁸⁸⁰ P-2476's statement gives the impression that he would have spent approximately a month in the Anti-Balaka in Mbaïki from as early as prior to the Boda attack in February 2014 to a few weeks after Cœur de Lion's death. However, during the testimony on this point, P-2476 agreed on 'one week' (*see* P-2476: T-214, p. 48, line 23 – p. 49, line 10), 'some weeks' (*see* P-2476: T-214, p. 49, lines 11-17), 'spent some time somewhere or in a movement' (*see* P-2476: T-214, p. 50, lines 16-18), 'one week' (*see* P-2476: T-214, p. 52, lines 6-10, p. 54, lines 10-15; *see also* p. 51, lines 17-22).

⁸⁸¹ P-2476: T-213, p. 16, lines 8-12.

⁸⁸² P-2476: T-213, p. 61, line 18-22 (testifying that [REDACTED]). P-2476 said that the Anti-Balaka were mainly based at the town hall before repositioning themselves at the *Maison de Jeunes* (*see* P-2476: T-213, p. 15, lines 12-16). P-2476 also said that the *Maison de Jeunes* and the town hall were 5 minutes apart by walking (*see* P-2476: T-213, p. 56, lines 5-8).

⁸⁸³ P-2476: T-214, p. 19, lines 7-10. *See also* p. 49, line 21 – p. 52, line 2.

535. As regards the ESF programme, P-2476's testimony contained inconsistencies that he was unable to clarify in court. For example, P-2476 provided his age to the officials orally when he participated in the programme,⁸⁸⁴ and appeared to have provided a younger age of '[REDACTED] years' which is different from his age on his birth certificate.⁸⁸⁵ P-2476, when asked about this, said that he did not know what age may have been recorded by these officials.⁸⁸⁶ P-2476 explained that he did not have a clear idea about his date of birth and this could have led to the difference.⁸⁸⁷
536. P-2476 also could not reasonably explain why he, despite belonging to a family from Mbaiki that lived 50 metres away from the ESF training compound, stayed with a person called Yvette during the training as part of the ESF programme.⁸⁸⁸ P-2476 did not know the location of the training that took place as part of the programme,⁸⁸⁹ or in which month he participated in it.⁸⁹⁰ P-2476 also stated that the training itself lasted three months and that he lived with Yvette during that time, but could not remember the names of this person's family,⁸⁹¹ nor of the other two ESF programme participants who supposedly lived with this person.⁸⁹² P-2476 could not explain why this person did not contact his family members when speaking to him about the ESF Programme or when he was thinking about joining or when he registered,⁸⁹³ even though she knew the family and went to see them after the programme terminated.⁸⁹⁴
537. As regards P-2476's age, P-2018, asked about P-2476's name, [REDACTED], and his indicated age of [REDACTED] years, testified that he had a recollection of this person being a 'small child' who was in the group and who came from that area.⁸⁹⁵ P-2018 recognised [REDACTED] in a photograph,⁸⁹⁶ and recalled that he was a 'child soldier' and participated

⁸⁸⁴ P-2476: T-214, p. 8, lines 11-13. *See also* p. 9, lines 1-5.

⁸⁸⁵ P-2476: T-213, p. 40, lines 5-21; ESF List, CAR-OTP-2071-0279-R03, at 0280, number [REDACTED].

⁸⁸⁶ P-2476: T-213, p. 40, lines 5-21.

⁸⁸⁷ P-2476: T-213, p. 40, line 25 – p. 41, line 4.

⁸⁸⁸ P-2476: T-214, p. 20, line 21 – p. 20, line 4.

⁸⁸⁹ P-2476: T-214, p. 9, line 22 – p. 10, line 6.

⁸⁹⁰ P-2476: T-214, p. 10, lines 9-13.

⁸⁹¹ P-2476: T-214, p. 13, lines 6-10. P-2476 testified also that he knew the nickname of this person's husband but that he was a child and could not know the first name and surname (*see* P-2476: T-214, p. 23, lines 12-19).

⁸⁹² P-2476: T-214, p. 19, lines 18-21.

⁸⁹³ P-2476: T-214, p. 17, lines 16-19.

⁸⁹⁴ P-2476: T-214, p. 24, line 13 – p. 25, line 19, p. 26, line 18 – p. 28, line 2.

⁸⁹⁵ P-2018: T-222, p. 93, line 25 – p. 94, line 3.

⁸⁹⁶ Photograph, CAR-OTP-00000827.

in the programme.⁸⁹⁷ P-2018, asked how his age was determined, said that the children themselves gave their age.⁸⁹⁸ P-2018 did not know if it was him or another verifier who interviewed P-2476 about his age, as there were many verifiers.⁸⁹⁹

538. P-2018 stated not remembering [REDACTED] role within the group because there were many children and he could no longer talk about what individual children did.⁹⁰⁰ After having been confronted with his prior statement where he had mentioned [REDACTED] role, P-2018 confirmed that he had copies of the verification sheets with the roles of children in Mbaïki, but indicated that he did not know where [REDACTED] put the copy when leaving Mbaïki for Bangui.⁹⁰¹ P-2018 clarified that it was not him who claimed that [REDACTED] was a [REDACTED], but each child said what role they played in the group, and this was then included in the database.⁹⁰² As regards [REDACTED]'s stay with [REDACTED], P-2018, said that the children spent about a month at the CTO and then two months with [REDACTED], so he thought [REDACTED] spent one, maximum two months at the CTO and was then placed in the host families.⁹⁰³ In contrast, P-2476 himself said that the training lasted for three months, first staying five days at the 'centre' and then living with [REDACTED] for a couple of months.⁹⁰⁴

539. P-1839, when asked, agreed that she told the Prosecution during her interview that she did not know someone with P-2476's name.⁹⁰⁵

540. P-1974, when asked about P-2476, said that they were related and recalled that the latter participated in the ESF programme and was later reunited with his family in [REDACTED].⁹⁰⁶

⁸⁹⁷ P-2018: T-225, p. 3, line 20 – p. 4, line 7.

⁸⁹⁸ P-2018: T-225, p. 8, lines 12-17.

⁸⁹⁹ P-2018: T-225, p. 8, lines 18-20.

⁹⁰⁰ P-2018: T-222, p. 94, lines 4-7. *See also* T-225, p. 4, line 25 – p. 5, line 7.

⁹⁰¹ P-2018: T-222, p. 94, lines 8-15.

⁹⁰² P-2018: T-225, p. 11, lines 10-15.

⁹⁰³ P-2018: T-225, p. 11, lines 19-24.

⁹⁰⁴ P-2476: T-214, p. 24, lines 5-11; P-2476 Statement, CAR-OTP-2114-0149-R05, at 0159, para. 61. The Yekatom Defence counsel put to P-2476 that he had not spent three months at [REDACTED] house and this is why he did not know [REDACTED] name or that of a fellow ESF participant who purportedly lived with [REDACTED]. P-2476 maintained that he spent a couple of months at this person's house (*see* P-2476: T-214, p. 23, line 12 – p. 24, line 4).

⁹⁰⁵ P-1839: [REDACTED].

⁹⁰⁶ P-1974: T-227, p 76, line 21 – p. 78, line 1.

541. On this basis, the Chamber finds by majority, Judge Chung dissenting, that it cannot be established that P-2476 was enlisted as an element in Mr Yekatom's group by Cœur de Lion or any other Anti-Balaka element. Accordingly, the Chamber by majority, Judge Chung dissenting, is unable to rely on his account that he was an element in Mr Yekatom's group.

iii. V45-0001

542. V45-0001, who claimed to have been enlisted in Mr Yekatom's group at the age of ten for about five to six months, testified fully live with in-court protective measures and special measures,⁹⁰⁷ and received Rule 74 assurances.⁹⁰⁸ He testified that his name was [REDACTED], born on [REDACTED] 2003 in [REDACTED],⁹⁰⁹ and that he was a former 'child soldier' in Mr Yekatom's group. V45-0001 applied to participate as a victim and, on the basis of his victim application form, was recognised as such by the Chamber.⁹¹⁰

543. The Yekatom Defence submits that V45-0001 is the son of [REDACTED], an individual who acted as focal point for the 'Registry's team in the Bangui office' for '[REDACTED]'.⁹¹¹ The Yekatom Defence suggests that [REDACTED] falsified V45-0001's identity documents and testimony with the aim of getting V45-0001 relocated out of the CAR in return for his participation in the Court's proceedings.⁹¹²

⁹⁰⁷ V45-0001: T-245; T-246; Decision on the CLRV1 Requests for In-Court Protective Measures and Rule 74 Assurances for Witnesses V45-0001 and V45-0002, 20 September 2023, ICC-01/14-01/18-2105-Conf, para. 11, p. 8. See granting of special measures (in the form of placement of a shield screen between the witness and the accused) at V45-0001: T-245, p. 3, lines 14-19.

⁹⁰⁸ Decision on the CLRV1 Requests for In-Court Protective Measures and Rule 74 Assurances for Witnesses V45-0001 and V45-0002, 20 September 2023, ICC-01/14-01/18-2105-Conf, paras 15-16, 18, p. 8. See also V45-0001: T-245, p. 3, lines 20-24.

⁹⁰⁹ V45-0001: T-245, p. 5, line 25 – p. 6, line 5.

⁹¹⁰ Victim a/20722/21. See [Fourteenth Decision on Victims' Participation in Trial Proceedings \(Groups A and B\)](#), 9 February 2022, ICC-01/14-01/18-1274 (with Annexes A and B); [Annex A to Fourteenth Decision on Victims' Participation in Trial Proceedings \(Groups A and B\)](#), ICC-01/14-01/18-1274-AnxA, p. 3. See also Annex 62 to Thirteenth Registry Transmission of Group A Applications for Victim Participation in Trial Proceedings, ICC-01/14-01/18-1223-Conf-Exp-Anx62, confidential *ex parte*, only available to the Registry; Application form, CAR-V45-00000004.

⁹¹¹ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 68-69, 558, n. 1951; Email, CAR-OTP-00001381, at 000001.

⁹¹² See *e.g.* Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 56, 58, 68-69.

544. The Prosecution has not relied on V45-0001's evidence.⁹¹³

545. The Chamber notes the significant challenges to V45-0001's identity that were raised and finds them well-founded. Following the testimonies of V45-0001 and V45-0002 (the 'CLRV1 Witnesses') in September 2023 and during its threat and risk assessment of these witnesses, the VWU discovered material concerning their identities and brought this to the attention of the Chamber. Upon order by the Single Judge,⁹¹⁴ the VWU filed a report⁹¹⁵ in which it stated that it found several indications on V45-0001's phone that suggested that his identity was not '[REDACTED]' but '[REDACTED]' and that he was [REDACTED]'s son.⁹¹⁶ In support, the VWU reported that there had been exchanges between V45-0001 and a phone number used by [REDACTED] in which the former used the word 'papa'.⁹¹⁷

546. In this regard, the Chamber also considers that V45-0001's identity-related documents contain discrepancies that he was unable to reasonably explain in court and as such were not reconcilable with other evidence on the record. Additionally, as discussed further below, the

⁹¹³ See [Public redacted version of Prosecution's Response to the "Consolidated Yekatom Defence Request for Leave to add Four Witnesses and Request for the Formal Submission of Prior Recorded Testimony pursuant to Rule 68\(2\)\(b\)" \(ICC-01/14-01/18-2541-Conf\)](#), 3 July 2024, ICC-01/14-01/18-2574-Red, para. 7.

⁹¹⁴ The VWU had sought the Chamber's guidance regarding this material. The Single Judge, noting the dispute concerning the identities of V45-0001 and V45-0002 and the materiality of this issue, instructed the VWU to share this information with the participants. See email from the Chamber, 21 December 2023, at 17:08.

⁹¹⁵ Registry's submission regarding material obtained by VWU in the course of the execution of its mandate, 8 January 2024, ICC-01/14-01/18-2290-Conf (public redacted version notified on 29 February 2024, [ICC-01/14-01/18-2290-Red](#)) (the 'VWU Report on V45-0001 and V45-0002').

⁹¹⁶ VWU Report on V45-0001 and V45-0002, ICC-01/14-01/18-2290-Conf, para. 11. Following this report, the Chamber was seized of multiple requests from the Yekatom Defence concerning the CLRV1 Witnesses' phones, all of which were rejected. On 23 February 2024, the Chamber rejected a request by the Yekatom Defence for an order to have the CLRV1 Witnesses' phones handed over to a competent third party for forensic examination (see Decision on the CLRV1 and Yekatom Defence Requests following the VWU Report on V45-0001 and V45-0002, 23 February 2024, ICC-01/14-01/18-2376-Conf (public redacted version notified on 17 May 2024, [ICC-01/14-01/18-2376-Red](#))). On 17 May 2024, the Chamber rejected the Yekatom Defence's request to order the VWU to facilitate a limited inspection by the Yekatom Defence of V45-0002's phone ([REDACTED]) in order to identify and examine the latter's communications with P-2580 during a specific period (see Decision on the Yekatom Defence Request for a Limited Inspection of Material Obtained by the VWU, 17 May 2024, ICC-01/14-01/18-2496-Conf). On 24 May 2024, the Chamber rejected the Yekatom Defence's request to partly reconsider its decision to inspect V45-0002's phone (see Decision on the Yekatom Defence Request for Partial Reconsideration of the Decision concerning the Limited Inspection of Material Obtained by the VWU, 24 May 2024, ICC-01/14-01/18-2507-Conf (public redacted version notified on 17 July 2024, [ICC-01/14-01/18-2507-Red](#))). In this request, the Yekatom Defence had sought for the Registry to [REDACTED] (see Decision on the Yekatom Defence Request for Partial Reconsideration of the Decision concerning the Limited Inspection of Material Obtained by the VWU, 24 May 2024, ICC-01/14-01/18-2507-Conf, para. 2; see also Urgent Yekatom Defence Request for partial reconsideration of 'Decision on the Yekatom Defence Request for a Limited Inspection of Material Obtained by the VWU', 17 May 2024, ICC-01/14-01/18-2500-Conf (public redacted version notified on 28 May 2024, [ICC-01/14-01/18-2500-Red](#))).

⁹¹⁷ VWU Report on V45-0001 and V45-0002, ICC-01/14-01/18-2290-Conf, para. 12.

Chamber also observed serious inconsistencies in his testimony concerning his alleged experience within the Anti-Balaka.

547. As regards his identity-related documents, V45-0001, shown the reconstitution of the birth certificate of '[REDACTED]' born on '[REDACTED] 2003' and parents named '[REDACTED]' and '[REDACTED]',⁹¹⁸ testified that he recognised this document and confirmed that it was a court ruling handed down subsequent to an application made on his behalf.⁹¹⁹
548. However, the Chamber notes that the information in this judgment purportedly reconstituting V45-0001's birth certificate is not consistent with his testimony, nor is it consistent with other evidence before it.
549. First, while V45-0001 maintained that his date of birth was [REDACTED] 2003, it is not consistent with other documents on the record. V45-0001's victim application form and the declaration of identity contained therein state that his date of birth is [REDACTED] 2002.⁹²⁰ Asked whether he had told [REDACTED], the person who took down the information to fill the victim application form, his date of birth, V45-0001 said that he had told this person that he was born on [REDACTED] 2003.⁹²¹ When confronted with the dates as they appear on his victim application form, V45-0001 said that he did not know a lot about it because he had indicated that it was [REDACTED] 2003 and his statement was not read back to him after they took it and perhaps that is where the problem came from.⁹²²
550. Second, it is unclear how the information concerning the time of birth as included in the reconstituted birth certificate was obtained and why it appears on this document. V45-0001, when asked, did not know the time of his birth.⁹²³ V45-0001, read out a document which provides an hour of birth,⁹²⁴ and asked where this information came from, said that this information was featured in another birth certificate which did not have a counterfoil; he said

⁹¹⁸ Decision, CAR-V45-00000005.

⁹¹⁹ V45-0001: T-245, p. 42, line 19 – p. 43, line 4.

⁹²⁰ Application form, CAR-V45-00000004, at 004.

⁹²¹ V45-0001: T-246, p. 36, lines 2-6.

⁹²² V45-0001: T-246, p. 36, lines 7-15.

⁹²³ V45-0001: T-246, p. 15, line 24 – p. 16, line 2.

⁹²⁴ Judgement, CAR-V45-00000005.

that he had two birth certificates, one of which does not have a counterfoil and is not valid; he made a copy of the original and brought it with him.⁹²⁵

551. Third, the Yekatom Defence presented prior recorded testimonies from ‘[REDACTED]’, who is mentioned on V45-0001’s [REDACTED],⁹²⁶ as well as from her [REDACTED],⁹²⁷ none of whom bear the same name as V45-0001.
552. Fourth, there is inconsistent information about what V45-0001’s full name is. His victim application form states ‘[REDACTED]’⁹²⁸ whereas in other documents it appears as ‘[REDACTED]’. Shown and read out another document,⁹²⁹ V45-0001 agreed that this was the information (containing ‘[REDACTED]’) that he provided to his lawyer to request a reissue of his birth certificate and that this information was contained in his birth certificate that did not have a counterfoil.⁹³⁰ V45-0001 added, where it concerned his first name [REDACTED], that this error came from the officials at the tribunal in [REDACTED].⁹³¹ When asked to explain, V45-0001 said that as regards ‘[REDACTED]’, the name that was sent to [REDACTED] for a birth certificate to be drawn up was ‘[REDACTED]’ and when they issued the document, they modified the name.⁹³²
553. Fifth, and relatedly, V45-0001’s testimony suggests that his reconstituted birth certificate was issued without his knowledge of the process. Asked about the administrative process of issuing the aforementioned document,⁹³³ V45-0001 said that his counsel obtained it so that his birth certificate could be issued.⁹³⁴ V45-0001 agreed that he himself gave the information on the basis of which this document was issued.⁹³⁵ V45-0001 was not aware if any supporting documents had been filed before requesting this document as he was not present before the tribunal to obtain the ruling.⁹³⁶ Asked if he gave the reason for filing an application for this

⁹²⁵ V45-0001: T-246, p. 17, lines 9 – p. 18, line 9. *See also* p. 45, lines 8-22.

⁹²⁶ D29-6043 Statement, CAR-D29-0009-0692-R03, at 0694, para. 14, at 0695, paras 17, 19.

⁹²⁷ D29-6044 Statement, CAR-D29-0009-0701-R02, at 0704, paras 16-18.

⁹²⁸ Application form, CAR-V45-00000004, at 001, 005-6.

⁹²⁹ Photograph, CAR-D29-0016-0136, at 0137.

⁹³⁰ V45-0001: T-246, p. 39, line 12 – p. 40, line 9.

⁹³¹ V45-0001: T-246, p. 40, lines 7-9.

⁹³² V45-0001: T-246, p. 45, lines 6-22.

⁹³³ Judgement, CAR-V45-00000005.

⁹³⁴ V45-0001: T-246, p. 36, line 16 – p. 37, line 5.

⁹³⁵ V45-0001: T-246, p. 37, lines 6-11.

⁹³⁶ V45-0001: T-246, p. 37, line 19 – p. 38, line 2. *See also* p. 47, lines 6-10, p. 48, lines 11-25.

document, V45-0001 said that his counsel wanted to have his passport issued and therefore asked for his birth certificate, however, his birth certificate did not have a counterfoil; and at the tribunal, they did not have access to his birth certificate and this is why they decided to issue a new birth certificate.⁹³⁷ When asked about it, V45-0001 agreed that he had never said that his birth certificate had been stolen and nor had he provided any information sheet in support of a reissue of his birth certificate.⁹³⁸

554. At the same time, when asked how he obtained the birth certificate, V45-0001 said that it was provided to him by his lawyers, while later saying that this whole process of obtaining his new birth certificate took place without his knowledge.⁹³⁹ Shown another document,⁹⁴⁰ V45-0001 said that he had seen this document before; the first time he saw it was the day that they were supposed to have the passport produced at the office and it came to light that there was a problem with the mention of his name as ‘[REDACTED]’, and that a correction needed to be made, which was done subsequently.⁹⁴¹ When asked further, V45-0001 said that the changing of ‘[REDACTED]’ to ‘[REDACTED]’ was done without his knowledge of the process.⁹⁴²

555. V45-0001, when shown yet another document,⁹⁴³ also recognised this document as his birth certificate;⁹⁴⁴ however, he provided a different explanation about his ‘original’ birth certificate. When asked about the registration of his birth records, V45-0001 said that he did not know or learn from his parents which town hall issued his birth certificate.⁹⁴⁵ V45-0001 said that the original of his birth certificate did exist, in Bangui, and that he had a copy of it in his hotel in The Hague.⁹⁴⁶ V45-0001, asked about who had issued this original birth certificate and whether he had it in his possession for several years, said that it had been

⁹³⁷ V45-0001: T-246, p. 38, lines 13-21.

⁹³⁸ V45-0001: T-246, p. 38, line 25 – p. 39, line 11.

⁹³⁹ V45-0001: T-246, p. 49, lines 1-18. *See also* p. 51, line 25 – p. 52, line 7. *See* Document, CAR-D29-0001-0539. The document is a copy of Court register of the case at the *Tribunal de* [REDACTED]. At page 0543 there are seven requests registered to obtain a *Jugement supplétif d’acte de naissance* ([REDACTED]). The requests were made via WhatsApp messages [REDACTED]. *See also* Decisions, CAR-D29-0001-0551; CAR-D29-0001-0552.

⁹⁴⁰ Message, CAR-D29-0016-0136, at 0141.

⁹⁴¹ V45-0001: T-246, p. 51, lines 1-24.

⁹⁴² V45-0001: T-246, p. 51, line 25 – p. 52, line 7.

⁹⁴³ Certificate, CAR-V45-00000006.

⁹⁴⁴ V45-0001: T-245, p. 43, lines 7-18.

⁹⁴⁵ V45-0001: T-246, p. 9, line 20 – p. 10, line 20.

⁹⁴⁶ V45-0001: T-246, p. 10, line 21 – p. 11, line 19.

issued by the town hall of [REDACTED] and it had not even been a year in his possession.⁹⁴⁷ Asked by the Presiding Judge how he obtained his original birth certificate, V45-0001 said that he went to the town hall and contacted the mayor to get it during the time when there were police controls.⁹⁴⁸ Asked by the Presiding Judge why he needed to have a birth certificate, V45-0001 said that it could prove that one is a citizen of a state and it can be presented to the police when they are carrying out checks.⁹⁴⁹ When asked, V45-0001 said that he had not shown his original birth certificate, or given a copy thereof, to his legal representative;⁹⁵⁰ when asked if he had spoken to them about it, V45-0001 said that he spoke about it with his legal representative but it was a false birth certificate and the number had not been authenticated.⁹⁵¹

556. V45-0001, when asked to bring a copy of his original birth certificate with the assistance of the Registry and shown it in court, said that when he was provided with a copy of the birth certificate, the first name was '[REDACTED]' and he changed it himself so that it would become '[REDACTED]' and this can be seen in this document; he made this change before he came there.⁹⁵² When asked about it, V45-0001 said that his lawyers did not know that he had replaced '[REDACTED]' with '[REDACTED]'; the lawyers provided him with a copy of the birth certificate with '[REDACTED]' and then went away with the original to have it changed; and then he himself, made a change on the copy of the birth certificate that he had.⁹⁵³

557. In conclusion, the Chamber finds that V45-0001's testimony about his birth and family is not consistent with the documents it received. V45-0001's parents' names in the victim application form are different to those he mentioned during his testimony. V45-0001, when asked in court, said that his father's name was [REDACTED] and his mother's name was [REDACTED].⁹⁵⁴ As regards the names of his parents in the '*Déclaration relative à*

⁹⁴⁷ V45-0001: T-246, p. 12, lines 15-22.

⁹⁴⁸ V45-0001: T-246, p. 12, line 23 – p. 13, line 8.

⁹⁴⁹ V45-0001: T-246, p. 13, lines 9-14.

⁹⁵⁰ V45-0001: T-246, p. 13, line 24 – p. 14, line 2.

⁹⁵¹ V45-0001: T-246, p. 14, lines 11-16.

⁹⁵² V45-0001: T-246, p. 56, line 15 – p. 57, line 1.

⁹⁵³ V45-0001: T-246, p. 57, lines 2-9.

⁹⁵⁴ V45-0001: T-246, p. 26, lines 16-21.

l'identité attached to his victim application form – '[REDACTED]' and '[REDACTED]',⁹⁵⁵ V45-0001, when asked, said that it was a mistake made by [REDACTED] because there were a lot of child soldier applicants at [REDACTED]'s office at that time and they were quickly taking notes of everything because there was not enough time; afterwards, these were not read back to them.⁹⁵⁶ V45-0001, asked about his parents, said that he lived with his mother but could not say for how many years he had been living with her; he said that his parents were divorced and that he did not know where his father was currently.⁹⁵⁷ When asked, V45-0001 said that he was living with his mother when he met with [REDACTED].⁹⁵⁸

558. While the Chamber has regard to the VWU's report which stated that V45-0001's phone contained information suggesting that his real identity may be [REDACTED] and that he may be [REDACTED]'s second son,⁹⁵⁹ the Chamber notes that V45-0001 maintained in court that he had no familial links with the [REDACTED] family.

559. In this regard, the Chamber notes that V45-0001 said that he did not know this person's ([REDACTED]) surname,⁹⁶⁰ but recognised the individual depicted in a photograph,⁹⁶¹ as [REDACTED], the [REDACTED].⁹⁶² V45-0001 himself refuted the suggestion, on the basis of various documents, that he was in fact this person's son and that his identity had been fabricated by [REDACTED], working in tight cooperation with this person.⁹⁶³ Further, he stated not knowing the children of this person and [REDACTED] or, that they had children together.⁹⁶⁴ He did not know [REDACTED], [REDACTED]'s daughter,⁹⁶⁵ and said not knowing the child depicted in a photograph,⁹⁶⁶ suggested to be one of this person's daughters, and reiterated that he had no family relationship with [REDACTED] and that the purpose of their relationship was to facilitate matters with the office.⁹⁶⁷ V45-0001 did not

⁹⁵⁵ Application form, CAR-V45-00000004, at 006.

⁹⁵⁶ V45-0001: T-246, p. 27, lines 10-18.

⁹⁵⁷ V45-0001: T-246, p. 26, lines 6-12.

⁹⁵⁸ V45-0001: T-246, p. 26, lines 13-15.

⁹⁵⁹ VWU Report on V45-0001 and V45-0002, ICC-01/14-01/18-2290-Conf, paras 11-13.

⁹⁶⁰ V45-0001: T-246, p. 20, lines 5-12, p. 24, lines 12-15.

⁹⁶¹ Photograph, CAR-D29-0016-0125.

⁹⁶² V45-0001: T-246, p. 57, line 14 – p. 58, line 1.

⁹⁶³ V45-0001: T-246, p. 66, line 21 – p. 67, line 1.

⁹⁶⁴ V45-0001: T-246, p. 33, line 25 – p. 34, line 12.

⁹⁶⁵ V45-0001: T-246, p. 35, line 19 – p. 36, line 1.

⁹⁶⁶ Photograph, CAR-D29-0010-0139.

⁹⁶⁷ V45-0001: T-246, p. 53, lines 8-18.

recognise anyone in photographs shown to him, which, according to the Yekatom Defence, depict individuals also related to [REDACTED].⁹⁶⁸

560. V45-0001 maintained his testimony concerning his identity even when confronted with school and birth records purporting to show that he was [REDACTED]'s son. Specifically, he stated that (i) the '[REDACTED]' mentioned in a school register,⁹⁶⁹ was not him;⁹⁷⁰ (ii) a school certificate seemingly issued by the [REDACTED] elementary school concerning a '[REDACTED]' born on [REDACTED] 2003, parents [REDACTED] and [REDACTED],⁹⁷¹ did not concern him;⁹⁷² (iii) a school register containing the name of '[REDACTED]',⁹⁷³ and a school attendance certificate for '[REDACTED]',⁹⁷⁴ did not concern him, that he was never registered at [REDACTED] secondary school,⁹⁷⁵ did not get far in his education and only rarely goes to Bangui;⁹⁷⁶ (iv) a birth certificate for '[REDACTED]', born on [REDACTED] 2003 to '[REDACTED]' and '[REDACTED]',⁹⁷⁷ was not his;⁹⁷⁸ and (v) the photograph on a school diploma registration form⁹⁷⁹ does not depict him.⁹⁸⁰

561. As regards his school attendance, V45-0001 further indicated that (i) he was not currently going to school; (ii) it had been several years since he had gone to school;⁹⁸¹ (iii) he completed his primary studies until CM2 at [REDACTED] elementary school;⁹⁸² and (iv) he

⁹⁶⁸ V45-0001: T-246, p. 53, line 19 – p. 54, line 13, p. 67, lines 2-14. *See* Screenshots, CAR-D29-0016-0063; CAR-D29-0016-0032; Photograph, CAR-D29-0010-0009.

⁹⁶⁹ Register, CAR-D29-0014-0165 at 0167; *See also* Register, CAR-D29-0014-0157.

⁹⁷⁰ V45-0001: T-246, p. 58, line 19 – p. 59, line 1.

⁹⁷¹ Certificate, CAR-D29-0013-0265.

⁹⁷² V45-0001: T-246, p. 59, lines 2-15.

⁹⁷³ Register, CAR-D29-0014-0152, at 0154.

⁹⁷⁴ Attestation, CAR-D29-0013-0252.

⁹⁷⁵ V45-0001: T-246, p. 59, lines 14-19.

⁹⁷⁶ V45-0001: T-246, p. 59, line 20 – p. 60, line 3, p. 60, line 23 – p. 61, line 12.

⁹⁷⁷ Birth certificate, CAR-D29-0013-0254.

⁹⁷⁸ V45-0001: T-246, p. 62, line 15 – p. 65, line 25.

⁹⁷⁹ Registration form, CAR-D29-0013-0256.

⁹⁸⁰ V45-0001: T-246, p. 66, lines 2-18. The Chamber notes in this regard that V45-0002, discussed below, when shown this photograph, spontaneously identified him as the [REDACTED], whom he knew as '[REDACTED]'. *See* V45-0002: T-247, p. 49, line 25 – p. 50, line 22.

⁹⁸¹ V45-0001: T-246, p. 15, lines 7-14.

⁹⁸² V45-0001: T-246, p. 15, lines 15-23.

completed ‘CM2’ after the 2013/2014 events and before he met with the people from [REDACTED].⁹⁸³

562. D29-6034, a [REDACTED] at the aforementioned elementary school since [REDACTED],⁹⁸⁴ stated that she knew ‘[REDACTED]’ as a [REDACTED] and that he is the son of [REDACTED] and [REDACTED].⁹⁸⁵ D29-6034 stated, *inter alia*, that it was [REDACTED] that furnished the information that appears in school certificate⁹⁸⁶ to the [REDACTED],⁹⁸⁷ and [REDACTED] date of birth mentioned therein was provided by [REDACTED], [REDACTED].⁹⁸⁸ Commenting on the school register, D29-6034 confirmed that the full and correct name of the entry corresponding to [REDACTED] is ‘[REDACTED]’.⁹⁸⁹

563. D29-6028, the principal of *Lycée de Bimbo* [REDACTED],⁹⁹⁰ provided authenticating information concerning the school records shown to V45-0001 as outlined above, and attested to the father-son relationship between [REDACTED] and ‘[REDACTED]’. He discussed three documents, consisting of school records for an individual called ‘[REDACTED]’, including the procedure for their issuance.⁹⁹¹ In particular, he confirmed that the information contained in a school certificate, which he issued in his capacity as the principal of *Lycée de Bimbo* and which is signed and stamped by him, is based in his official records for the student named ‘[REDACTED]’.⁹⁹²

⁹⁸³ V45-0001: T-246, p. 58, lines 3-12.

⁹⁸⁴ D29-6034 Statement, CAR-D29-0009-0372-R01 and associated items CAR-D29-0009-0378; CAR-D29-0009-0379.

⁹⁸⁵ D29-6034 Statement, CAR-D29-0009-0372-R01, at 0374, paras 19, 21.

⁹⁸⁶ Certificate, CAR-D29-0013-0265.

⁹⁸⁷ D29-6034 Statement, CAR-D29-0009-0372-R01, at 0375, para. 22.

⁹⁸⁸ D29-6034 Statement, CAR-D29-0009-0372-R01, at 0375, paras 23-24. *See also* Certificates, CAR-D29-0013-0265; CAR-D29-0009-0378.

⁹⁸⁹ D29-6034 Statement, CAR-D29-0009-0372-R01, at 0374-75, paras 17-26. *See also* Registers, CAR-D29-0014-0165; CAR-D29-0009-0379.

⁹⁹⁰ D29-6028 Statement, CAR-D29-0009-0499-R01 and associated items CAR-D29-0009-0504; CAR-D29-0009-0505; CAR-D29-0009-0508.

⁹⁹¹ The Chamber notes that the Yekatom Defence argues that ‘[REDACTED]’ is the same individual as V45-0001 (*see* Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 68-69). D29-6028 commented on Register, CAR-D29-0014-0152, and Registration form, CAR-D29-0013-0256, that are respectively annexed to his statement as Register, CAR-D29-0009-0505, and Certificate, CAR-D29-0009-0508 (*see* D29-6028 Statement, CAR-D29-0009-0499-R01, at 0502, paras 26-28, at 0503).

⁹⁹² D29-6028 Statement, CAR-D29-0009-0499-R01, at 0501, paras 17-19; Certificates, CAR-D29-0013-0252; CAR-D29-0009-0504.

564. Having reviewed V45-0001's baptism documents⁹⁹³ and health records⁹⁹⁴ submitted by the CLRV1 in support of his identity and age, the Chamber finds them inauthentic and unreliable.
565. For these reasons, the Chamber is convinced that V45-0001 was not who he claimed to be.
566. Furthermore, and in any event, as set out below, the Chamber found V45-0001's account inherently unreliable as it contained significant discrepancies insofar as it concerned his alleged experience as 'child soldier' and Mr Yekatom's alleged acts.
567. In his victim application form, V45-0001 mentioned being taken by force by Nganazoui and Sartana and being given bullets by Sartana to threaten him not to leave the Anti-Balaka.⁹⁹⁵ However, during his testimony, V45-0001 did not mention Nganazoui or Sartana and said that it was Mr Yekatom who gave him the two bullets.⁹⁹⁶
568. The Chamber finds that V45-0001 was unable to offer a reasonable explanation for this discrepancy. Asked about this difference, V45-0001 said that [REDACTED] did not read back to him his account when interviewing him for the victim application form.⁹⁹⁷ V45-0001 did agree that it was incorrect that Sartana handed him the bullets; according to V45-0001, if [REDACTED] had read out what he had written down, they would have realised this mistake, but unfortunately he did not.⁹⁹⁸ The Chamber considers it unlikely that the victim application form would omit mention of Mr Yekatom's actions had he mentioned them to whoever was taking down the notes, and instead would have recorded a completely different name.
569. Similarly, V45-0001's victim application form mentions two bullets which states that he kept until the date on which he filled out the form,⁹⁹⁹ while during his testimony, V45-0001 said that Mr Yekatom gave him the bullets once, one to him and one to another person, and

⁹⁹³ Certificate, CAR-V45-00000012. See D29-6049 Statement, CAR-D29-0009-0759-R01, at 0762, paras 27-29.

⁹⁹⁴ Certificate, CAR-V45-00000013. See D29-6050 Statement, CAR-D29-0009-0773-R01, at 0776-77, paras 19-23.

⁹⁹⁵ Application form, CAR-V45-00000004, at 005.

⁹⁹⁶ V45-0001: T-245, p. 34, line 21 – p. 35, line 2, p. 35, line 20 – p. 36, line 3, p. 37, line 2 – p. 39, line 13; T-246, p. 68, line 24 – p. 69, line 25.

⁹⁹⁷ V45-0001: T-246, p. 70, line 19 – p. 71, line 1.

⁹⁹⁸ V45-0001: T-246, p. 71, lines 2-8.

⁹⁹⁹ Application form, CAR-V45-00000004, at 005.

that V45-0001 then gave those bullets to ESF.¹⁰⁰⁰ From a further answer, it is unclear whether a bullet was given just to V45-0001 or also to another person.¹⁰⁰¹ In addition, V45-0001 was unclear about when he gave the bullets to ESF: while agreeing that he gave the bullets to ESF in 2018 while signing his victim application form – which states that he still had the bullets – in 2021,¹⁰⁰² V45-0001 said the victim application form contained incorrect or false information, while his account given to CLRV1 – as read back to him, but not signed – was the correct one.¹⁰⁰³ According to V45-0001, when asked more generally about the differences between his victim application form and his testimony, he said that his counsel did ask questions to find out where the differences were, and that he told them that the statement made at [REDACTED] was different because ‘we didn’t read our statements in – it wasn’t in Sango so that we could provide the necessary corrections and recount the accurate situation of what happened’.¹⁰⁰⁴

570. Lastly, the evidence on the record raises doubts as regards the information contained in the declaration of identity attached to V45-0001’s victim application form. First, V45-0001 said himself regarding this ‘*déclaration relative à l’identité*’, signed by [REDACTED] in capacity as village chief of [REDACTED],¹⁰⁰⁵ that the name of his neighbourhood chief was [REDACTED], and that he did not know anyone called [REDACTED].¹⁰⁰⁶ Second, D29-6031, the mayor of [REDACTED],¹⁰⁰⁷ stated that ‘[REDACTED]’ and ‘[REDACTED]’ are two different persons, that only the latter is ‘*chef de quartier*’,¹⁰⁰⁸ and that neither a ‘[REDACTED]’ nor ‘*son père* [REDACTED]’ appear in their ‘*circonscription*’.¹⁰⁰⁹ When V45-0001 was confronted with this statement, he said that where he lived, it was a man who managed the town hall and not a woman.¹⁰¹⁰

¹⁰⁰⁰ V45-0001: T-246, p. 70, lines 1-7.

¹⁰⁰¹ V45-0001: T-246, p. 70, lines 13-18.

¹⁰⁰² V45-0001: T-246, p. 70, lines 8-11, p. 71, lines 9-19.

¹⁰⁰³ V45-0001: T-246, p. 72, line 6 – p. 75, line 10.

¹⁰⁰⁴ V45-0001: T-246, p. 75, line 24 – p. 76, line 8.

¹⁰⁰⁵ See Application form, CAR-V45-00000004, at 006.

¹⁰⁰⁶ V45-0001: T-246, p. 28, line 22 – p. 29, line 5. See also p. 30, lines 3-17.

¹⁰⁰⁷ D29-6031 Statement, CAR-D29-0009-0493-R01 and associated item CAR-D29-0009-0497.

¹⁰⁰⁸ D29-6031 Statement, CAR-D29-0009-0493-R01, at 0495, paras 17-19. See also List, CAR-D29-0014-0151.

¹⁰⁰⁹ Annex 1 to D29-6031 Statement, CAR-D29-0009-0497.

¹⁰¹⁰ V45-0001: T-246, p. 32, lines 11-25.

571. Overall, V45-0001 maintained that he was a member of the Anti-Balaka and close to Mr Yekatom until the very end of his testimony, when confronted with the differences in his testimony and suggested that he had changed his account so as to claim a greater role to be selected as a witness.¹⁰¹¹ Confronted with the suggestion that his identity had been fabricated by [REDACTED], V45-0001 maintained that he did not know [REDACTED] and that he did not spend time in [REDACTED] and moved around all the time because there were Anti-Balaka in [REDACTED].¹⁰¹²
572. Having assessed V45-0001's testimony in light of his victim application form and the other evidence received, in particular related to his identity, the Chamber finds V45-0001's account concerning his membership as an alleged 'child soldier' in Mr Yekatom's group not credible. Given the Chamber's conclusions about his identity, it is equally unable to believe V45-0001's account concerning his alleged membership in the Anti-Balaka. This is especially since this account is also fraught with discrepancies that he was unable to reasonably explain.
573. In arriving at this conclusion, the Chamber was not persuaded by the CLRV1's submissions concerning V45-0001's credibility.¹⁰¹³ The Chamber has also noted the CLRV2's submissions that inconsistencies between a witness statement and a victim application should be attributed less weight than to inconsistencies with a formal witness statement.¹⁰¹⁴ However, in this specific instance, for the reasons stated above concerning the challenges to his identity and in light of the evidence provided by him, the Chamber could not consider V45-0001's evidence to have any probative value whatsoever.
574. Accordingly, the Chamber finds V45-0001 wholly unreliable and has not relied on V45-0001's evidence for the purposes of assessing any factual allegations under Count 29, or in relation to other charges.
575. In light of this conclusion, the Chamber does not consider it necessary to also engage with the Yekatom Defence's arguments concerning the alleged collusion between V45-0001 and

¹⁰¹¹ V45-0001: T-246, p. 79, lines 1-24.

¹⁰¹² V45-0001: T-246, p. 80, lines 2-13.

¹⁰¹³ See CLRV1 Closing Brief, ICC-01/14-01/18-2735-Conf, paras 189-223.

¹⁰¹⁴ See also [CLRV2 Closing Brief](#), ICC-01/14-01/18-2734-Red, paras 60-64.

other individuals,¹⁰¹⁵ for two reasons. First, given that the Chamber will not rely on V45-0001's account, the fact that there may have been collusion would not prove or disprove the allegations before the Chamber in respect of Count 29. Second, the Chamber has no role in investigating and/or establishing such an alleged collusion at this stage, beyond finding that V45-0001 was not credible in his account and cannot support the allegations under Count 29.

iv. V45-0002

576. V45-0002, who claimed to have joined Mr Yekatom's group while he was still in school, testified fully live with in-court protective measures and special measures,¹⁰¹⁶ and received Rule 74 assurances.¹⁰¹⁷ He testified that his name was [REDACTED], that he was born on [REDACTED] 2001 in [REDACTED];¹⁰¹⁸ and that he joined Mr Yekatom's Anti-Balaka group before the 5 December 2013 attack on Bangui and after being enlisted by Cœur de Lion in [REDACTED].¹⁰¹⁹ V45-0002 applied to participate as a victim and, on the basis of his victim application form, was recognised as such by the Chamber.¹⁰²⁰
577. As regards his experience within the Anti-Balaka, V45-0002 testified, *inter alia*, that (i) after his enlistment in [REDACTED], he moved to another base in the [REDACTED] forest near Pissa;¹⁰²¹ (ii) he received military training, being taught how to use weapons, ordered to kill a person and given drugs; (iii) after his training, he was subjected to 'vaccination' against bullets;¹⁰²² (iv) he participated in combats in [REDACTED] and [REDACTED],

¹⁰¹⁵ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 55-71.

¹⁰¹⁶ V45-0002: T-247; T-248. See granting of in-court protective measures and special measures (in the form of placement of a shield screen between the witness and the accused) at T-247, p. 3, line 24 – p. 4, line 16. See also Decision on the CLRV1 Requests for In-Court Protective Measures and Rule 74 Assurances for Witnesses V45-0001 and V45-0002, 20 September 2023, ICC-01/14-01/18-2105-Conf, para. 13.

¹⁰¹⁷ Decision on the CLRV1 Requests for In-Court Protective Measures and Rule 74 Assurances for Witnesses V45-0001 and V45-0002, 20 September 2023, ICC-01/14-01/18-2105-Conf, paras 15-16, 18, p. 8. See also V45-0002: T-247, p. 4, lines 17-19.

¹⁰¹⁸ V45-0002: T-247, p. 6, lines 17-24.

¹⁰¹⁹ V45-0002: T-247, p. 7, line 13 – p. 9, line 23.

¹⁰²⁰ Victim a/65991/19. See [Tenth Decision on Victims' Participation in Trial Proceedings \(Groups A and B\)](#), 24 August 2021, ICC-01/14-01/18-1092 (with Annexes [A](#) and [B](#)). See also Annex 20 to Ninth Registry Transmission of Group A Applications for Victim Participation in Trial Proceedings, 14 July 2021, ICC-01/14-01/18-1065-Conf-Exp-Anx20, confidential *ex parte*, only available to the Registry; Application form, CAR-V45-00000007.

¹⁰²¹ V45-0002: T-247, p. 11, lines 6-19.

¹⁰²² V45-0002: T-247, p. 11, lines 12-23, p. 13, lines 3 – p. 16, line 2.

[REDACTED];¹⁰²³ and (v) he was [REDACTED] transporting Cœur de Lion who was injured in Boda.¹⁰²⁴ Lastly, V45-0002 described his participation in a ESF demobilisation program in [REDACTED].¹⁰²⁵

578. The Yekatom Defence argues that V45-0002 is in fact someone called [REDACTED] and that falsified his account and related birth documents.¹⁰²⁶

579. As set out below, the Chamber finds that the challenges to his birth documents put into question V45-0002's real identity.

580. First, V45-0002's birth-related documents appear to be generally consistent when it comes to his date of birth and the names of parents: (i) the documents shown to him by the CLRV1 concern a '[REDACTED]' born on [REDACTED] 2001 at [REDACTED] to parents '[REDACTED]' and '[REDACTED]';¹⁰²⁷ (ii) V45-0002 said that he was 23 years old at the time of his testimony in September 2023;¹⁰²⁸ (iii) his victim application form mentions his name as '[REDACTED]' born on [REDACTED] 2001 at [REDACTED];¹⁰²⁹ and (iv) V45-0002 recognised his reconstituted birth certificate,¹⁰³⁰ dated 25 June 2023 and pertaining to '[REDACTED]' born on [REDACTED] 2001 at [REDACTED] to parents '[REDACTED]' and '[REDACTED]'.¹⁰³¹

581. However, when asked further details about the process of obtaining his birth-related documents, it appeared that V45-0002 received his reconstituted birth certificate through his lawyer and did not request or obtain it himself from the appropriate authorities. At the same time, it is unclear how this lawyer obtained the information recorded in that reconstituted birth certificate and related court ruling. V45-0002 recognised the transcription of the birth certificate that his lawyer obtained from the Pissa town hall and gave to him.¹⁰³² V45-0002,

¹⁰²³ V45-0002: T-247, p. 18, line 24 – p. 26, line 23.

¹⁰²⁴ V45-0002: T-247, p. 37, lines 2-10.

¹⁰²⁵ V45-0002: T-247, p. 30, line 21 – p. 31, line 20.

¹⁰²⁶ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 70.

¹⁰²⁷ Decision, CAR-V45-00000008; Birth certificate, CAR-V45-00000009.

¹⁰²⁸ V45-0002: T-248, p. 4, lines 13-19.

¹⁰²⁹ Application form, CAR-V45-00000007, at 001.

¹⁰³⁰ V45-0002: T-247, p. 41, line 19 – p. 42, line 4.

¹⁰³¹ Birth certificate, CAR-V45-00000009.

¹⁰³² V45-0002: T-248, p. 8, line 12 – p. 9, line 14.

shown the court ruling to reconstitute his birth certificate, recognised this document and, when asked, said that it was provided by his lawyer after having spoken to him.¹⁰³³ This document, dated 15 June 2023, pertains to '[REDACTED]' born on [REDACTED] 2001 at '[REDACTED]' in [REDACTED] to parents '[REDACTED]' and '[REDACTED]'.¹⁰³⁴ While V45-0002 indicated that he still had his original birth certificate, he did not know where it was;¹⁰³⁵ he also said that he had not shown it to his lawyer;¹⁰³⁶ and that he gave his birth date as [REDACTED] 2001, but did not know at which time he was born.¹⁰³⁷ V45-0002 did not know how his lawyer obtained his re-issued birth certificate, but he did not give testimony before a court to get this court ruling.¹⁰³⁸

582. While these irregularities in V45-0002's birth-related documents were, in themselves, insufficient to doubt V45-0002's account generally speaking, further significant inconsistencies arose when it came to his testimony about his parents and family, also considering further evidence.

583. First, the Chamber notes that V45-0002's parentage in the documents attached to his victim application form do not match those in his birth-related documents. In his victim application form, the identity attestation signed by Célestin Voyemakoa as chief of Pissa commune states that his father's name is '[REDACTED]' and mother's name is '[REDACTED]'.¹⁰³⁹ Asked which parent names he gave to his lawyer who helped him fill out his victim application form, V45-0002 said he gave the names [REDACTED] and [REDACTED].¹⁰⁴⁰ V45-0002 also said that he did not know a person called '[REDACTED]',¹⁰⁴¹ nor someone called '[REDACTED]'.¹⁰⁴² According to V45-0002, it was not he who provided these names to his lawyer when she filled out his victim application form.¹⁰⁴³

¹⁰³³ V45-0002: T-247, p. 39, line 5 – p. 40, line 24.

¹⁰³⁴ Decision, CAR-V45-00000008.

¹⁰³⁵ V45-0002: T-247, p. 41, lines 1-15.

¹⁰³⁶ V45-0002: T-247, p. 42, lines 5-9; T-248, p. 5, lines 5-12.

¹⁰³⁷ V45-0002: T-248, p. 5, line 17 – p. 6, line 20.

¹⁰³⁸ V45-0002: T-248, p. 7, lines 3-11.

¹⁰³⁹ Application form, CAR-V45-00000007, at 005.

¹⁰⁴⁰ V45-0002: T-247, p. 63, lines 5-12.

¹⁰⁴¹ V45-0002: T-248, p. 4, lines 1-4.

¹⁰⁴² V45-0002: T-248, p. 25, lines 10-11.

¹⁰⁴³ V45-0002: T-248, p. 4, lines 5-12, p. 25, lines 12-22.

584. Furthermore, D29-6024, Célestin Voyemakoa, *chef de quartier* of Mokotomba in Pissa, recognised [REDACTED], but stated that at the time [REDACTED] was not in front of him; he did not recognise V45-0002 in any of the photos shown to him.¹⁰⁴⁴ According to D29-6024, the document had already been filled in by ESF and he signed it at the end of a meeting; the handwriting on the form was not his.¹⁰⁴⁵ D29-6024 did not recognise the parents' names indicated in V45-0002's reconstituted birth certificate, but recognised the name of '[REDACTED]' signing this certificate as the first assistant at the municipality of Pissa commune and '*chef du quartier Bobangui*'.¹⁰⁴⁶ Overall, this evidence raises such doubts as to the information contained in the identity document attached to V45-0002's victim application form that the Chamber does not rely on it.
585. Second, there is further evidence before the Chamber that contradicts V45-0002's claims about his identity and parentage. The Chamber found credible the prior recorded testimonies from his relatives, [REDACTED]¹⁰⁴⁷ and [REDACTED],¹⁰⁴⁸ as well as from the director of his primary school¹⁰⁴⁹ and acquaintances from Pissa,¹⁰⁵⁰ which suggests that V45-0002 is in fact [REDACTED] and not [REDACTED].
586. D29-6027, V45-0002's [REDACTED], recognised him in a photograph and explained that they share [REDACTED]; and stated that he did not know anyone by the name of [REDACTED].¹⁰⁵¹ D29-6039, purportedly [REDACTED], stated that none of her family members were elements in Mr Yekatom's group,¹⁰⁵² and identified V45-0002 and [REDACTED] D29-6027 in photographs.¹⁰⁵³ D29-6030 was the interim director of the

¹⁰⁴⁴ D29-6024 Statement, CAR-D29-0009-0209, at 0213, paras 24-27 [REDACTED].

¹⁰⁴⁵ D29-6024 Statement, CAR-D29-0009-0209, at 0213, para. 25.

¹⁰⁴⁶ D29-6024 Statement, CAR-D29-0009-0209, at 0213, paras 28-29 *referring to* Birth certificate, CAR-V45-00000009, at 001.

¹⁰⁴⁷ D29-6027 Statement, CAR-D29-0009-0239 and associated items CAR-D29-0009-0245, CAR-D29-0009-0246, CAR-D29-0009-0247, and CAR-V45-00000011.

¹⁰⁴⁸ D29-6039 Statement, CAR-D29-0009-0545-R01 and associated items CAR-D29-0009-0552; CAR-D29-0009-0554; CAR-D29-0009-0555; and CAR-D29-0009-0556.

¹⁰⁴⁹ D29-6030 Statement, CAR-D29-0009-0514-R01 and associated items CAR-D29-0009-0518; CAR-D29-0009-0519.

¹⁰⁵⁰ D29-6036: T-262, p. 21, lines 9-14. *See also* p. 27, line 22 – p. 28, line 25.

¹⁰⁵¹ D29-6027 Statement, CAR-D29-0009-0239, at 0242, paras 15-16. *See also* Photograph, CAR-V45-00000011. *See further* Identifying document, CAR-D29-0009-0245; Certificate, CAR-D29-0009-0246; Screenshot, CAR-D29-0009-0247.

¹⁰⁵² D29-6039 Statement, CAR-D29-0009-0545-R01, at 0548, para. 20.

¹⁰⁵³ D29-6039 Statement, CAR-D29-0009-0545-R01, at 0549, para. 25; [REDACTED].

‘*École Fondamentale 1*’ in Pissa from February to October 2023, and recognised [REDACTED] school attendance certificate; the witness confirmed that this certificate and the school register appear to show that this individual attended that school in [REDACTED]; he confirmed that [REDACTED].¹⁰⁵⁴ D29-6036, a [REDACTED] inhabitant who claimed to know ‘[REDACTED]’ very well and lived in the [REDACTED], recognised V45-0002 in the same photograph as shown to D29-6027 and D29-6039.¹⁰⁵⁵ While he did not claim to know all details about V45-0002’s familial relationships, D29-6036 said that ‘[REDACTED]’ bore the family name ‘[REDACTED]’, was a part of this family, [REDACTED].¹⁰⁵⁶ The witness also said that at no point in time did [REDACTED] join the Anti-Balaka,¹⁰⁵⁷ and that he did not know anything about [REDACTED] taking part in any fights of the Anti-Balaka; further stating that the Anti-Balaka came to Pissa and [REDACTED].¹⁰⁵⁸

587. The Chamber notes with concern V45-0002’s attempts during his oral testimony to distance himself from any reference to his last name being ‘[REDACTED]’ and his efforts to maintain his version in the face of contrary evidence, as detailed below.

588. In this regard, the Chamber notes that when asked about his siblings, V45-0002 said that he had [REDACTED],¹⁰⁵⁹ the [REDACTED],¹⁰⁶⁰ one of which is called [REDACTED]¹⁰⁶¹ whom he recognised in a photograph,¹⁰⁶² which is the same as the one in which D29-6036 identified [REDACTED],¹⁰⁶³ who the Chamber notes is [REDACTED].¹⁰⁶⁴ V45-0002 refuted the suggestion that his [REDACTED] surname was [REDACTED] because their

¹⁰⁵⁴ D29-6030 Statement, CAR-D29-0009-0514-R01, at 0516, paras 16-18 *referring to* Certificate, CAR-D29-0009-0518; Register, CAR-D29-0009-0519. *See also* Certificate, CAR-D29-0013-0266; Register, CAR-D29-0014-0169.

¹⁰⁵⁵ D29-6036: T-259, p. 11, lines 15-20; Photograph, CAR-V45-00000011.

¹⁰⁵⁶ D29-6036: T-262, p. 21, line 17 – p. 27, line 11.

¹⁰⁵⁷ D29-6036: T-260, p. 13, lines 4-11.

¹⁰⁵⁸ D29-6036: T-260, p. 16, lines 2-10; T-262, p. 36, line 20 – p. 37, line 6.

¹⁰⁵⁹ V45-0002: T-248, p. 26, lines 23-25.

¹⁰⁶⁰ V45-0002: T-248, p. 27, lines 1-2.

¹⁰⁶¹ V45-0002: T-248, p. 27, lines 3-4.

¹⁰⁶² V45-0002: T-248, p. 28, lines 10-12 *referring to* Screenshot, CAR-D29-0016-0157.

¹⁰⁶³ D29-6036: T-259, p. 11, line 21 – p. 12, line 1.

¹⁰⁶⁴ [REDACTED]

father was called [REDACTED], and suggested that on Facebook sometimes people take on names which are not their actual surnames.¹⁰⁶⁵

589. In addition, V45-0002 agreed that he was attending school before joining the Anti-Balaka and that he was unable to return after leaving the Anti-Balaka.¹⁰⁶⁶ He first testified that he went to school up until '[REDACTED]',¹⁰⁶⁷ while then agreeing that he was registered at '[REDACTED]' at the [REDACTED] primary school, only to later say that he never reached '[REDACTED]'.¹⁰⁶⁸ In relation to a [REDACTED] school register for 2011 containing an entry pertaining to '[REDACTED]',¹⁰⁶⁹ V45-0002 said that that was not his name.¹⁰⁷⁰

590. Overall, the Chamber concludes that while V45-0002's date of birth seems less contested, the above raises such doubts as to his real identity that the Chamber is not in a position to rely on V45-0002's evidence. This is so also because aside from such doubts, and in any event, the Chamber finds that V45-0002's account is replete with discrepancies that throw into question the remainder of his evidence, in particular his claim that he was an element of the Anti-Balaka. Some of these discrepancies are set out below.

591. First, as regards the timeline of events, V45-0002 provided contradictory accounts on when he joined the Anti-Balaka and when he left. During his testimony, V45-0002 agreed that he joined the Anti-Balaka before 5 December 2013 in [REDACTED], after which he went to [REDACTED] forest before going to [REDACTED] forest and then going to fight in [REDACTED]; following this, he agreed that he was deployed to the [REDACTED] checkpoints.¹⁰⁷¹ However, V45-0002's victim application form suggests that he joined the Anti-Balaka in March 2014 and that the events described in the form took place between

¹⁰⁶⁵ V45-0002: T-248, p. 28, lines 13-18.

¹⁰⁶⁶ V45-0002: T-247, p. 33, lines 14-19.

¹⁰⁶⁷ V45-0002: T-248, p. 24, lines 6-9.

¹⁰⁶⁸ V45-0002: T-248, p. 24, lines 10-21.

¹⁰⁶⁹ Register, CAR-D29-0014-0169, at 0171.

¹⁰⁷⁰ V45-0002: T-248, p. 32, lines 9-23.

¹⁰⁷¹ V45-0002: T-247, p. 44, line 19 – p. 46, line 9.

March and August 2014.¹⁰⁷² When asked how long he remained within the Anti-Balaka, V45-0002 testified that he left the group in 2015, after the ‘last battle in Boda’.¹⁰⁷³

592. Second, V45-0002’s testimony on Cœur de Lion’s role and Boda is contradictory on key elements that emerge from evidence otherwise before the Chamber. When asked how many people died in Boda, V45-0002 first said that many people died, then that only one person died, which was their ComZone Cœur de Lion.¹⁰⁷⁴ Further, V45-0002’s victim application form suggests that he joined the Anti-Balaka in March 2014 and that Cœur de Lion made him [REDACTED] in Boda,¹⁰⁷⁵ while other evidence on the record shows that the attack on Boda took place in early February 2014, and that Cœur de Lion was killed therein.¹⁰⁷⁶ When confronted with the contradictions concerning Boda, V45-0002 simply maintained that he was in the Anti-Balaka group led by Cœur de Lion.¹⁰⁷⁷

593. Third, V45-0002’s account that he participated in the ESF programme contains significant discrepancies. V45-0002 testified that he joined the ESF programme in 2016,¹⁰⁷⁸ and that he took part in the programme when Catherine Samba-Panza was still president of the CAR.¹⁰⁷⁹ At the same time, he agreed that he joined the programme in the same year as Cœur de Lion died, a few months after his death.¹⁰⁸⁰ V45-0002 also testified that [REDACTED] took them to [REDACTED] where they spent two months, during which time they learnt how to be a trader, farmer, how to raise and support a family.¹⁰⁸¹ V45-0002, when put that he was not part of the ESF training, maintained that he was indeed part of that training.¹⁰⁸² However,

¹⁰⁷² Application form, CAR-V45-00000007, at 001.

¹⁰⁷³ V45-0002: T-247, p. 28, lines 19-21. The Chamber also has regard to the purported reason why he left the Anti-Balaka. V45-0002, when asked why he left the Anti-Balaka, said that his parents had objected and were against his membership; he said that he could no longer talk with his mother and did not even greet each other anymore, so he took a personal decision to leave the movement because he no longer got along with his parents; he described requesting forgiveness from his mother, following which he decided to stop being an Anti-Balaka member (see V45-0002: T-247, p. 28, line 24 – p. 29, line 10).

¹⁰⁷⁴ V45-0002: T-248, p. 22, line 17 – p. 23, line 10.

¹⁰⁷⁵ Application form, CAR-V45-00000007, at 001.

¹⁰⁷⁶ See section IV.A.8.ii.c below.

¹⁰⁷⁷ V45-0002: T-248, p. 38, lines 12-17.

¹⁰⁷⁸ V45-0002: T-247, p. 37, lines 15-21.

¹⁰⁷⁹ V45-0002: T-248, p. 11, lines 3-9.

¹⁰⁸⁰ V45-0002: T-248, p. 11, lines 10-17.

¹⁰⁸¹ V45-0002: T-248, p. 10, line 14 – p. 11, line 2.

¹⁰⁸² V45-0002: T-248, p. 36, line 22 – p. 37, line 1.

D29-6036 stated that '[REDACTED]' did not participate in the training in [REDACTED], but in the training in [REDACTED].¹⁰⁸³

594. Further, while V45-0002 claimed to have joined the ESF programme in [REDACTED] in 2014,¹⁰⁸⁴ his name is not included in the ESF List.¹⁰⁸⁵ When confronted with another list, V45-0002 maintained that his name does appear.¹⁰⁸⁶ Given the issues with the contents of the ESF List as further outlined below,¹⁰⁸⁷ the Chamber also assessed whether V45-0002 might nonetheless have participated in a ESF programme.

595. In this regard, the Chamber notes that V45-0002 appeared to provide some general details about the ESF programme that do not comport with the other evidence concerning this programme. In particular, asked about the selection process, V45-0002 first testified that some ESF staff initially met with the mayor of Pissa, Okoua-Penguia, and asked to be shown the 'child victims' so they could be demobilised, re-educated and no longer be integrated into any armed groups.¹⁰⁸⁸ He then said that before being selected, he was asked questions by an ESF staff member, after which a date was fixed for a vehicle to take them to [REDACTED].¹⁰⁸⁹ According to V45-0002, there were many of them at the time of the discussions which took place at the town hall, and at which, he agreed, [REDACTED] was also present.¹⁰⁹⁰ He further said that once in [REDACTED], [REDACTED] came from time to time providing them with food and telling them what to eat,¹⁰⁹¹ while he agreed that he also saw [REDACTED] in [REDACTED].¹⁰⁹²

596. At the same time, V45-0002 did not remember certain key details about his participation in the ESF programme. V45-0002 recalled that during his stay in [REDACTED], there was a ceremony with the mayor of [REDACTED] and a representative from Bangui,¹⁰⁹³ and that

¹⁰⁸³ D29-6036: T-262, p. 34, line 20 – p. 35, line 1.

¹⁰⁸⁴ V45-0002: T-247, p. 30, line 21 – p. 31, line 20.

¹⁰⁸⁵ ESF List, CAR-OTP-2071-0279.

¹⁰⁸⁶ V45-0002: T-248, p. 37, lines 2-9. *See also* p. 39, lines 9-12.

¹⁰⁸⁷ *See* paragraphs 622-625 below.

¹⁰⁸⁸ V45-0002: T-248, p. 14, lines 3-19.

¹⁰⁸⁹ V45-0002: T-248, p. 14, line 20 – p. 15, line 5. *See also* p. 16, lines 18-20 where the witness said that he only had one interview.

¹⁰⁹⁰ V45-0002: T-248, p. 16, line 25 – p. 17, line 13.

¹⁰⁹¹ V45-0002: T-248, p. 17, lines 15-25.

¹⁰⁹² V45-0002: T-248, p. 13, lines 18-21, p. 18, lines 1-9 *referring to* Screenshot, CAR-D29-0016-0123.

¹⁰⁹³ V45-0002: T-248, p. 18, lines 13-16.

after his stay in [REDACTED], he stayed there with [REDACTED], whose name and neighbourhood he did not remember.¹⁰⁹⁴ Before going to [REDACTED], the training, according to V45-0002, took place in a school and he agreed that they spent the night in the school in the same building; he did not remember the number of participants in the training.¹⁰⁹⁵

597. On this basis, the Chamber considers there to be doubts as to whether V45-0002 in fact participated in any programme of the ESF of relevance to the case at hand.
598. Bearing in mind the above, and having regard to the totality of his evidence, in particular, the inconsistencies in his account concerning his experience in the Anti-Balaka and the evidence received in relation to his identity, the Chamber finds V45-0002's account concerning his membership as an alleged 'child soldier' in the Anti-Balaka not credible.
599. In arriving at this conclusion, the Chamber was not persuaded by the CLRV1's submissions concerning V45-0002's credibility.¹⁰⁹⁶ Similar to the case of V45-0001, the Chamber also noted the CLRV2's submissions that inconsistencies between a witness statement and a victim application should be attributed less weight than to inconsistencies with a formal witness statement.¹⁰⁹⁷ However, in this specific instance, for the reasons stated above concerning the challenges to his identity and in light of the evidence provided by him, the Chamber could not consider V45-0002's evidence to have any probative value whatsoever.
600. Accordingly, the Chamber finds V45-0002 wholly unreliable and has not relied on V45-0002 for the purposes of assessing any factual allegations under Count 29, or in relation to other charges.

¹⁰⁹⁴ V45-0002: T-248, p. 18, line 17 – p. 19, line 6.

¹⁰⁹⁵ V45-0002: T-248, p. 19, line 23 – p. 20, line 17.

¹⁰⁹⁶ See CLRV1 Closing Brief, ICC-01/14-01/18-2735-Conf, paras 189-197, 224-237.

¹⁰⁹⁷ See also [CLRV2 Closing Brief](#), ICC-01/14-01/18-2734-Red, paras 60-64.

601. The Chamber notes the Yekatom Defence's allegations concerning the collusion that V45-0002 may have been a part of.¹⁰⁹⁸ Having regard to its approach concerning V45-0001 as stated above,¹⁰⁹⁹ the Chamber does not consider it necessary to engage with these allegations.

v. P-1974

602. P-1974, a [REDACTED] ESF, testified with in-court protective measures.¹¹⁰⁰ His prior recorded testimony was introduced pursuant to Rule 68(3) of the Rules.¹¹⁰¹

603. P-1974 explained the purpose and ambit of the ESF programme. P-1974 said that ESF was operating from Bangui and had field staff in other places, including in Mbaïki.¹¹⁰² According to P-1974, one of the main objectives of ESF was to 'remove children from armed groups in the [CAR], including the Anti-Balaka and Seleka, as part of the ESF's mandate to protect children's rights'.¹¹⁰³ P-1974 described how P-2018, [REDACTED], reported to [REDACTED] about the presence of children in the Anti-Balaka movement in the Ombella-M'Poko and Lobaye prefectures that were under Mr Yekatom's control.¹¹⁰⁴

604. P-1974 further explained, *inter alia*, the collaboration between UNICEF and ESF on the demobilisation of children within Anti-Balaka groups.¹¹⁰⁵ P-1974 testified about the work involved in carrying out the ESF demobilisation ceremony in Pissa on 4 August 2014 and the ceremony in Mbaïki on 5 August 2014.¹¹⁰⁶ P-1974 stated that [REDACTED] interviewed some of the children that participated in the ESF programme.¹¹⁰⁷ The witness also explained

¹⁰⁹⁸ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 55-71.

¹⁰⁹⁹ See paragraphs 574-575 above.

¹¹⁰⁰ P-1974: T-227; T-228; T-229; [Decision on In-Court Protective Measures](#), ICC-01/14-01/18-906-Red, paras 72-73, p. 41.

¹¹⁰¹ P-1974 First Statement, CAR-OTP-2068-0222; P-1974 Translation, CAR-OTP-2107-1810; P-1974 Second Statement, CAR-OTP-2122-8673; P-1194 Translation CAR-OTP-2122-9059; P-1974 Corrections, CAR-OTP-00001447; and its associated items CAR-OTP-2128-1372; CAR-OTP-2068-0586; CAR-OTP-2068-0558; CAR-OTP-2068-0568; CAR-OTP-2128-1373; Twenty-First Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies under Rule 68(3) of the Rules concerning Witness P-1974, 5 April 2023, ICC-01/14-01/18-1829-Conf (public redacted version notified the same day, [ICC-01/14-01/18-1829-Red](#)); P-1974: T-227, p. 7, lines 10-14.

¹¹⁰² P-1974 First Statement, CAR-OTP-2068-0222-R05, at 0225, para. 15, at 0225-26, para. 20.

¹¹⁰³ P-1974 First Statement, CAR-OTP-2068-0222-R05, at 0225, para. 17.

¹¹⁰⁴ P-1974 First Statement, CAR-OTP-2068-0222-R05, at 0225-26, paras 20-23.

¹¹⁰⁵ P-1974: T-227, p. 10, line 7 – p. 14, line 7.

¹¹⁰⁶ P-1974 First Statement, CAR-OTP-2068-0222-R05, at 0229-31, paras 42-56.

¹¹⁰⁷ P-1974 First Statement, CAR-OTP-2068-0222-R05, at 0231, para. 60.

that the ESF database in the Mbaïki office contained all information concerning the children retrieved from Mr Yekatom, and that the ESF's office in Mbaïki was broken into and lost a large number of original documents concerning ESF's missions to Mbaïki and Pissa.¹¹⁰⁸

605. In addition to this, P-1974 stated that he himself saw children within the Anti-Balaka at the Sekia and Pissa checkpoints.¹¹⁰⁹

606. The Chamber notes the Yekatom Defence's submissions concerning the irregularities in the ESF programme and P-1974's involvement in the same.¹¹¹⁰ The Yekatom Defence argues that P-1974 and P-2018 'concocted' the ESF programme, involving 'false child soldiers', with the goal of benefiting from international aid funds for personal and professional purposes.¹¹¹¹ It submits that there was no methodology followed by ESF to select the participants and the resulting ESF documents are fraudulent.¹¹¹² In this respect, the Yekatom Defence also raised a number of arguments on the fabrication of evidence that concern, *inter alia*, persons that the Prosecution did not call as witnesses.¹¹¹³

607. As set out below, in assessing P-1974's credibility, the Chamber has regard to his evidence concerning the ESF programme, the documents [REDACTED] purportedly authored, and the other witnesses who testified.

608. The evidence suggests that there were indeed procedural irregularities in the manner in which the ESF programme was launched. Alexandre Kouroupe-Awo, the prefect of the Lobaye prefecture at the time, when asked about ESF, confirmed that he learned that ESF had received funding but did not know where it came from.¹¹¹⁴ Alexandre Kouroupe-Awo said that the terms of reference of the ESF programme were not filed with him and that ESF was not able to provide all the required documentation – 'no reference document and no

¹¹⁰⁸ P-1974 First Statement, CAR-OTP-2068-0222-R05, at 0231, para. 61, at 0233, paras 70-72.

¹¹⁰⁹ P-1974 First Statement, CAR-OTP-2068-0222-R05, at 0227-28, paras 35-36. This included six children in Sekia with whom he had a 'general conversation', estimating their ages to be '10-18 years old' with some wearing FACA uniforms, and seven children in Pissa of unknown age, some dressed in FACA uniform with whom he did not talk.

¹¹¹⁰ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 55-57, 61, 557-577.

¹¹¹¹ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 57.

¹¹¹² Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 561-577.

¹¹¹³ See for example Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 55-67 referring *inter alia* to P-2620, P-2511, P-2582.

¹¹¹⁴ P-1813: T-180, p. 54, lines 1-11; T-181, p. 17, lines 13-17.

report’ – that the authorities would have needed to know the objective of the project.¹¹¹⁵ The witness also said that they ‘did not insist’ on these procedures because he personally wanted to satisfy the needs of the population and help the community.¹¹¹⁶

609. The Chamber now turns to the reports that were generated as part of the ESF programme and whether they have any bearing on P-1974’s credibility, [REDACTED]. The Yekatom Defence argues that ESF reports are not reliable and contain a number of inconsistencies and false information, and that neither P-1974 nor P-2018 were in a position to assert the accuracy of the information contained therein.¹¹¹⁷
610. Having regard to the content of the two ESF reports,¹¹¹⁸ the Chamber finds that none of them can be relied upon to establish the number of children that were retrieved from armed groups in the various locations, or to assert that these children would have been under the age of 15 years.¹¹¹⁹ While the reports concern the ESF programme in 2014, P-1974 [REDACTED] at the time denied drafting them.¹¹²⁰
611. The Chamber further notes that the ESF programme involved family members of [REDACTED] and [REDACTED]. For example, P-2018 agreed that [REDACTED] worked with ESF, although not within the framework of the ESF programme but for an

¹¹¹⁵ P-1813: T-180, p. 54, lines 1-11, p. 55, lines 1-8; T-181, p. 17, line 13 – p. 18, line 9.

¹¹¹⁶ P-1813: T-181, p. 17, line 18 – p. 18, line 9.

¹¹¹⁷ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 564.

¹¹¹⁸ ESF Mission Report, CAR-OTP-2068-0558; Final ESF Report, CAR-OTP-2068-0568. *See also* P-2018: T-226, p. 25, line 9 – p. 26, line 11.

¹¹¹⁹ Concerning Final ESF Report, CAR-OTP-2068-0568, *see* P-2018: T-223, p. 16, line 2 – p. 18, line 10; P-2082: T-219, p. 5, line 10 – p. 8, line 20. Concerning ESF Mission Report, CAR-OTP-2068-0558, *see* P-2018: T-223, p. 5, line 6 – p. 7, line 7. The Prosecution relies, *inter alia*, on Final ESF Report, CAR-OTP-2068-0568, to show that while the ESF programme was aimed at those below 18 years, multiple sources of evidence confirm that children below age 15 were among those demobilised from Mr Yekatom’s group. *See* Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, para. 764. The Prosecution relies on the ESF Mission Report, CAR-OTP-2068-0558, to, *inter alia*, assert that children under 15 years were in Mr Yekatom’s group in Pissa and along the Pissa-Mongoumba axis. *See* Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, para. 507.

¹¹²⁰ P-1974 had stated that he was the author of the ESF Mission Report and the Final ESF Report (*see* P-1974 First Statement, CAR-OTP-2068-0222-R05, 0231-32, 0234, paras 56, 65). The Chamber notes that the ESF Mission Report is signed by P-1974 (*see* ESF Mission Report, CAR-OTP-2068-0558, at 0567). During his testimony, P-1974 denied that he drafted the Final ESF Report (*see* P-1974: T-227, p. 54, line 16 – p. 55, line 17). P-1974 said that P-2018 authored the ESF Mission Report and Final ESF Report, and that he himself only finalised the latter before it was sent out (*see* P-1974: T-227, p. 54, line 12 – p. 55, line 9, p. 81, lines 15-22). The Chamber further notes that P-2018 recognised himself as one of the drafters of the Final ESF Report (*see* P-2018: T-223, p. 16, lines 9-13).

[REDACTED] in another prefecture, not working with [REDACTED].¹¹²¹ P-2018 agreed that [REDACTED] was one of the [REDACTED].¹¹²² P-2018 further agreed that [REDACTED] was an [REDACTED] in the ESF programme.¹¹²³ P-2476 himself is a relative of [REDACTED].¹¹²⁴

612. In this respect, the Chamber has considered the evidence by the prefect of the Lobaye prefecture at the time, Alexandre Kouroupe-Awo, who indicated that he received complaints that ‘some NGO heads’, including ESF, were named as being those who tried to play in favour of some people and to the detriment of the others.¹¹²⁵
613. Nonetheless, the Chamber finds that these irregularities do not discredit the entirety of P-1974’s testimony. While certain individuals may have tried to benefit from the ESF programme through their proximity with P-1974, there is insufficient evidence to conclude that this was a deliberate scheme, rendering P-1974’s testimony unreliable as a whole.
614. Having assessed P-1974’s testimony overall, in light of the Yekatom Defence’s allegations, the Chamber finds that P-1974 is, nonetheless, generally credible insofar as the general administration and purpose of ESF is concerned. However, noting his limited [REDACTED] role over the ESF programme, the Chamber notes that P-1974 was unable to provide any first-hand information on the specific children that participated in it, their ages, let alone their membership or role within Mr Yekatom’s group. In light of this, the Chamber cannot rely on his account to establish the ages of the children that participated in the ESF programme. As regards his claims of seeing children at the Pissa and Sekia checkpoints, the Chamber has assessed them in light of other evidence received before it in its evidentiary analysis below.

¹¹²¹ P-2018: T-225, p. 33, lines 5-13. P-2476 recalled Raymond Kakpayen and said that the latter did not work for ESF but was a trainer in the ESF programme (see P-2476: T-214, p. 27, lines 13-15).

¹¹²² P-2018: T-225, p. 33, lines 1-4.

¹¹²³ P-2018: T-225, p. 34, lines 4-10.

¹¹²⁴ P-1974: T-227, p. 76, line 21 – p. 78, line 1.

¹¹²⁵ P-1813: T-181, p. 49, line 17 – p. 50, line 15.

vi. P-2018

615. P-2018, [REDACTED], testified fully live¹¹²⁶ with in-court protective measures.¹¹²⁷ P-2018 carried out [REDACTED].¹¹²⁸ P-2018 personally met with UNICEF in Bangui,¹¹²⁹ and undertook a mission in Pissa where he allegedly interacted with Anti-Balaka leaders, including [REDACTED] and Mr Yekatom, in order to identify alleged ‘child soldiers’ for demobilisation.¹¹³⁰ [REDACTED],¹¹³¹ and provided the information on the basis of which [REDACTED] were prepared.¹¹³²
616. The Yekatom Defence argues that P-2018 was part of the ESF ‘fraudulent scheme’, raising a number of arguments in relation to P-2018’s actions and documents [REDACTED].¹¹³³
617. The Chamber first turns to P-2018’s testimony concerning how children were identified and how their ages were verified for the purposes of the ESF programme. According to P-2018, children under the ages of ‘18 years’ within Anti-Balaka groups were identified during ‘identification missions’ by [REDACTED] and Anti-Balaka chiefs purportedly acting on instructions by Mr Yekatom.¹¹³⁴ P-2018 testified that identification forms drafted by UNICEF were filled out by the Anti-Balaka chiefs.¹¹³⁵ He also testified that within their

¹¹²⁶ P-2018: T-222; T-223; T-224; T-225; T-226. *See also* Twentieth Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies under Rule 68(3) of the Rules concerning Witnesses P-1838 and P-2018, 3 March 2023, ICC-01/14-01/18-1783-Conf, paras 24-26.

¹¹²⁷ [Decision on In-Court Protective Measures](#), ICC-01/14-01/18-906-Red, paras 71, 73, p. 41.

¹¹²⁸ P-2018: T-223, p. 47, lines 6-25.

¹¹²⁹ P-2018: T-222, p. 27, lines 11-19.

¹¹³⁰ P-2018: T-222, p. 27, line 20 – p. 28, line 2, p. 29, lines 1-12, p. 30, lines 3-8, p. 31, line 19 – p. 32, line 20, p. 33, line 11 – p. 34, line 20, p. 35, lines 2-5.

¹¹³¹ ESF List, CAR-OTP-2071-0279.

¹¹³² [REDACTED] drafted First ESF Report, CAR-OTP-2071-0285, cited by the Prosecution to show that the ESF programme was pre-financed to retrieve children from the Anti-Balaka (*see* Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, para. 777). [REDACTED], who appears to have signed the First ESF Report together with [REDACTED], suggested that she did not fully read the report at the time or verify the information contained in it (*see* P-2082: T-219, p. 11, line 22 – p. 12, line 3, p. 12, line 13 – p. 14, line 2. *See also* p. 14, line 10 – p. 15, line 7).

¹¹³³ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 557-577 *referring to, inter alia*, ESF List, CAR-OTP-2071-0279; Notes, CAR-OTP-2071-0302-R01; List, CAR-OTP-2115-0369-R05. *See also* Notes, CAR-OTP-2071-0309-R02; CAR-OTP-2071-0282. From the documents authored by [REDACTED], the Prosecution relies on the ESF List to show that 60 children participated in the ESF programme and were part of Mr Yekatom’s group; it relies on P-2018’s handwritten notes CAR-OTP-2071-0302-R01; CAR-OTP-2071-0309-R02; and CAR-OTP-2071-0282 to show meetings and contact between ESF officials and Mr Yekatom’s group (*see* Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, paras 764, 768, 779-780, 790, 797, 812). It does not rely on List, CAR-OTP-2115-0369-R05.

¹¹³⁴ P-2018: T-222, p. 27, line 20 – p. 30, line 18.

¹¹³⁵ P-2018: T-222, p. 38, lines 15 – p. 39, line 2. *See also* p. 28, lines 15-26. *See* Form, CAR-OTP-2071-0277.

group, they had a secretary who would go from one locality to the next to help fill out these forms and was in charge of filling out the forms; Mr Yekatom had the secretary do this.¹¹³⁶ The Chamber did not have access to any of the purported filled out identification forms and therefore, no assessment can be carried out on how and whether they were duly filled out. According to P-2018, these forms were submitted to UNICEF where they remain to this day.¹¹³⁷

618. P-2018 further explained that the children thus identified were then ‘verified’ to assess age and membership within the Anti-Balaka.¹¹³⁸ P-2018 could not remember how many interviews were carried out each day by a verifier on average.¹¹³⁹ P-2018 testified that during the verification, it was just the child and the person doing the verification, the Anti-Balaka ‘commander’ was not present.¹¹⁴⁰
619. P-2018 provided other details of the verification process,¹¹⁴¹ and said that the verifiers would ask the ages of the children.¹¹⁴² According to the witness, they were unable to retrieve birth certificates of the children during the verification process; while some children would give them some papers and maybe a baptism certificate, birth certificate or other identity papers, the majority did not have any and it was not straightforward to get a birth certificate from a child.¹¹⁴³
620. P-2018, asked if the verifiers were in a position to check the information provided by the children, said that 2014 was a very chaotic period and that there was not enough time to carry out checks with the families and communities.¹¹⁴⁴ P-2018 said that, for the verification missions, the children would provide information to the verifiers, and these children would ‘make mistakes’.¹¹⁴⁵ In any event, copies of these verification forms are not available for

¹¹³⁶ P-2018: T-222, p. 39, line 23 – p. 40, line 5.

¹¹³⁷ P-2018: T-222, p. 40, lines 6-19.

¹¹³⁸ P-2018: T-222, p. 54, line 12 – p. 55, line 25.

¹¹³⁹ P-2018: T-224, p. 5, lines 19-22.

¹¹⁴⁰ P-2018: T-222, p. 46, lines 16-23.

¹¹⁴¹ P-2018: T-222, p. 56, line 2 – p. 57, line 1; T-224, p. 4, lines 10-13; Report, CAR-OTP-2109-0470.

¹¹⁴² P-2018: T-224, p. 5, line 23 – p. 6, line 6.

¹¹⁴³ P-2018: T-224, p. 6, lines 2-6.

¹¹⁴⁴ P-2018: T-226, p. 13, lines 4-22.

¹¹⁴⁵ P-2018: T-226, p. 12, line 17 – p. 13, line 3.

scrutiny by the Chamber because they were stored at the ESF offices in Mbaïki that were looted.¹¹⁴⁶

621. On this basis, the Chamber finds that a mere participation in the ESF programme does not show that a person was necessarily under 15 years of age at the relevant time. The Chamber notes P-2018's claims that the initial identification had been done by Mr Yekatom's subordinates,¹¹⁴⁷ who themselves worked with these children and were familiar with them. However, this does not allay the Chamber's concerns. The identification and verification process was not carried out in a way that the Chamber can rely on it, as such and by itself, for entering findings beyond reasonable doubt.
622. Having regard to this, the Chamber now addresses the reliability of the ESF List.¹¹⁴⁸ P-2018 recognised the ESF List and described it as the list of 60 children 'for the Mbaïki centre',¹¹⁴⁹ including only the children that were 'identified first by the ComZones' of the Anti-Balaka and then verified.¹¹⁵⁰ P-2018 said that the list was a draft drawn up by [REDACTED] on the basis of the information the children provided to [REDACTED] when these children arrived at the Mbaïki CTO.¹¹⁵¹ P-2018 said that all of the information for the ESF List came from the children themselves; he said that it was 'teamwork', [REDACTED] was 'just supervising' and next to [REDACTED] were people who had the information.¹¹⁵²
623. While P-2018 maintained that these children had been previously verified by UNICEF,¹¹⁵³ and said that these verification missions were also operating on the information provided by

¹¹⁴⁶ P-2018: T-222, p. 57, lines 16 – p. 59, line 15; P-1974: T-227, p. 66, line 6 – p. 67, line 7, p. 82, line 23 – p. 84, line 14. *See also* Form, CAR-OTP-2071-0278.

¹¹⁴⁷ P-2018: T-222, p. 49, line 25 – p. 50, line 18, p. 67, line 12 – p. 68, line 19.

¹¹⁴⁸ ESF List, CAR-OTP-2071-0279. The Chamber notes that the Prosecution does not rely on List, CAR-OTP-2115-0369-R05. Having regard to [REDACTED] how this list was created and provided to the Prosecution, the Chamber finds that the data contained therein is not reliable. [REDACTED] provided the Prosecution with the electronic data concerning the children that were demobilised or with whom ESF dealt with in the form of an excel table. This table was populated by an unidentified 'database manager' who took the data from the identification sheets compiling the information received from the children. *See* P-2018: T-223, p. 18, line 22 – p. 19, line 25; T-225, p. 4, lines 8-24; T-226, p. 54, line 6 – p. 55, line 18. *See also* Report, CAR-OTP-2130-3274-R01.

¹¹⁴⁹ P-2018: T-222, p. 88, lines 1-12.

¹¹⁵⁰ P-2018: T-223, p. 7, lines 8-12.

¹¹⁵¹ P-2018: T-225, p. 9, line 23 – p. 10, line 8, p. 19, line 12 – p. 20, line 2; T-226, p. 6, line 24 – p. 8, line 9.

¹¹⁵² P-2018: T-225, p. 55, line 17 – p. 56, line 3.

¹¹⁵³ P-2018: T-225, p. 20, lines 3-10.

the children themselves; they could not review any birth documentation or verify information from the people in the community, as discussed above.

624. The Chamber has individually assessed the entries in the ESF List and finds that there are several examples where it cannot conclude as to whether the individual in question was under 15 years of age, as claimed in the list.¹¹⁵⁴ There are also several examples of individuals between 15 and 18 years of age where the evidence suggests the age to be higher than that written in the ESF List.¹¹⁵⁵ In the view of the majority, Judge Chung dissenting, the cumulative conditions of age and membership are not met concerning any of the names listed in the ESF List. Judge Chung noted that P-2476 is also mentioned in the ESF List but did not rely on it to enter conclusions on his age or membership in the Anti-Balaka.¹¹⁵⁶
625. On this basis, the Chamber finds that it cannot rely on the ESF List alone to reach any conclusions on the existence of children under the age of 15 within Mr Yekatom's group, nor can it be relied upon to establish Mr Yekatom's knowledge thereof. This reflected negatively on P-2018's reliability as regards the ages of the children that participated in the ESF programme.
626. The Chamber finds that the same concerns apply to P-2018's handwritten notes claiming to contain a list of children.¹¹⁵⁷
627. The Chamber further notes that P-2018, when confronted with the age-related documents of these individuals on the ESF List, maintained that everybody on this list was below 18 years,

¹¹⁵⁴ See e.g. D29-6037 Statement, CAR-D29-0009-0459-R01, at 0462-63, paras 15, 17, 21-22, 26-27, 31; Birth certificates, CAR-D29-0013-0081; CAR-D29-0013-0064; CAR-D29-0013-0133; CAR-D29-0013-0127; CAR-D29-0013-0080; CAR-D29-0013-0087; Baptism certificates, CAR-D29-0013-0085; CAR-D29-0013-0099; List, CAR-D29-0014-0062; Identifying document, CAR-D29-0015-0031. D29-6013 stated that she suggested P-2511 to register with the ESF in Mbaïki; he stayed at her house for the duration of the ESF training – he would leave in the morning for the training and then come back in the evening; she did not know whether [REDACTED] received money from ESF (see D29-6013 Statement, CAR-D29-0009-0324-R01, at 0327, paras 26-28; see also at 0326, para. 21, at 0328, para. 34 referring to Photograph, CAR-OTP-00000828).

¹¹⁵⁵ Certificates, CAR-D29-0013-0091; CAR-D29-0013-0082; CAR-D29-0013-0079; CAR-D29-0013-0094; CAR-D29-0013-0128; CAR-D29-0013-0049; Identifying documents, CAR-D29-0015-0021; CAR-D29-0015-0025; D29-6037 Statement, CAR-D29-0009-0459-R01, at 0463, para. 30.

¹¹⁵⁶ See paragraphs 3717-3733, 3744, 3751 below.

¹¹⁵⁷ Notes, CAR-OTP-2071-0309-R02. P-2018, shown Notes, CAR-OTP-2071-0309 in court, said that [REDACTED] prepared this list as a 'draft copy' of the names of child soldiers and contains the same names seen among the 60 children that were taken off to the Mbaïki site (see P-2018: T-223, p. 3, lines 11-23).

judging by their physical frame.¹¹⁵⁸ P-2018 said that perhaps the children lied to take advantage of the programme, but he was not sure because physically looking at the children, they seemed to all be under 18 years.¹¹⁵⁹

628. On this basis, the Chamber has serious doubts as to P-2018's own assessment of the ages of the children on the ESF List and cannot solely rely on P-2018 or the documents prepared by [REDACTED] to enter any conclusions as to their ages. In this respect, the Chamber further recalls with emphasis that the ESF programme was intended for children under the ages of 18 years. In the view of the Chamber, this age bracket was forensically irrelevant in the context of this case, and thus the Prosecution's reliance on P-2018's testimony and the ESF programme is largely irrelevant for purposes of discharging its burden of proof.

629. Turning now to the reliability of P-2018's handwritten notes of meetings,¹¹⁶⁰ the Chamber notes that P-2018 also claimed to have met Mr Yekatom on two occasions, first in Mbaïki and then afterwards in Pissa.¹¹⁶¹ As regards the first meeting, P-2018 said that he told Mr Yekatom 'everything regarding the presence of the children', including 'about the different age ranges',¹¹⁶² and discussed with him the definition of a child and what the UNICEF considers.¹¹⁶³ P-2018 mentioned that Mr Yekatom himself confirmed that indeed there were children within the group and that those children played different roles; Mr Yekatom also said that he would proceed with the liberation or release of those children.¹¹⁶⁴

630. P-2018 appears to be sole witness on Mr Yekatom's presence at these meeting, one of which he did not mention during his interview with the Prosecution,¹¹⁶⁵ namely the second meeting

¹¹⁵⁸ P-2018: T-226, p. 20, lines 5-12.

¹¹⁵⁹ P-2018: T-224, p. 84, line 21 – p. 85, line 10. P-2018, when asked in reference to another witness's testimony about older children being present in the programme, said all of the people who were older were sent to the DDR programme for adults which was part of the government; the ESF programme was for children under 18 and he saw these children with his very own eyes (see P-2018: T-224, p. 85, lines 12-25).

¹¹⁶⁰ Notes, CAR-OTP-2071-0302-R01; CAR-OTP-2071-0309-R02; CAR-OTP-2071-0282.

¹¹⁶¹ P-2018: T-222, p. 33, lines 11-22.

¹¹⁶² P-2018: T-222, p. 36, lines 19-22.

¹¹⁶³ P-2018: T-222, p. 35, lines 16-22.

¹¹⁶⁴ P-2018: T-222, p. 36, line 23 – p. 37, line 1.

¹¹⁶⁵ The content of these meetings is based solely on P-2018's testimony and his handwritten notes, CAR-OTP-2071-0282 and CAR-OTP-2071-0302-R01.

with Mr Yekatom on [REDACTED] 2014 at the Pissa [REDACTED],¹¹⁶⁶ where [REDACTED] and [REDACTED] were also present.¹¹⁶⁷

631. P-2018, when asked, agreed that among the children that appeared in this meeting, he saw children that corresponded to the age range indicated in his notes, *i.e.* between 12 and 18 years,¹¹⁶⁸ and that he saw children, though he could not say how many of those were estimated to be 12 years; according to his impression based on their size and seeing ‘small children’ when looking at them.¹¹⁶⁹
632. P-2018 agreed that he met ‘several times’ with [REDACTED], with whom he worked out the details of the identification and verification forms.¹¹⁷⁰ P-2018 agreed that his recollection as regards his meetings with Mr Yekatom was not very precise and said that it was a long time ago.¹¹⁷¹
633. Assessing the limited contents of these meetings as relayed by P-2018, the Chamber is unable to ascertain whether P-2018 necessarily limited the discussions with Mr Yekatom to the existence of children *under* the age of 15 years.¹¹⁷²
634. Further, having regard to the doubts expressed on P-2018’s reliability thus far, the Chamber finds it unsafe to rely on P-2018 and only on his meeting notes to enter conclusions as to Mr Yekatom’s actions.
635. The Chamber has considered information showing that P-2018 was among those affiliated with ESF [REDACTED].¹¹⁷³ P-2018’s testimony indicates that he also [REDACTED].¹¹⁷⁴

¹¹⁶⁶ P-2018: T-222, p. 46, line 25 – p. 48, line 13. *See* Notes, CAR-OTP-2071-0302-R01.

¹¹⁶⁷ P-2018: T-222, p. 51, lines 5-14. P-2018, shown Notes, CAR-OTP-2071-0302-R01, testified that this was his large notepad in which he used to write down what was going on at the meeting; [REDACTED].

¹¹⁶⁸ P-2018: T-222, p. 52, lines 11-14. *See* Notes, CAR-OTP-2071-0302-R01.

¹¹⁶⁹ P-2018: T-222, p. 52, lines 15-22.

¹¹⁷⁰ P-2018: T-223, p. 88, lines 6-9.

¹¹⁷¹ P-2018: T-223, p. 87, line 21 – p. 88, line 5.

¹¹⁷² *See also* paragraphs 3741-3744 below.

¹¹⁷³ Email, CAR-OTP-00001381-R01, at 000001; P-2018: T-226, p. 34, line 25 – p. 35, line 23, p. 37, lines 9-11, p. 38, lines 14-22. *See also* T-225, p. 49, line 10 – p. 50, line 12. [REDACTED]

¹¹⁷⁴ P-2018: T-226, p. 38, line 25 – p. 39, line 8, p. 40, lines 9-21, p. 41, line 12 – p. 42, line 8.

636. The Chamber also notes that P-2018 testified that he had contact with certain individuals mentioned in the ESF List and, when asked, appeared evasive about them.¹¹⁷⁵
637. In addition to this, the Chamber has also considered other minor inconsistencies that emerged in P-2018's account about the ESF programme. For example, P-2018 denied that the children received a sum of money after the ESF programme ended and then said that he did not know if there was any money that was given to each individual child.¹¹⁷⁶ While the Chamber has found P-2475 and P-2476 to be not reliable as further outlined above, with Judge Chung dissenting in respect of P-2476, it notes that both indicated that they were given money at the end of their training.¹¹⁷⁷ D29-6035 stated that at the end of the training, a vehicle came to his house in Bangui and brought the three children related to him with a sum of money for each of them.¹¹⁷⁸ In another example, P-2018 testified not being able to remember the details of the children when confronted with his prior statement in which he talked about them.¹¹⁷⁹
638. Having regard to this, the Chamber finds P-2018 not credible when it comes to assessing the asserted ages of the individuals on the ESF List, specifically when it concerns children under the age of 15 years, and has therefore not solely relied on his testimony in this aspect. The Chamber nonetheless considers P-2018 credible on certain limited aspects concerning the

¹¹⁷⁵ P-2018 said that he had contact with a person who was on the ESF List number [REDACTED], [REDACTED] (see P-2018: T-226, p. 42, line 10 – p. 46, line 4 *referring to* Investigation Report, CAR-OTP-2135-4186-R01). P-2018 said that he had contact with P-2582 and first denied not remembering having interactions with her, including not having contacts with her as [REDACTED], claimed that she appeared to be someone who was 17 years old and recognised her in a photograph (see P-2018: T-226, p. 49, line 18 – p. 51, line 24 *referring to* Identifying document, CAR-D29-0015-0001; Certificate, CAR-D29-0013-0100 (baptism certificate in which she would have been 22 years); the ESF List, CAR-OTP-2071-0279, at number [REDACTED] (stating that she was 17 years old); and Victim application form, CAR-OTP-2135-2405, at 2410 (the identity attestation in her victim application form that suggests that she would have been 13 years old). P-2018 then said that he had met P-2582 in relation to her involvement in the ESF programme as she was a beneficiary but it was a long time ago; he said that once he saw her on Facebook and they said hello and that until now, they never re-established contact; he recognised her in another photograph (see P-2018: T-226, p. 68, lines 8 – p. 69, line 2 *referring to* Screenshot, CAR-D29-0016-0077). When shown Facebook conversations between them, P-2018 said that he was simply asking her to pray for him and 'teasingly asking her' to send him money (see P-2018: T-226, p. 69, line 8 – p. 70, line 25 *referring to* Facebook messages, CAR-D29-0019-0068, CAR-D29-0019-0075, CAR-D29-0019-5963. See also p. 74, line 1 – p. 79, line 13).

¹¹⁷⁶ P-2018: T-225, p. 40, line 22 – p. 41, line 12.

¹¹⁷⁷ [REDACTED]

¹¹⁷⁸ D29-6035 Statement, CAR-D29-0009-0444-R01, at 0447, para. 29.

¹¹⁷⁹ See e.g. P-2018: T-225, p. 51, line 22 – p. 52, line 24 (concerning P-2018's information about P-2511).

ESF programme and has relied on his testimony only when it was corroborated by other evidence on the record.

vii. *P-1813*

639. Alexandre Kouroupe-Awo, who was the prefect of the Lobaye prefecture between May 2013 and September 2015, testified without in-court protective measures,¹¹⁸⁰ with his prior recorded testimony introduced pursuant to Rule 68(3) of the Rules.¹¹⁸¹
640. Alexandre Kouroupe-Awo resided in Mbaïki when Mr Yekatom's group arrived there and also when the ESF programme took place. He provided evidence about, *inter alia*, events that occurred in Mbaïki at the relevant time, including the meeting held at the *St Jeanne d'Arc* Church with Mr Yekatom, the fleeing of Muslims from villages to Mbaïki and therefrom to other locations, Djido Saleh's death, and the ESF programme.
641. In relation to the latter, he was informed by ESF that they had a programme aimed at taking back 'child soldiers from the Anti-Balaka', and on 5 August 2014 attended in his capacity as prefect a ceremony in Mbaïki where the Anti-Balaka handed over 'child soldiers' to ESF, organised by ESF in collaboration with the Anti-Balaka.¹¹⁸² The witness said that he was not involved in the negotiations between the Anti-Balaka and ESF; however, he was informed on a regular basis about the project by ESF: he was informed at the initial stages that they had secured funding for the project; he would have been updated by the man that he knew to be the director of the NGO both by telephone and also in person when the director was in Mbaïki.¹¹⁸³ He said that he did not work with any other NGO regarding child soldiers apart from ESF.¹¹⁸⁴

¹¹⁸⁰ P-1813: T-180; T-181; T-182.

¹¹⁸¹ P-1813 First Statement, CAR-OTP-2069-0035-R02; P-1813 Translation, CAR-OTP-2118-0929-R03; P-1813 Second Statement, CAR-OTP-2083-0279-R01; P-1813 Translation, CAR-OTP-2107-6350-R01; Corrected version of 'Eighteenth Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimony under Rule 68(3) of the Rules concerning Witnesses P-1858, P-1823, P-1819, P-1813, P-2476, P-1786, P-2587 and P-0487', 17 November 2022, ICC-01/14-01/18-1661-Conf-Corr, para. 54, p. 33; P-1813: T-180, p. 5, lines 3-5.

¹¹⁸² P-1813 Second Statement, CAR-OTP-2083-0279-R01, at 0281, para. 12.

¹¹⁸³ P-1813 Second Statement, CAR-OTP-2083-0279-R01, at 0282, para. 18.

¹¹⁸⁴ P-1813 Second Statement, CAR-OTP-2083-0279-R01, at 0282, para. 20.

642. The Prosecution and the Yekatom Defence rely on parts of Alexandre Kouroupe-Awo's evidence in support of their arguments concerning Count 29 and the events concerning the PK9-Mbaïki axis.¹¹⁸⁵
643. The Chamber found Alexandre Kouroupe-Awo's testimony generally credible. Due to his position at the time, the witness was knowledgeable about the duties and responsibilities of the civil status authorities in Pissa and was able to provide the contextual information needed to appreciate how these authorities were functioning during the relevant period. He personally interacted with Mr Yekatom during this time and had a lot of direct knowledge about the events in Pissa and Mbaïki in early 2014. The witness appeared forthcoming, and generally consistent; he was able to provide the sources of his knowledge, and clarified when he did not know.¹¹⁸⁶
644. As regards Count 29, in particular, Alexandre Kouroupe-Awo's testimony appeared measured and balanced when it concerned his responses to questioning concerning the ESF programme. He also provided informative comments on certain birth related documents, and explained the principles behind the application of certain stamps, seals and handwriting used on birth related documents.¹¹⁸⁷
645. At times, Alexandre Kouroupe-Awo claimed to have forgotten certain details of the ceremony organised by the ESF which were of interest to the Chamber, but this did not discredit the remainder of his testimony.¹¹⁸⁸ Given the passage of time and the requirements of his job needing him to interact with many NGOs and civil servants, these lapses of memory were understandable.
646. Having assessed Alexandre Kouroupe-Awo's evidence overall, the Chamber finds him generally credible. In relation to Count 29, the Chamber notes that the witness did not attend

¹¹⁸⁵ See e.g. Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, paras 491, 506-507, 701, 705-706, 708-710, 713-714, 719, 723-724, 730, 733, 735, 739, 750, 754, 762, 804, 810; Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 350, 491, 496, 507, 517-519.

¹¹⁸⁶ See e.g. P-1813: T-180, p. 15, line 24 – p. 17, line 1, p. 37, line 17 – p. 38, line 8, p. 38, line 11 – p. 39, line 6, p. 54, lines 1-11; T-181, p. 19, lines 18-24, p. 33, line 20 – p. 34, line 1, p. 43, lines 4-14.

¹¹⁸⁷ See e.g. P-1813: T-181, p. 21, line 1 – p. 24, line 19, p. 26, line 15 – p. 27, line 9, p. 28, line 6 – p. 29, line 1 referring to Certificate, CAR-D29-0013-0140, p. 31, line 16 – p. 33, line 8, p. 35, line 15 – p. 36, line 13; p. 37, lines 21-25.

¹¹⁸⁸ See e.g. P-1813: T-181, p. 17, line 9 – p. 18, line 17, p. 19, lines 6-17.

the ESF ceremony and received no documentation concerning the ESF programme.¹¹⁸⁹ Further, while the witness saw ‘children’ among the Anti-Balaka elements at the Anti-Balaka barriers, he did not have direct contact with any of these children,¹¹⁹⁰ and, in the view of the Chamber, did not assess their ages.

647. In relation to his testimony on events concerning the PK9-Mbaïki axis, the Chamber has assessed it holistically, in light of the other evidence received before it, in its evidentiary analysis below.

viii. P-2082

648. P-2082, [REDACTED], testified with in-court protective measures.¹¹⁹¹ Her prior recorded testimony was introduced pursuant to Rule 68(3) of the Rules.¹¹⁹²

649. In [REDACTED], she took part in the demobilisation meeting of ‘child soldiers’ allegedly enrolled in Mr Yekatom’s group, taking place in Pissa in August 2014.¹¹⁹³ On this occasion, she met Mr Yekatom during a meeting where an agreement was signed to hand the children over.¹¹⁹⁴ She also participated in a ceremony taking place at the social centre in Mbaïki, and interacted with children in Mbaïki that were participating in the ESF program for demobilised children.¹¹⁹⁵

650. All parties rely on P-2082 in support of their arguments.¹¹⁹⁶ Both the Prosecution and the Yekatom Defence rely on her testimony concerning the estimates she provided as to the ages

¹¹⁸⁹ P-1813 Second Statement, CAR-OTP-2083-0279-R01, at 0282, paras 16-17.

¹¹⁹⁰ P-1813 Second Statement, CAR-OTP-2083-0279-R01, at 0283, paras 21-24.

¹¹⁹¹ P-2082: T-217; T-218; T-219; Decision on the Prosecution Request for Reconsideration regarding In-Court Protective Measures for P-2082, 3 March 2023, ICC-01/14-01/18-1779-Conf (public redacted version notified the same day, [ICC-01/14-01/18-1779-Red](#)).

¹¹⁹² P-2082 Statement, CAR-OTP-2109-0452; P-2082 Translation, CAR-OTP-2122-4558; P-2082 Corrections, CAR-OTP-00001220; and its associated items CAR-OTP-2109-0470; CAR-OTP-2109-0473; CAR-OTP-2071-0308; Nineteenth Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies under Rule 68(3) of the Rules concerning Witnesses P-1647, P-2083, P-2082, P-2625, P-2582, P-1442 and P-1558, 21 December 2022, ICC-01/14-01/18-1712-Conf, para. 43, p. 18; P-2082: T-217, p. 7, lines 9-13.

¹¹⁹³ P-2082 Statement, CAR-OTP-2109-0452-R02, at 0459-61, paras 36-41.

¹¹⁹⁴ P-2082 Statement, CAR-OTP-2109-0452-R02, at 0459-60, paras 36-37.

¹¹⁹⁵ P-2082 Statement, CAR-OTP-2109-0452-R02, at 0460-63, paras 40-53, at 0465, paras 64-69.

¹¹⁹⁶ See e.g. Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, paras 749-750, 755-756, 766-767, 773, 781, 784, 790; Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 554, 560, 562, 564, 580; Ngaissona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, n. 858.

of the children that participated in the ESF programme and whom she personally interacted with during the ceremony in August 2014.¹¹⁹⁷ They also rely on her testimony to make arguments about Mr Yekatom's awareness of the presence of children among his group.¹¹⁹⁸

651. The Chamber notes that P-2082 was forthcoming in her responses and able to clearly identify the basis of her knowledge. For example, she was able to explain the foundation of her estimates of the ages of children that she saw participating in the ESF programme as well as those that she saw at checkpoints.¹¹⁹⁹ She interacted with Mr Yekatom directly on a limited occasion and seemed to have provided an unbiased account of this meeting.¹²⁰⁰ She seemed able to limit herself to what she knew and explained clearly what she did not know.¹²⁰¹

652. Having regard to the above, the Chamber concludes that P-2082's testimony is generally credible.

ix. P-2084

653. Roger Okoa-Penguia, the mayor of Pissa at the relevant time, testified live without in-court protective measures.¹²⁰² His prior recorded testimony was introduced pursuant to Rule 68(3) of the Rules.¹²⁰³ He frequently travelled between Bangui, Batalimo, Pissa and Mbaïki, including through the Anti-Balaka barriers.¹²⁰⁴ He also saw alleged 'child soldiers' in the towns of Pissa and Mbaïki, attended a ceremony with demobilised children in Pissa in 2014, and was in contact with ESF.¹²⁰⁵ He testified on the administrative procedures needed for

¹¹⁹⁷ See e.g. Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, paras 749-750, Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras. 562.

¹¹⁹⁸ See e.g. Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, paras 766-767; Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 580.

¹¹⁹⁹ P-2082 Statement, CAR-OTP-2109-0452-R02, at 0459, para. 36, 0461, para. 43; P-2082: T-217, p. 51, lines 19 – p. 53, line 3.

¹²⁰⁰ P-2082: T-218, p. 73, lines 8-22; T-219, p. 17, line 22 – p. 19, line 1.

¹²⁰¹ P-2082: T-217, p. 52, line 19 – p. 53, line 3, p. 53, lines 8-16; T-218, p. 10, lines 4-13, p. 29, line 13 – p. 30, line 2, p. 45, line 16 – p. 47, line 4; T-219, p. 20, line 21 – p. 22, line 1.

¹²⁰² P-2084: T-233; T-234; T-235.

¹²⁰³ P-2084 Statement, CAR-OTP-2094-0968-R02; P-2084 Translation, CAR-OTP-2122-4905-R01; Twenty-Second Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies under Rule 68(3) of the Rules concerning Witnesses P-2084, P-2620, P-2041 and P-2442, 3 May 2023, ICC-01/14-01/18-1858-Conf (public redacted version notified the same day, [ICC-01/14-01/18-1858-Red](#)), para. 22, p. 13; P-2084: T-233, p. 7, lines 19-21.

¹²⁰⁴ P-2084 Statement, CAR-OTP-2094-0968-R02, at 0983, para. 78.

¹²⁰⁵ P-2084 Statement, CAR-OTP-2094-0968-R02, at 0985, para. 87, at 0986, paras 90-91.

obtaining birth certificates and the local authorities at the municipal level and commented on several birth certificates and provided detailed explanations about the civil status authorities in Pissa.¹²⁰⁶

654. The Prosecution relies on Roger Okoa-Penguia's testimony, *inter alia*, in support of its allegations under Count 29.¹²⁰⁷ The Yekatom Defence does not reference it but alleges inconsistencies in relation to other evidence on the record.¹²⁰⁸ The Ngaïssona Defence references Roger Okoa-Penguia's evidence once.¹²⁰⁹
655. Having regard to this, and as set out below, the Chamber has first addressed the aspects in Roger Okoa-Penguia's testimony that concern Count 29 and then turned to the inconsistencies raised by the Yekatom Defence.
656. Roger Okoa-Penguia confirmed that when he signs a birth certificate, he would check the information which is manually written in the birth certificate before signing the certificate.¹²¹⁰ However, Roger Okoa-Penguia admitted to certain irregularities and falsification that could take place. In particular, Roger Okoa-Penguia said that he would not first check that the archives do not have another birth certificate for the same person when receiving a supplementary judgment; that in Bangui, there are people who make the mayors' stamps and who, on occasion, buy registers and make transcriptions which are fraudulent; and that what is of interest to them ('us') is the stamp of the president of the court, the initials from the president of the court, which means it is genuine.¹²¹¹
657. The Chamber notes that there is indeed evidence from Alexandre Kouroupe-Awo suggesting that someone in Roger Okoa-Penguia's town hall may have been operating an 'ad hoc' birth register, despite Roger Okoa-Penguia's claims otherwise.¹²¹² Alexandre Kouroupe-Awo testified that Roger Okoa-Penguia was the president of the special delegation within the Pissa

¹²⁰⁶ See e.g. P-2084: T-233, p. 28, line 16 – p. 38, line 9; T-235, p. 25, line 21 – p. 26, line 1, p. 95, lines 2-11.

¹²⁰⁷ See e.g. Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, paras 491, 507, 708, 762, 805.

¹²⁰⁸ Annex A to the Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-AnxA, pp. 152-153.

¹²⁰⁹ Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, n. 2061.

¹²¹⁰ P-2084: T-233, p. 47, lines 13-19.

¹²¹¹ P-2084: T-233, p. 47, line 20 – p. 48, line 11.

¹²¹² The Chamber considered that 'ad hoc' registers were defined by P-1813 as those registers that are sometimes held by some individuals or staff of the town hall who may use those registers in parallel to issue certificates for their own interests. See P-1813: T-181, p. 38, line 23 – p. 39, line 10.

commune and that the signature on several birth certificates shown to him indeed looked like the signature of the mayor; further indicated that it could also be that the certificates that seemed dubious could have been part of an ‘ad hoc’ register, although Alexandre Kouroupe-Awo did not know whether it was the staff of the town hall or the mayor himself who would use this register in parallel; in several communes, one could find this type of things or it could be that third parties published some registers of their own accord and use them to issue certificates for their own benefit.¹²¹³ Roger Okoa-Penguia, asked whether he heard of such ad hoc registers, said that this did not happen in his town hall; their registers were numbered; once they finish the register books, they buy new ones and they send them to the tribunal.¹²¹⁴

658. Roger Okoa-Penguia confirmed that the material provided to the secretary of the civil registry section includes the registers, the official stamp of the town hall and the stamp with his name.¹²¹⁵ The witness confirmed that only the registrar from the town hall had access to these stamps and the stamp of the mayor was different; if the mayor was away, he would initial the document; once the transcription was done, it would go to the general secretary of the town hall and then on to the mayor for signature and stamping.¹²¹⁶
659. The Chamber further notes that some of Roger Okoa-Penguia’s relatives do appear to have participated in the ESF programme. The witness admitted that Candide Mavode (P-2582) was his relative and had participated in the ESF programme.¹²¹⁷ In her Rule 68(2)(b) statement, D29-6039 identified Roger Okoa-Penguia’s son on a photograph.¹²¹⁸
660. Having assessed Roger Okoa-Penguia’s testimony, the Chamber finds it generally credible. In relation to Count 29, the Chamber notes that Roger Okoa-Penguia did not provide any information about children who could be under 15 years of age within Mr Yekatom’s group. Indeed, in his statement, Roger Okoa-Penguia indicated that when he attended the ESF ceremony in August 2014 at the Pissa town hall, he saw children that ‘were all over 15 years

¹²¹³ P-1813: T-181, p. 36, line 16 – p. 37, line 8.

¹²¹⁴ P-2084: T-233, p. 50, lines 17-22.

¹²¹⁵ P-2084: T-235, p. 46, lines 15-18.

¹²¹⁶ P-2084: T-235, p. 46, lines 19-24.

¹²¹⁷ P-2084 Statement, CAR-OTP-2094-0968-R02, at 0986, para. 93.

¹²¹⁸ D29-6039 Statement, CAR-D29-0009-0545-R01, at 0549, para. 24 *referring to* Photograph, CAR-D29-0010-0028, number 2.

old'.¹²¹⁹ As regards the inconsistencies raised by the Yekatom Defence on the location of Kalangoi and the Seleka base in Palmex,¹²²⁰ the Chamber notes that it has not relied on these aspects of Roger Okoa-Penguia's evidence for the purposes of determining any factual allegations.

IV. FACTUAL FINDINGS AND EVIDENTIARY ANALYSIS

661. The Chamber sets out below its assessment of the evidence submitted and discussed before it at trial with respect to each of the findings of fact identified above in Section II ('Findings of fact'). In particular, the Chamber details below the evidence which supports each of those findings of fact, and explains how any such finding was reached in light of the available evidence – and the arguments made at trial – both in support of and against that particular finding, as appropriate. This also includes instances when findings on the facts and circumstances described in the charges are reached by way of inference – thus, through facts which are of 'intermediate' or 'subsidiary' nature – on the basis of circumstantial evidence. At the same time, the Chamber clarifies that while it structures its discussion below delineating its analysis of evidence with respect to each individual finding of fact, evidence may be relevant to more than one factual finding even if not necessarily reiterated in each instance, and all evidence submitted and discussed before it at trial has been considered holistically.

A. The conflict in the Central African Republic between 2012 and 2014

1. *The formation of the Seleka, its advance to and takeover of Bangui, and ensuing violence*

i. *The formation of the Seleka*

Around August 2012, a coalition of armed groups opposing then-President François Bozizé emerged in the Central African Republic (CAR) under the name of the 'Seleka', led by CAR

¹²¹⁹ P-2084 Statement, CAR-OTP-2094-0968-R02, at 0986, para. 91.

¹²²⁰ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 296.

citizens and including elements from Chad and Sudan. Michel Djotodia became the leader of the Seleka.

662. At the outset, the Chamber considers it of import to briefly outline some of the evidence illustrating events and circumstances providing the background to the crisis in the CAR during the period relevant to the charges. While this is not to provide a fully exhaustive account of events, the Chamber is of the view that some understanding of the context leads to a better understanding of the events directly relevant to the charges.

663. As aptly put by Catherine Samba-Panza, the former president of transition of the CAR,¹²²¹ it is important ‘to realise that the [CAR] has been experiencing political instability for 30 years and [...] had a number of crises – a political crisis, social crisis, military/political crisis – [which] weakened the state considerably and have caused problems within the people in terms of social cohesion and national cohesion’.¹²²²

664. Several witnesses provided evidence on this background to the crisis in the CAR, with Tenebaye Massalbaye mentioning that the successive mutinies in the CAR eventually led to François Bozizé taking power in a coup in 2003 with the support of the Chadian army.¹²²³ This is echoed by Joachim Kokaté, appointed in February 2014 as special advisor for disarmament, demobilisation, and reintegration (hereinafter: ‘DDR’),¹²²⁴ who testified that they had information that François Bozizé had been accompanied by Chadian soldiers in his 2003 coup against Ange-Félix Patassé,¹²²⁵ leading later to violence by such Chadian elements and an uprising thereagainst.¹²²⁶ The individuals supporting François Bozizé in his coup were often referred to as ‘liberators’.¹²²⁷

¹²²¹ See paragraphs 1561-1562 below.

¹²²² P-0952: T-249, p. 6, lines 4-11. The Chamber notes that the CAR Panel of Experts similarly concluded that the conflict which broke out in 2012 and culminated in the overthrow of François Bozizé on 24 March 2013 was the most recent escalation in a series of crises that the country experienced over 40 years. See CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0843, paras 14-17, 19.

¹²²³ P-1739 Statement, CAR-OTP-2054-1089-R01, at 1092-93, paras 16-22.

¹²²⁴ P-0801: T-037, p. 6, lines 12-20; Decree, CAR-OTP-2004-1180, at 1217. See also paragraph 1562 below.

¹²²⁵ See e.g. Annex 2 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0865, para. 14.

¹²²⁶ P-0801: T-033, p. 43, line 25 – p. 44, line 17.

¹²²⁷ See P-2027 Statement, CAR-OTP-2078-0059-R03, at 0061, para. 18; P-2269 Statement, CAR-OTP-2111-0336-R01, at 0340, para. 32; P-2602 Interview Transcript, CAR-OTP-2118-9500-R01, at 9516, lines 530-559. See also P-2328: T-046, p. 25, lines 2-16.

665. Further points of contention concerned the fraud allegations surrounding the 2011 elections following which François Bozizé remained in power, as well as the suggestion that regions in the north and north-east of the country, predominantly inhabited by Muslims, were considered to be neglected by the Bozizé regime. Specifically, Nicolas Tiangaye, former prime minister of the CAR,¹²²⁸ testified that he and others in the opposition contested the 2011 election results and created a movement calling for an annulment and re-organisation of the elections.¹²²⁹ According to Nicolas Tiangaye, this seizure of power and management of the country's assets created conditions for violence and the rebellion by the Seleka.¹²³⁰ The panel of experts on the CAR set up pursuant to a UN Security Council resolution¹²³¹ (the 'CAR Panel') similarly noted a deep fragmentation of the political landscape, combined with increased activities of a multitude of rebel groups that took control over large parts of the territory.¹²³² Adrien Poussou, a journalist who was also, *inter alia*, minister for communication, national reconciliation and civic and democratic culture between November 2013 and February 2014,¹²³³ opined that after the 2011 elections, the regime brought in close family members and others close to François Bozizé, while the opposition was sidelined.¹²³⁴
666. P-1193 testified that he initially supported François Bozizé who came like a 'saviour', but later individuals who were not of Gbaya ethnicity were ignored by François Bozizé¹²³⁵ and numerous people, such as Muslims from Ndélé, Birao and Bira, were excluded under François Bozizé's regime.¹²³⁶ This is similarly reflected in P-0475's evidence, who stated that François Bozizé as president did not have good relations with the Muslims and when

¹²²⁸ See paragraph 694 below.

¹²²⁹ P-0291 Statement, CAR-OTP-2024-0036-R05, at 0041, para. 22. See also P-2926 Report, CAR-OTP-2127-4289, at 4291, para. 1; P-2926: T-031, p. 52, lines 11-21.

¹²³⁰ P-0291 Statement, CAR-OTP-2024-0036-R05, at 0041, para. 24.

¹²³¹ See Resolution S/RES/2127 (2013), CAR-OTP-2001-0275, at 0286, para. 59.

¹²³² Annex 2 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0863-64, paras 2, 4-5. See also FIDH report, CAR-OTP-2001-2890, at 2897. The Ngaïssona Defence argued that the Chamber should proceed with caution when determining the evidentiary weight to be given to NGO reports such as the latter, given that FIDH does not reveal the sources of its information (see Annex 1 to Defence Response to the Prosecution's "Request for the Submission of Evidence from the Bar Table regarding the Prevalence of Sexual and Gender Based Violence", 11 February 2022, ICC-01/14-01/18-1278-Conf-Anx1, pp. 46-47). The Chamber notes in this regard that it has assessed this report in conjunction with the other evidence before it and not relied on it to enter any findings of fact.

¹²³³ P-2625: T-188, p. 7, lines 5-25; CV, CAR-OTP-2123-0411-R02. See also paragraphs 777-785, 999-1000, 1006-1014 below.

¹²³⁴ P-2625: T-188, p. 15, line 16 – p. 17, line 23.

¹²³⁵ P-1193 Statement, CAR-OTP-2045-0048-R03, at 0051, para. 22.

¹²³⁶ P-1193 Statement, CAR-OTP-2045-0048-R03, at 0051-52, para. 23.

the rebellion started in the areas of Ndélé and Bira, the Muslims there felt that these areas had been abandoned.¹²³⁷

667. The evidence provided by Kasper Agger, who worked for an NGO monitoring the situation in the CAR at the time, summarised the situation such that various sources indicated that a lack of leadership and exclusion of citizens from the decision-making process fuelled the violence, as did natural resources and regional interests of neighbouring countries.¹²³⁸ According to Kasper Agger, there was great disappointment with the rule of François Bozizé, the lack of jobs and opportunities, as well as general insecurity.¹²³⁹
668. In light of the evidence above, the Chamber does not rely on the evidence of witnesses who suggested that the neglect of certain areas in the north of the CAR was merely a pretext for the Seleka.¹²⁴⁰ The Chamber does not consider this interpretation of events to distract from the fact that, as outlined above, certain criticisms against François Bozizé's governance – whether founded in facts or not – did exist and led to an increase in dissatisfaction and eventually the formation of opposition groups.¹²⁴¹
669. The evidence before the Chamber indicates that the overall relations between Muslims and non-Muslims within the CAR before the crisis relevant to the charges were positive.¹²⁴² For example, P-1666 testified that they lived in 'perfect harmony' in Mbaïki until power was taken by the Seleka.¹²⁴³ As P-2232 put it, when the Seleka advanced towards Bangui, Muslims and Christians used to live in 'symbiosis'.¹²⁴⁴ Similarly, P-2657 testified that before

¹²³⁷ P-0475 Statement, CAR-OTP-2104-0116-R04, at 0119, para. 18; P-0475: T-090, p. 18, line 17 – p. 19, line 5.

¹²³⁸ P-2012 Sub-Committee Statement, CAR-OTP-2081-0603, at 0660, 0662.

¹²³⁹ P-2012: T-025, p. 9, line 13 – p. 10, line 8 *referring to* Report 'Behind the Headlines', CAR-OTP-2001-2564, at 2578.

¹²⁴⁰ See P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0327, para. 22; D30-4720: T-279, p. 23, line 11 – p. 24, line 7, p. 24, line 21 – p. 26, line 5, p. 26, line 13 – p. 27, line 3; T-280, p. 3, line 24 – p. 4, line 9.

¹²⁴¹ The Chamber notes in this regard the Ngaïssona Defence's submission that the alleged irregularities of the 2011 elections and the non-implementation of certain peace accords signed in 2008 were merely a pretext for the Seleka to forcefully remove François Bozizé from power (see [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 141). The Chamber considers the question of whether such criticisms were a pretext or based on facts to be inconsequential for its further determinations. To the extent this relates to François Bozizé's and other individuals' actions and underlying motivations following the take-over of power by the Seleka, this is further discussed below (see sections II.A.2, II.A.3 below).

¹²⁴² See also Ngaïssona Defence Opening Statements: T-016, p. 33, lines 18-21; [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 140.

¹²⁴³ P-1666: T-230, p. 31, lines 2-8. See also P-2353 Statement, CAR-OTP-2100-0226-R03, at 0228, para. 12.

¹²⁴⁴ P-2232: T-076, p. 17, lines 5-6. See also P-0801: T-036, p. 77, line 22 – p. 78, line 2.

the arrival of the Seleka in Bossangoa, life was peaceful, harmonious, without problems, and they cohabited peacefully.¹²⁴⁵ Michel Ningando equally stated that before the events of the Seleka, Christians and Muslims in Bossangoa were ‘getting along’.¹²⁴⁶ P-0967 also testified that prior to the coup, there were no concerns and difficulties between the different religions, her mother – Christian, and her father – Muslim, lived in perfect harmony,¹²⁴⁷ as did Christian and Muslim communities, and there were no problems or tensions, which started only in 2013.¹²⁴⁸ P-2325 stated that before the conflict, there were around 70,000 Christians and around 20,000 Muslims living in Berbérati and both communities lived in peace.¹²⁴⁹

670. The evidence shows that in light of the grievances and challenges to the government of François Bozizé as outlined above, a coalition of opposition groups started forming in August 2012, known as ‘Seleka’. While the evidence shows that the Seleka was formed on the basis of a number of different movements, the Chamber refers to this group as the ‘Seleka’ for purposes of and throughout this judgment.
671. Specifically, Catherine Samba-Panza testified that the coup by the Seleka started in August 2012 in the north-east part of the CAR.¹²⁵⁰ According to her, some people thought they were not considered true citizens of the CAR because the areas they lived in had been neglected, and gradually the demands became very political in nature, with people mixing up these with demands from religious communities and ultimately a rebel group emerged, called the Seleka.¹²⁵¹ This group combined various individuals and, coming from the north-east of the CAR, decided to descend upon Bangui, becoming larger as it did, with people joining from some prefectures, as well as from Sudan and Chad.¹²⁵² Catherine Samba-Panza explained that the Seleka movement was run by CAR citizens of Muslim faith but became quite a

¹²⁴⁵ P-2657: T-104, p. 9, lines 10-15; T-105, p. 10, line 19 – p. 11, line 5.

¹²⁴⁶ P-2652 Statement, CAR-OTP-2126-0175-R01, at 0177-78, para. 14. *See also* P-2462: T-059, p. 10, lines 3-9; D30-4608 Statement, CAR-D30-0017-0004-R01, at 0006, para. 11; D30-4608: T-291, p. 11, line 17 – p. 12, line 6.

¹²⁴⁷ P-0967: T-199, p. 11, lines 16-25.

¹²⁴⁸ P-0967: T-199, p. 12, lines 4-10.

¹²⁴⁹ P-2325 Statement, CAR-OTP-2100-2386-R02, at 2388, para. 12.

¹²⁵⁰ P-0952: T-249, p. 6, lines 12-17. *See also* FIDH report, CAR-OTP-2001-2890, at 2897. The Chamber refers to its remarks on this report as outlined in footnote 1232 above.

¹²⁵¹ P-0952: T-249, p. 6, line 17 – p. 7, line 11.

¹²⁵² P-0952: T-249, p. 7, lines 12-18.

mixture in their advance, being supported by troops originally from Chad or Sudan, bandits, ‘no-accounts’, people who had no work, young Peuhl, Muslims, Christians.¹²⁵³

672. Nicolas Tiangaye testified that the violence committed by the Seleka was a result of the political crisis.¹²⁵⁴ According to Nicolas Tiangaye, the Seleka ‘were always on the scene’, just not called Seleka at the time, with pre-existing groups organising and taking the name ‘Seleka’ – meaning ‘coalition’ in Sango – in 2012.¹²⁵⁵
673. Michel Djotodia, who was the leader of one of these pre-existing groups, became the head of the Seleka, which started its general attack on 10 December 2012.¹²⁵⁶ Nouredine Adam, another leader of one such group, was also among the Seleka leadership.¹²⁵⁷
674. Joachim Kokaté testified to having participated in one group opposing the Bozizé government after the 2011 elections,¹²⁵⁸ working with another opposition movement at the time because they believed that the country was not being managed properly, the state functioning was irregular, and there was a lot of social injustice.¹²⁵⁹ Joachim Kokaté met with leaders of other opposition groups, including Michel Djotodia and Abdoulaye Miskine, in Niamey in 2012 as they wanted to have a unified opposition; there was also a representative of a Chadian rebel group.¹²⁶⁰ Joachim Kokaté testified that there were demands from the north and north-east, put forward by Abdoulaye Hissène Miskine,¹²⁶¹ and the questions of neglect in social, economic and security areas were officially raised by the different leaders of the armed groups, which gave rise to a lot of dissatisfaction and might even have been the basis of events leading to the ousting of François Bozizé.¹²⁶² One segment

¹²⁵³ P-0952: T-249, p. 8, lines 6-21. *See also* P-0475: T-090, p. 18, line 17 – p. 19, line 5; paragraphs 732-737 below.

¹²⁵⁴ P-0291 Statement, CAR-OTP-2024-0036-R05, at 0041, para. 25.

¹²⁵⁵ P-0291 Statement, CAR-OTP-2024-0036-R05, at 0044, para. 51. *See also* P-2328: T-046, p. 21, line 25 – p. 23, line 3, p. 23, line 25 – p. 24, line 20, p. 25, line 17 – p. 26, line 6, p. 29, line 25 – p. 31, line 1, p. 32, lines 18-21, p. 37, line 23 – p. 38, line 6, p. 38, lines 13-19, p. 42, lines 16-22.

¹²⁵⁶ P-0291 Statement, CAR-OTP-2024-0036-R05, at 0044, para. 51. *See also* P-2625: T-191, p. 45, lines 13-17; P-1847: T-022, p. 29, line 19 – p. 30, line 6; P-2926 Report, CAR-OTP-2127-4289, at 4292, para. 5, at 4293, para. 11 and n. 13; UNHCHR Report, CAR-OTP-2001-0172, at 0176, para. 9.

¹²⁵⁷ P-1847: T-022, p. 29, line 19 – p. 30, line 6. *See also* P-2926 Report, CAR-OTP-2127-4289, at 4292, para. 5, at 4293, para. 11 and n. 13; P-2926: T-031, p. 54, lines 3-12, p. 62, line 24 – p. 63, line 11; T-032, p. 50, lines 8-22; P-2050 Statement, CAR-OTP-2076-0911-R02, at 0922, para. 63.

¹²⁵⁸ P-0801: T-033, p. 27, lines 11-23.

¹²⁵⁹ P-0801: T-033, p. 29, lines 5-18, p. 33, lines 6-14, p. 33, line 15 – p. 34, line 4.

¹²⁶⁰ P-0801: T-033, p. 34, lines 5-23, p. 42, line 6 – p. 43, line 24.

¹²⁶¹ P-0801: T-033, p. 34, line 24 – p. 35, line 6.

¹²⁶² P-0801: T-033, p. 35, lines 7-17.

of an opposition group signed a peace agreement with the government, but Joachim Kokaté could not answer with precision whether the Seleka was founded after this agreement.¹²⁶³

675. Jean-Jacques Demafouth, who was *inter alia* defence minister under Ange-Félix Patassé between 1999 and 2001, minister advisor for DDR, security sector reform (RSS) and relations with MISCA as of March 2013 and, from February 2014 on, minister advisor for security in charge of relations with MISCA and Sangaris,¹²⁶⁴ testified that the socio-economic circumstances in Ouham-Pendé, and the north-west generally, were a disaster, while the people in the north where one of the groups was located (Birao, Vagaka prefecture¹²⁶⁵) also felt that their region had been overlooked, with no infrastructure and the state having forgotten about them.¹²⁶⁶ The witness stated that the Seleka was made up of different ethnic groups, and included Goula, Runga from Ndela, Banda, Mandja, as well as a strong representation of Arabic people, represented by Al-Khatim,¹²⁶⁷ and said that the Seleka that arrived in Bangui were predominantly Muslim, up to maybe 75% to 85%, with Christians joining their ranks later.¹²⁶⁸
676. Similarly, P-0884 testified that most of the successive CAR governments neglected the resource-rich area in the north, mostly inhabited by Muslims, leading to various rebellion movements which eventually led to the creation of the Seleka in 2012.¹²⁶⁹ According to P-0884, the political opposition group, created in protest of the 2011 election, met with Seleka leaders in 2012 and convinced them of the need for an alliance to be able to overthrow François Bozizé.¹²⁷⁰ P-0884 stated that neither François Bozizé nor the rebel groups

¹²⁶³ P-0801: T-033, p. 47, lines 3-11.

¹²⁶⁴ P-2328: T-046, p. 8, line 22 – p. 10, line 25; CV, CAR-OTP-2099-0232-R02; Decree, CAR-OTP-2004-1180, at 1185-87. *See also* Decree, CAR-OTP-2005-0371; P-2328: T-046, p. 72, line 11 – p. 73, line 20. MISCA was the ‘*Mission internationale de soutien à la Centrafrique sous conduite africaine*’, which replaced the ‘*Mission de consolidation de la paix de la Communauté économique des États de l’Afrique centrale en République centrafricaine*’ (MICOPAX) with its military component FOMAC, set up in 2008, starting in July 2013 (*see* AU Press release, CAR-D29-0002-0668; Press article, CAR-D29-0002-0690, at 0692-93; Press article, CAR-D29-0002-0656; UNHCHR Report, CAR-OTP-2001-0172, at 0176, para. 12; HRW Report, CAR-OTP-2001-1870, at 1885).

¹²⁶⁵ P-2328: T-046, p. 34, lines 1-8.

¹²⁶⁶ P-2328: T-046, p. 32, line 12 – p. 33, line 23, p. 34, line 13 – p. 35, line 20, p. 36, line 21 – p. 37, line 19 (also mentioning close links, people speaking Arabic, and a difficulty to identify them as Central Africans).

¹²⁶⁷ P-2328: T-046, p. 51, line 16 – p. 52, line 2.

¹²⁶⁸ P-2328: T-046, p. 52, line 22 – p. 53, line 3.

¹²⁶⁹ P-0884: T-054, p. 22, lines 1-24.

¹²⁷⁰ P-0884: T-054, p. 22, line 25 – p. 23, line 9, p. 26, lines 5-9, p. 29, line 13 – p. 30, line 10.

concerned respected the terms of certain peace agreements signed in 2008¹²⁷¹ which eventually led to the creation of the Seleka.¹²⁷²

677. Adrien Poussou equally referred to the criticisms surrounding the 2011 elections,¹²⁷³ in addition to the marginalisation by the central government of regions in the north, such as Vakaga and Bamingui-Bangoran, and the fact that the people there, primarily of Muslim faith, were deemed second-class citizens and excluded from the political process.¹²⁷⁴ According to Adrien Poussou, because the political avenues were blocked and there were no possibilities for action in the political arena or for peaceful protest, the only option was violent protest and this was why the Seleka was born.¹²⁷⁵
678. The report presented by P-2926, which dealt with the circumstances leading to the 2013 coup as well as the political and security situation in the CAR following the coup,¹²⁷⁶ found that the Seleka emerged in the context of the internal discontent following the 2011 elections, composed of various groups.¹²⁷⁷ The report concluded further that this emergence was a direct consequence of the (i) post-election crisis which weakened the regime; (ii) political, economic and social marginalisation of the north-east; (iii) non-regulation of the problem of armed groups in the north-east; and (iv) revenge of the former ‘liberators’ and diamond collectors following an operation in 2008 which hit the diamond community in Bria.¹²⁷⁸
679. According to one NGO report, the Seleka formed in 2012 when at least four different rebel groups came together to create a united front against François Bozizé.¹²⁷⁹
680. Other witnesses described the context in which the Seleka was formed, such as Tenebaye Massalbaye, who spoke of various security problems which could not be solved by François Bozizé, and a strong anti-Chadian sentiment taking shape in 2011, with the majority of the

¹²⁷¹ See e.g. UNHCHR Report, CAR-OTP-2001-0172, at 0176, para. 8. See also Annex 2 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0866-67, para. 19.

¹²⁷² P-0884: T-054, p. 25, line 16 – p. 26, line 24, p. 28, lines 22-23.

¹²⁷³ P-2625: T-188, p. 15, line 16 – p. 17, line 23, p. 18, line 16 – p. 19, line 1, p. 24, line 17 – p. 25, line 6.

¹²⁷⁴ P-2625: T-188, p. 25, line 7 – p. 26, line 25.

¹²⁷⁵ P-2625: T-188, p. 15, line 16 – p. 17, line 23.

¹²⁷⁶ See P-2926: T-031, p. 7, line 11 – p. 9, line 22; Letter of instruction, CAR-OTP-2122-8978.

¹²⁷⁷ P-2926 Report, CAR-OTP-2127-4289, at 4292, paras 4-5. See also P-2926: T-031, p. 54, line 19 – p. 55, line 4, p. 63, lines 2-11.

¹²⁷⁸ P-2926 Report, CAR-OTP-2127-4289, at 4293, para. 10.

¹²⁷⁹ Report ‘Behind the Headlines’, CAR-OTP-2001-2564, at 2573.

commercial circuits in the CAR held by Chadians.¹²⁸⁰ Roger de Martial Yagao also described how he received information about a rebel coalition forming in the north of the CAR through [REDACTED] international and national media.¹²⁸¹

ii. *The Seleka advance towards Bangui*

Starting in late 2012, the Seleka advanced towards Bangui. The Libreville agreement, concluded in January 2013, presented an attempt to end the crisis, leading to a government including representatives of various factions, with François Bozizé remaining president and Nicolas Tiangaye as prime minister, Michel Djotodia as deputy prime minister and minister of defence, and Mr Ngaissona as minister of youth, sports, arts and culture.

At the same time, the widely reported advance of the Seleka, and violent acts and abuses committed in this context, including against civilians, sparked reactions within the civilian and political sphere: ‘Coalition citoyenne d’opposition aux rébellions armées’ (COCORA) and ‘Comité d’organisation des actions citoyennes’ (COAC) were two organisations which were active in mobilising support for François Bozizé in light of the Seleka advance. They erected checkpoints or roadblocks at which passers-by and vehicles were checked, with the objective of identifying Seleka infiltrators and people deemed to be associated with or in support of them, including Muslims. The individuals manning these checkpoints were armed with bladed weapons and, in some cases, with AK-47s.

a. Seleka advance and Libreville negotiations

681. As further outlined below, various witnesses described the circumstances of the advance of the Seleka towards Bangui, including the violence committed in this context. In an attempt to solve the crisis, negotiations were organised in Libreville and led to an agreement among the factions which is discussed below.

682. In relation to the advance of the Seleka, Catherine Samba-Panza testified that in December 2012, there was an unsuccessful attempt to overthrow the government of François Bozizé, which was followed by an attempt to bring about reconciliation through the Libreville accords, which foresaw a three-year transition period, with François Bozizé as president and Nicolas Tiangaye as prime minister.¹²⁸² However, problems re-emerged between January and March 2013, leading to Michel Djotodia taking power.¹²⁸³ While Catherine Samba-

¹²⁸⁰ P-1739 Statement, CAR-OTP-2054-1089-R01, at 1093, paras 25-28.

¹²⁸¹ P-2133 Statement, CAR-OTP-2093-0267-R02, at 0271, paras 26-32.

¹²⁸² P-0952: T-249, p. 7, line 19 – p. 8, line 1. See also FIDH report, CAR-OTP-2001-2890, at 2898-99. The Chamber refers to its remarks on this report as outlined in footnote 1232 above.

¹²⁸³ P-0952: T-249, p. 8, lines 2-4.

Panza did not hold any particular public office at the time, they heard that the Seleka, during its advance, committed ‘horrible’ acts of violence and abuse, torching houses, and murdering people.¹²⁸⁴

683. Nicolas Tiangaye provided additional details, testifying that the Seleka attacked Ndélé, 670 km from Bangui, and advanced to Bangui without resistance, reaching to about 70 km from Bangui by January 2013.¹²⁸⁵ The witness stated that a demarcation line was established in Damara, in the south-west of the CAR.¹²⁸⁶
684. The report provided by P-2926 summarised that the Seleka started its offensive on 10 December 2012 by taking Ndélé, followed by Bamingui on 15 December, Bria on 18 December, Kabo on 19 December, and later Kaga Bandoro and Bambari – within only ten days and given the lack of any resistance, the Seleka reached Sibut at the end of December 2012.¹²⁸⁷
685. Other witnesses provided evidence on the Seleka advance and ensuing events, from their various perspectives and positions at the time of the events.
686. Adrien Poussou, for example, testified that the Seleka issued a release in December 2012 when they launched their first attack upon Birao.¹²⁸⁸ When the first Seleka attacks began, Michel Djotodia, whom Adrien Poussou knew personally, sent him an email, saying that this time it was serious, and that the coalition would march upon Bangui.¹²⁸⁹
687. P-0884 testified that the Seleka, which had recruited mercenaries from Chad and Darfur and included former ‘liberators’ who had fought to bring François Bozizé to power, marched on

¹²⁸⁴ P-0952: T-249, p. 8, line 22 – p. 9, line 9.

¹²⁸⁵ P-0291 Statement, CAR-OTP-2024-0036-R05, at 0045, para. 52.

¹²⁸⁶ P-0291 Statement, CAR-OTP-2024-0036-R05, at 0045, para. 53.

¹²⁸⁷ P-2926 Report, CAR-OTP-2127-4289, at 4292, para. 4. *See also* Map, CAR-OTP-2070-0268; P-1847: T-022, p. 31, line 13 – p. 32, line 11.

¹²⁸⁸ P-2625: T-188, p. 27, line 25 – p. 28, line 14. *See also* P-1847: T-022, p. 29, lines 3-9.

¹²⁸⁹ P-2625: T-188, p. 28, lines 15-18.

Bangui, capturing *inter alia* Bossangoa, Bangassou and Bambari.¹²⁹⁰ He said that Sibut was established as ‘red line’ and the rebels took position there.¹²⁹¹

688. Alfred Legrand Ngaya also stated that the rebellion against François Bozizé was started by Michel Djotodia in Birao, with several rebel groups from Birao and Ndélé making demands, starting negotiations, and then marching to Bria and Bambari and eventually Bangui.¹²⁹² According to Alfred Legrand Ngaya, in early March 2013, the Seleka had already advanced to Damara and the youth in Bangui gathered in front of the political party offices of François Bozizé and requested that they be provided with firearms to defend the city, but this was not done.¹²⁹³ Alfred Legrand Ngaya further stated that while François Bozizé ordered the *Forces Armées Centrafricaines* (the ‘FACA’) to attack the rebels, the military command withdrew the soldiers from the battle.¹²⁹⁴ Alfred Legrand Ngaya testified that the atmosphere in Bangui and the provinces at the end of 2012 and early 2013 as the Seleka advanced was one of fear.¹²⁹⁵

689. Roger de Martial Yagao learned from media and friends who were members of the security forces, such as the police and FACA, that there was essentially no resistance against the Seleka and while there was a ‘red line’ at Damara, the Seleka advanced to Bangui from Sibut, Ndélé, Birao, Bria, Bambari, Bossangoa, Kagabandoro and other places, eventually taking Bangui without resistance.¹²⁹⁶ Roger de Martial Yagao stated that as the Seleka advanced towards Bangui, they cut off radio communications from the different gendarmerie posts.¹²⁹⁷ According to Roger de Martial Yagao, with the rebels committing crimes against civilians, eventually a solution was found with a power-sharing government of national unity, with Nicolas Tiangaye as prime minister and Michel Djotodia as minister of defence.¹²⁹⁸

¹²⁹⁰ P-0884: T-054-ENG, p. 23, line 10 – p. 24, line 5, p. 26, lines 9-16, p. 32, lines 7-17; T-054-FRA, p. 21, lines 17-18.

¹²⁹¹ P-0884: T-054, p. 23, line 10 – p. 24, line 5, p. 26, lines 9-16, p. 32, lines 7-17.

¹²⁹² P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0328, para. 23.

¹²⁹³ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0329, para. 30.

¹²⁹⁴ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0329, para. 31.

¹²⁹⁵ P-0808: T-070, p. 11, lines 16-19.

¹²⁹⁶ P-2133 Statement, CAR-OTP-2093-0267-R02, at 0272, paras 42-43.

¹²⁹⁷ P-2133 Statement, CAR-OTP-2093-0267-R02, at 0272, para. 44.

¹²⁹⁸ P-2133 Statement, CAR-OTP-2093-0267-R02, at 0272, paras 36-38.

690. Additional witnesses described their experience of the Seleka advance in their respective localities, including the abuses committed by them in particular against the non-Muslim civilian population.¹²⁹⁹ Other witnesses had more indirect impressions of this advance.¹³⁰⁰ More generally, P-2841 testified that the atmosphere at the end of 2012 and early 2013, was bleak and the population lived with the fear of the unknown because they did not know these people coming in and because of the speed with which they were moving, the havoc they were wreaking as they advanced.¹³⁰¹
691. Shortly following the attack of the Seleka in Ndélé and the start of its advance towards Bangui, in December 2012, François Bozizé gave a speech at a rally at the PK0 roundabout in Bangui. The Chamber refers in this regard to its discussion of this speech below.¹³⁰²

¹²⁹⁹ See e.g. P-2652 Statement, CAR-OTP-2126-0175-R01, at 0178-79, paras 15-21 (stated that Seleka arrived in Bossangoa on 22 March 2013, from which time there was chaos and no more getting along; his vehicle was fired at by the Seleka when he tried to leave town and he was taken by the Seleka, yet released when he said he was a priest); D30-4608 Statement, CAR-D30-0017-0004-R01, at 0006, paras 14-15; D30-4608 Corrections, CAR-D30-0017-0022, at 0024; D30-4608: T-291, p. 16, line 9 – p. 17, line 3, p. 34, line 21 – p. 35, line 13 (stated that the Seleka destroyed everything on their way, burned even small chapels and bibles, and the witness heard about Seleka violence; according to the witness, the abuses were known by the Christian and Muslim population in Bossangoa); P-0966 Statement, CAR-OTP-2031-0241-R03, at 0243, para. 15, at 0244, para. 19 (mentioned that while François Bozizé was still in power, armed Peuhl and Seleka travelled through his village, [REDACTED], to attack Bangui); P-0461 Statement, CAR-OTP-2031-0190-R01, at 0193, para. 19 (thought that the Seleka entered Bambari around the end of 2012, committing atrocities against Christian inhabitants, churches, pastors, and from that moment, the witness could see a change in the behaviour of the Christians who said things like ‘*lawaw-lawaw*’, meaning they would take revenge, while in turn, the Seleka used Islam as a pretext to commit crimes); P-0567 Statement, CAR-OTP-2059-0084-R04, at 0102, para. 118 (stated that the Seleka looted a lot of places while marching from Vakaga to Bangui and looted many places in Bangui, including NGOs, churches, shops, houses, and 4x4 vehicles); P-2546 Statement, CAR-OTP-2114-0402-R01, at 0410, paras 28-29 (stated that Yaloké was not on the Seleka route as they headed to Bangui and not a target as such, but its location was surrounded by the strategic towns of Bossembélé – which had a military base and detention centre and was closely associated with François Bozizé’s government – and Bossangoa – birthplace of François Bozizé; the witness received information on the movements of Seleka from people, media, and social network services and heard that they arrived in Yaloké and set up checkpoints at its entrance and exit, as the main road linking Bangui and Cameroon goes through Yaloké); P-2602 Interview Transcript, CAR-OTP-2118-9560-R01, at 9572, lines 390-406 (described how they communicated through radio and if those fighting needed reinforcement, they would support, [REDACTED]); P-2133 Statement, CAR-OTP-2093-0267-R02, at 0271, paras 31-33. See also paragraphs 732-742 below.

¹³⁰⁰ See e.g. P-2325 Statement, CAR-OTP-2100-2386-R02, at 2388, para. 13; P-1823 Statement, CAR-OTP-2063-0369-R02, at 0372, para. 17; P-2353 Statement, CAR-OTP-2100-0226-R03, at 0228, para. 13; P-0974 Statement, CAR-OTP-2058-0165-R01, at 0167, para. 14; P-0965 Interview Transcript, CAR-OTP-2046-0108-R01, at 0121, lines 439-449; P-2084 Statement, CAR-OTP-2094-0968-R02, at 0972, paras 24-25; P-1838 Statement, CAR-OTP-2100-0252-R05, at 0255, para. 17.

¹³⁰¹ P-2841: T-029, p. 60, line 6 – p. 61, line 18.

¹³⁰² See paragraphs 1243-1263 below.

692. Not long after François Bozizé's speech at the PK0 rally, and in an attempt to solve the crisis, negotiations between the Bozizé government and opposing factions were held in Libreville in January 2013.
693. The Libreville agreement provided, *inter alia*, that (i) the president would remain in function until the end of his mandate in 2016 and could not run for another term; (ii) an inclusive government was to be set up for 12 months, tasked with restoring peace and security, organising legislative elections, re-organising defence and security forces, as well as territorial administration, reforming the justice system, setting up a process of DDR and a reform of the security sector, and undertaking economic and social reforms; (iii) the Seleka coalition forces would withdraw from occupied villages and abandon the armed struggle, with militias to be dissolved across the national territory and armed elements billeted in locations to be agreed upon; and (iv) the member states of the *Communauté économique des États de l'Afrique centrale* (CEEAC) would endeavour to progressively withdraw all foreign troops on the basis of the development of the security situation.¹³⁰³
694. Nicolas Tiangaye explained that a summit on 11 January 2013 in Libreville aimed to reach agreement on a transition government, with a Seleka member leading the ministry of defence, and a member of the democratic opposition becoming prime minister.¹³⁰⁴ Nicolas Tiangaye was chosen as prime minister and appointed by decree of 17 January 2013, Michel Djotodia became deputy prime minister and minister of defence, and Mr Ngaïssona was appointed as minister of youth, sports, art and culture.¹³⁰⁵ It was decided that François Bozizé

¹³⁰³ Libreville accord, CAR-OTP-2054-1346. *See also* UN SG Report, CAR-D30-0004-0102, at 0102-03, para. 4.

¹³⁰⁴ P-0291 Statement, CAR-OTP-2024-0036-R05, at 0045, paras 54-55. *See also* P-2328: T-046, p. 65, line 21 – p. 66, line 5.

¹³⁰⁵ P-0291 Statement, CAR-OTP-2024-0036-R05, at 0045, para. 56; P-0291: T-051, p. 10, line 23 – p. 12, line 10. *See* Decree, CAR-OTP-2101-1895 (decree 13.015 of 17 January 2013 appointed Nicolas Tiangaye as prime minister, while decree 13.035 of 3 February 2013 (*see* Decree, CAR-OTP-2004-1530, at 1530-41) appointed members of government, including Nicolas Tiangaye as prime minister, head of government, and minister of finance and budget; Michel Djotodia Am Nondroko as deputy prime minister, minister of defence, restructuring of the army, and former combatants and victims of war; Joachim Kokaté as minister for promotion of small and medium enterprises and amelioration of business climate; and Edouard Patrice Ngaïssona as minister of youth, sports, arts and culture). *See also* P-0884: T-054, p. 23, line 10 – p. 24, line 5, p. 26, lines 9-17, p. 32, lines 7-17; P-2926 Report, CAR-OTP-2127-4289, at 4297-98, para. 19.

would remain president until the next presidential elections, in which he would not be able to run again.¹³⁰⁶

695. Nicolas Tiangaye, who was Mr Ngaïssona's lawyer at one point and knew him as such, also stated that Mr Ngaïssona was nominated as part of the presidential majority, with those appointed to government at the time being either presidential majority, meaning KNK or parties allied to it, or the democratic opposition.¹³⁰⁷ Other witnesses mentioned that François Bozizé and Mr Ngaïssona were from the same region and of the same ethnicity.¹³⁰⁸ P-2926's report found that the post of minister for youth and sports – to which Mr Ngaïssona was appointed in line with the Libreville agreement – traditionally served to instrumentalise youth organisations for political ends.¹³⁰⁹

696. Joachim Kokaté also participated in the Libreville talks in January 2013¹³¹⁰ and made a statement on behalf of the non-combatant groups that had been agreed on by these groups.¹³¹¹ He said that the Seleka should not be allowed to take power because they included foreigners, particularly mercenaries.¹³¹² The fighting groups at the talks were the Seleka,¹³¹³ while civilian political opposition also participated.¹³¹⁴ The agreement following these talks was supposed to bring together all parties and satisfy their grievances, with the president to continue in office until 2016, a prime minister to be appointed from the political opposition, all stakeholders of the various parties joining the government, and all combatants gathering

¹³⁰⁶ P-0291 Statement, CAR-OTP-2024-0036-R05, at 0045, para. 57. *See also* P-0884: T-054, p. 39, lines 1-5.

¹³⁰⁷ P-0291: T-051, p. 12, lines 11 – p. 13, line 8. *See also* P-2328: T-046, p. 66, lines 6-22.

¹³⁰⁸ P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0304, para. 103; P-2625: T-188, p. 38, lines 15-24; T-191, p. 51, line 16 – p. 54, line 5; D30-4720: T-279, p. 22, lines 14-18. *See also* P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0022, para. 62.

¹³⁰⁹ P-2926 Report, CAR-OTP-2127-4289, at 4297-98, para. 19. *See also* P-2926: T-031, p. 39, line 25 – p. 41, line 1; T-032, p. 81, line 21 – p. 83, line 5; FIDH Report, CAR-OTP-2001-2769, at 2775. As regards the FIDH report, the Ngaïssona Defence argued, in reference to a duplicate version which is not recognised as submitted, that the Chamber should proceed with caution when determining the evidentiary weight to be given to NGO reports such as the latter, given that FIDH does not reveal the sources of its information, the allegations are untested and from anonymous sources (*see* Annex 1 to Defence Response to the Prosecution's "Request for the Submission of Evidence from the Bar Table regarding the Prevalence of Sexual and Gender Based Violence", 11 February 2022, ICC-01/14-01/18-1278-Conf-Anx1, pp. 52-53). The Chamber notes in this regard that it has assessed this report in conjunction with the other evidence before it and not relied on it to enter any findings of fact.

¹³¹⁰ P-0801: T-033, p. 52, lines 6-15.

¹³¹¹ P-0801: T-033, p. 54, lines 4-8.

¹³¹² P-0801: T-033, p. 54, lines 10-22.

¹³¹³ P-0801: T-033, p. 52, line 24 – p. 53, line 1.

¹³¹⁴ P-0801: T-033, p. 53, lines 2-6.

in centres to calm everyone down and get their support for the DDR.¹³¹⁵ Joachim Kokaté said that he himself was appointed to the government as minister,¹³¹⁶ Christophe Gazambeti joined as representative of the Seleka coalition,¹³¹⁷ Abakar Sabone was appointed as member of the MLCJ, a non-combatant armed group, he was not Seleka,¹³¹⁸ and Mr Ngaïssona was appointed as minister of youth, sports, art and culture.¹³¹⁹

697. The evidence shows that despite the agreements reached at Libreville, the Seleka stood by their position to take over power, and eventually crossed the red line established by interposed international forces to continue their violent advance towards Bangui.¹³²⁰

698. At the same time, the evidence indicates that François Bozizé also failed to implement recommendations agreed upon in Libreville,¹³²¹ including by announcing on 15 March 2013 his intention to run in the following presidential elections.¹³²²

b. COCORA and COAC

699. Within the context of the Seleka advance and the Libreville negotiations, the Chamber assesses the evidence before it concerning the activities of two organisations, COCORA (*‘Coalition citoyenne d’opposition aux rébellions armées’*) and COAC (*‘Comité d’organisation des actions citoyennes’*) at that time. As outlined further below, the evidence shows that these organisations were set up to mobilise civilians in support of François Bozizé and to resist the Seleka advance. COCORA was involved in organising the rally in December 2012 at PK0 at which François Bozizé spoke.¹³²³ The evidence suggests that COCORA and COAC on the one hand, and the (re-) creation of self-defence groups in light of the violence committed by the Seleka regime on the other,¹³²⁴ were related.

¹³¹⁵ P-0801: T-033, p. 55, line 15 – p. 56, line 3, p. 60, line 24 – p. 61, line 25.

¹³¹⁶ P-0801: T-033, p. 62, lines 1-3. *See* Decree, CAR-OTP-2101-1895, at 1899. *See also* Decree, CAR-OTP-2004-1530, at 1530-41; P-2328: T-046, p. 66, lines 6-22.

¹³¹⁷ P-0801: T-033, p. 62, line 4 – p. 63, line 8. *See also* P-2328: T-046, p. 66, lines 6-22.

¹³¹⁸ P-0801: T-033, p. 63, lines 9-22. *See also* P-2328: T-046, p. 66, lines 6-22.

¹³¹⁹ P-0801: T-033, p. 63, line 23 – p. 64, line 7.

¹³²⁰ P-0884: T-054, p. 26, lines 18-25, p. 32, lines 18-24, p. 41, lines 11-23; P-0801: T-033, p. 55, lines 2-7; P-2328: T-046, p. 66, line 23 – p. 67, line 6; P-2027 Statement, CAR-OTP-2078-0059-R03, at 0063, para. 27.

¹³²¹ P-2328: T-046, p. 67, line 14 – p. 68, line 5. *See also* P-2926 Report, CAR-OTP-2127-4289, at 4295-96, para. 16.

¹³²² *See* paragraphs 1276-1280 below.

¹³²³ *See* paragraphs 1243-1263 below.

¹³²⁴ *See* section II.A.4 below.

700. The evidence establishes that COCORA was led by Levy Yakété, who held a position at the national civil aviation authorities.¹³²⁵ Levy Yakété had direct links to the KNK, as well as specifically to François Bozizé.¹³²⁶ The organisation was specifically active at the end of 2012 and until the take-over of power by the Seleka in March 2013.¹³²⁷
701. In light of the Seleka advance, in particular as of its attack in Ndélé in December 2012,¹³²⁸ the objective of COCORA was to support the Bozizé regime and, in that, it organised in neighbourhoods to erect roadblocks with a view to identifying individuals suspected of wanting to infiltrate the city or collaborating with the Seleka,¹³²⁹ which, at times, also related to Muslims and ethnic groups considered to be associated with the Seleka, as discussed below. The evidence suggests that COCORA also organised support marches and demonstrations.¹³³⁰ Jean-Jacques Demafouth stated that at the time, the ‘hunting down’ of

¹³²⁵ P-2328: T-046, p. 56, lines 9-11; P-0884: T-054, p. 33, line 19 – p. 34, line 2, p. 36, lines 13-16; P-2232: T-075, p. 12, lines 4-12; T-078, p. 13, line 25 – p. 14, line 5; P-2625: T-188, p. 38, line 25 – p. 39, line 13; T-192, p. 3, lines 8-19; P-1847: T-022, p. 39, lines 16-25, p. 41, lines 2-5, 9-12; P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0349, para. 152; P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0317, paras 189-191; P-0876: T-085, p. 16, lines 9-14; P-0889 Interview Transcript, CAR-OTP-2122-7517-R02, at 7543, lines 1034-35; P-2841 Statement, CAR-OTP-2127-4238-R01, at 4271, para. 180, at 4272, para. 184. *See also* P-2926 Report, CAR-OTP-2127-4289, at 4296, para. 17; P-2926: T-031, p. 41, lines 2-24; Note, CAR-OTP-2001-0984, at 0985-86.

¹³²⁶ P-2328: T-046, p. 56, line 22 – p. 57, line 4; P-2232: T-075, p. 16, line 17 – p. 17, line 11; P-2625: T-188, p. 50, line 18 – p. 51, line 14; P-0884: T-054, p. 34, lines 10-12. *See also* P-0291 Statement, CAR-OTP-2024-0036-R05, at 0042, para. 34; List, CAR-OTP-2100-2668. The Chamber notes the evidence of Bi Bouba Waziri Housseni according to which ‘KOKORA’ was created on the basis of François Bozizé’s speech on 15 March 2013 (*see* P-0520 Statement, CAR-OTP-2050-0788-R02, at 0801, paras 62-63). However, in light of the consistent evidence before the Chamber that COCORA existed already at the end of 2012, and bearing in mind that the source of the witness’s assertions is unclear, the Chamber does not rely on this part of Bi Bouba Waziri Housseni’s evidence.

¹³²⁷ P-2232: T-075, p. 12, lines 4-12; T-078, p. 13, line 25 – p. 14, line 5; P-2625: T-188, p. 38, line 25 – p. 39, line 13; T-192, p. 3, lines 8-19, p. 23, lines 12-20; P-1847: T-022, p. 40, lines 1-3; P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0317, paras 189-191; P-0884: T-054, p. 34, lines 3-5, p. 35, line 19 – p. 36, line 3; P-0889: T-108, p. 63, line 23 – p. 64, line 2. The Ngaissona Defence points to COCORA being created around 22 December 2012, and dissolved at the latest on 24 March 2013 (*see* Ngaissona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, n. 1420). The Chamber notes in this regard that CAR-OTP-2042-2201 appears to be a news journal of 23 December 2012 and states that the creation of COCORA was announced the day before (*see* Audio, CAR-OTP-2042-2201; Transcript, CAR-OTP-2127-4006, at 4007, lines 15-16, at 4010, lines 142-144).

¹³²⁸ *See* paragraphs 682-690 above.

¹³²⁹ P-0884: T-054, p. 34, lines 13-20; P-2232: T-075, p. 12, lines 4-12; T-078, p. 13, line 25 – p. 14, line 10; P-1847: T-022, p. 37, lines 12-20, p. 43, lines 8-25; P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0349, para. 152; P-2625: T-188, p. 39, line 14 – p. 40, line 8; P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0317, paras 189-191; P-0889 Interview Transcripts, CAR-OTP-2122-7517-R02, at 7543, lines 1047-1060; CAR-OTP-2122-7554-R02, at 7556, lines 39-45. *See also* P-2926 Report, CAR-OTP-2127-4289, at 4296, para. 17; P-2926: T-031, p. 38, line 14 – p. 39, line 5; UNHCHR Report, CAR-OTP-2001-0172, at 0180, para. 34; Audio, CAR-OTP-2042-2201; Transcript, CAR-OTP-2127-4006, at 4010, lines 141-146; OHCHR Report, CAR-OTP-2034-0270, at 0284-85, para. 76, at 0294-95, para. 120. The Chamber notes that the Yekatom Defence indicates that the aim of COCORA was to defend the Bozizé regime against the Seleka advance (*see* [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 168).

¹³³⁰ P-0884: T-054, p. 34, lines 3-5; P-2926 Report, CAR-OTP-2127-4289, at 4296-97, para. 17.

Muslims had not yet begun in Bangui, and this was about those who were of the political or military opposition,¹³³¹ but the roadblocks and checkpoints were set up at a time when there were no military clashes in Bangui with the Seleka still being around Birao and Bria, so any actions were in relation to civilians, unarmed individuals.¹³³² He heard of abuses at these roadblocks, such as arbitrary detention of persons suspected of being close to the Seleka or the opposition.¹³³³ P-0884 stated that, at the roadblocks, they arrested all those suspected of belonging to the Seleka,¹³³⁴ and that some Muslims were accused or suspected of belonging to the Seleka, whereas at the time there were also Muslims in power, working with President Bozizé.¹³³⁵ P-1847 similarly indicated that the Muslims as well as Runga and Gula were more targeted as being accomplices.¹³³⁶ P-2232 explained it such that at the time, everybody was frightened of the advancing Seleka, frightened for their Muslim brothers ‘whom everybody was suspicious of’, so the youth increased their vigilance as regards Muslims because it was through them that Seleka elements were able to enter Bangui.¹³³⁷ Alfred Legrand Ngaya testified that youths at the roadblocks were looking for Muslims and non-Sango speakers.¹³³⁸

702. The Ngaïssona Defence argues that there is no credible evidence of François Bozizé’s involvement in COCORA and COAC or in the erection of barricades, and that Levy Yakété himself made clear that he did not create COCORA in concertation with François Bozizé nor to defend François Bozizé.¹³³⁹ The Chamber considers that Levy Yakété in his capacity as leader of COCORA had direct links to François Bozizé, as the evidence demonstrates. This is clear from the way in which Levy Yakété spoke at the rally at PK0 at the end of December 2012,¹³⁴⁰ as well as from the evidence outlined above.¹³⁴¹ This is not related to

¹³³¹ P-2328: T-046, p. 60, line 23 – p. 61, line 7.

¹³³² P-2328: T-046, p. 60, lines 8-22.

¹³³³ P-2328: T-046, p. 60, lines 8-22. *See also* OHCHR Report, CAR-OTP-2034-0270, at 0285, para. 77.

¹³³⁴ P-0884: T-054, p. 34, lines 21-25.

¹³³⁵ P-0884: T-054, p. 35, lines 1-6.

¹³³⁶ P-1847: T-022, p. 44, lines 1-7. *See also* OHCHR Report, CAR-OTP-2034-0270, at 0284-85, para. 76.

¹³³⁷ P-2232: T-075, p. 12, line 18 – p. 14, line 2; T-079, p. 5, line 20 – p. 6, line 5.

¹³³⁸ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0349, para. 152.

¹³³⁹ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 155. The Chamber notes that the Yekatom Defence states that COCORA was ‘created and led by Bozizé supporter[] Yakété’ (see [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 168).

¹³⁴⁰ *See* paragraph 1243-1263 below.

¹³⁴¹ *See* paragraph 700 above.

mere membership in the KNK, as suggested by the Ngaïssona Defence, but clearly shows direct personal links. Such evidence is not diminished by the evidence pointed to by the Ngaïssona Defence from P-0876, who merely denied the question of whether François Bozizé asked that roadblocks be erected.¹³⁴² This, in itself, does not negate links between François Bozizé and Levy Yakété in particular, or COCORA more generally.

703. Witnesses also indicated that individuals at such checkpoints or roadblocks were armed. Jean-Jacques Demafouth saw some COCORA members with weapons that looked like Kalashnikovs one evening in the 4th arrondissement in Bangui, and bladed weapons or machetes at the roadblocks manned by these people,¹³⁴³ and said the militia also had arms from the national army.¹³⁴⁴ P-0884 testified that while ‘weapons’ were held by FACA, COCORA did have some arrows, bows, knives and machetes.¹³⁴⁵ P-2232 similarly stated that while COCORA was an ‘unarmed organisation’, members carried machetes, sticks, spears, but no firearms, while certain soldiers carried their service weapons and could

¹³⁴² See P-0876 Interview Transcript, CAR-OTP-2046-0380-R01, at 0381, lines 17-20. In the Chamber’s view, the evidence provided by D30-4720 does not lead to a different conclusion either. The witness described a specific incident and the specific individuals involved, in her observation. She did not provide evidence on Levy Yakété, COCORA or the links of either with François Bozizé in this regard, and merely mentioned in the context of this incident that her neighbourhood also knew self-defence groups that protected houses against looting (see D30-4720: T-280, p. 33, line 8 – p. 37, line 24). The Chamber notes that the Ngaïssona Defence also points to Facebook chat messages exchanged between user name ‘[REDACTED]’ and user name ‘[REDACTED]’, with the latter posting a message on 23 November 2013 at 14:41:48 mentioning, *inter alia*, that [REDACTED] created COCORA not to defend one man, but rather a country and a people, that [REDACTED] did so without asking François Bozizé’s permission and did not benefit from his support (*‘je n’ai bénéficié en aucun cas de sa caution, bien au contraire’*) (see Facebook messenger chat, CAR-OTP-2101-7105, at 7112). In the Chamber’s view, this does not contradict its conclusion that there were links between Levy Yakété and François Bozizé or that COCORA had the aim of defending the then-incumbent regime. That in another Facebook chat message, user name ‘[REDACTED]’ on 4 November 2013 at 13:05:32, in exchange with user name ‘[REDACTED]’, stated that [REDACTED] in Cameroon, the president would have called [REDACTED] only once *‘pour [REDACTED] reprocher le fait que [REDACTED] confirmé sur RFI le fait que les anti-balaka se revendiquaient de lui’* (see Facebook messenger chat, CAR-OTP-2100-9923, at 9926, as also referenced in Defence Response to the “Prosecution’s Seventh Application for the Submission of Evidence from the Bar Table” ICC-01/14-01/18-1874-Conf, 21 July 2023, ICC-01/14-01/18-1999-Conf, paras 17-18) does similarly not distract from this conclusion.

¹³⁴³ P-2328: T-046, p. 61, lines 8-20.

¹³⁴⁴ P-2328: T-046, p. 56, lines 12-21.

¹³⁴⁵ P-0884: T-054, p. 35, lines 7-18.

reinforce at roadblocks.¹³⁴⁶ P-0876 also mentioned that youth at such checkpoints had machetes.¹³⁴⁷

704. The Ngaïssona Defence submits that COCORA's aim was to protest and protect the population through peaceful means,¹³⁴⁸ and that there is no evidence that COCORA and COAC would have excluded Muslims or propagated anti-Muslim animus.¹³⁴⁹ The Chamber does not follow this argumentation. First, the Chamber notes that the evidence before it shows that individuals said to be manning COCORA checkpoints and roadblocks were armed, at least with bladed weapons,¹³⁵⁰ and that abuses were reported.¹³⁵¹ Second, the Chamber notes the evidence of Jean-Jacques Demafouth, who stated that in the context of the Libreville negotiations, Levy Yakété made a statement on behalf of COCORA, issuing public threats¹³⁵² that if the Seleka dared coming towards Bangui, he had put his militia on alert and COCORA was ready to defend Bozizé's regime.¹³⁵³ Third, in the Chamber's view, the evidence as outlined above shows that while the COCORA roadblocks and checkpoints

¹³⁴⁶ P-2232: T-075, p. 21, lines 15-24, p. 22, lines 8-11.

¹³⁴⁷ P-0876 Interview Transcripts, CAR-OTP-2046-0370-R01, at 0378, lines 257-258; CAR-OTP-2046-0380-R01, at 0381-82, lines 26-43. The Chamber notes that P-0889 stated that the individuals at COCORA checkpoints were not armed (see P-0889 Interview Transcript, CAR-OTP-2122-7517-R02, at 7544, lines 1092-1098). However, the Chamber does not consider this to diminish its conclusion, in particular in light of the other evidence before it, and bearing in mind the way in which witnesses seemed to have understood being 'armed' in this context as referring to firearms. Similarly, the Chamber recalls that P-1847 denied during his in-court testimony that youth at COCORA checkpoints would have been armed with knives and machetes (see P-1847: T-023, p. 5, line 23 – p. 7, line 11), a statement unequivocally included in his prior recorded testimony introduced pursuant to Rule 68(2)(d) of the Rules (P-1847 Second Statement, CAR-OTP-2122-8251-R01, at 8270-71, para. 182. See also at 8271, para. 184; P-1847: T-023, p. 7, line 17 – p. 8, line 8). Given this direct contradiction by the witness in the context at hand, and in light of the other evidence before it, the Chamber does not consider P-1847's in-court denial as impacting its conclusion.

¹³⁴⁸ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 415.

¹³⁴⁹ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 155.

¹³⁵⁰ See paragraph 703 above. The Chamber notes that P-2232 also indicated that when the Seleka were about to take power, the young people contacted Levy Yakété and went also to the KNK and requested weapons, but François Bozizé refused on the ground that firearms were not meant for civilians, but for soldiers (see P-2232: T-075, p. 21, line 25 – p. 22, line 7). See also D30-4720: T-280, p. 33, line 8 – p. 37, line 24.

¹³⁵¹ See paragraph 701 above. The Chamber is mindful of the statements by Levy Yakété pointed to by the Ngaïssona Defence which suggest a peaceful approach of the COCORA ([Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, n. 1422 referring to Audio, CAR-OTP-2042-2201; Transcript, CAR-OTP-2127-4006, at 4010, lines 158-161; Mandate, CAR-OTP-2100-2667; Audio, CAR-OTP-2000-0683; Transcript, CAR-OTP-2087-9791; Translation, CAR-OTP-2087-9867, at 9869, lines 31-41). For the reasons stated, the Chamber does not consider such statements to negate its conclusions. This is further supported by other statements of Levy Yakété as discussed below (see paragraphs 1251, 1265 below).

¹³⁵² P-2328: T-046, p. 61, line 21 – p. 63, line 3.

¹³⁵³ P-2328: T-046, p. 63, lines 8-16. To the witness, this meant defending militarily, as they had weapons and had what it took to defend the regime and government (see P-2328: T-046, p. 63, lines 17-21).

may have been looking for ‘Seleka infiltrators’ at the outset, this was clearly equated with ‘Muslims’ or ‘non-Sango’ speakers more generally.¹³⁵⁴

705. The Chamber received little information about how COCORA was funded. The material pointed to by the Prosecution to submit that Mr Ngaïssona funded COCORA¹³⁵⁵ is in the Chamber’s view insufficient to reach this conclusion. Two of the items do not mention Mr Ngaïssona being engaged in such funding at all,¹³⁵⁶ while the sources of the relevant information in the third item are not clear¹³⁵⁷ and insufficient for the Chamber to form such a view.
706. The Chamber notes that there were allegations according to which machetes donated by China for agricultural purposes were distributed to COCORA and COAC. The Ngaïssona Defence argues that this was a rumour unsupported by any credible evidence.¹³⁵⁸ The witnesses that testified about such distribution seemed to indeed have heard about this, through media or otherwise, rather than having more direct experiences thereon.¹³⁵⁹ While the above does not discredit the witnesses’ evidence as such, the Chamber is of the view that it cannot conclusively determine whether machetes, of whichever origin, were systematically distributed to individuals associated with COCORA or COAC.

¹³⁵⁴ See paragraph 701 above. The Chamber considers this not impacted by the evidence of D30-4720, who did not think that Levy Yakété was anti-Muslim, based on [REDACTED] (see D30-4720: T-280, p. 15, line 14 – p. 18, line 1), or by the suggestion of the Ngaïssona Defence that COCORA included both Christians and Muslims (see [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, n. 1422), relying on what appears to be a letter from Levy Yakété with a request to be removed from a UN sanctions list (see Letter, CAR-OTP-2129-1677, at 1679).

¹³⁵⁵ See [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 38 and n. 55.

¹³⁵⁶ See CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0876; Press article, CAR-OTP-2001-4359.

¹³⁵⁷ See Dossier, CAR-OTP-2088-1574, at 1597.

¹³⁵⁸ Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, para. 155. See also para. 415.

¹³⁵⁹ See P-0291 Statement, CAR-OTP-2024-0036-R05, at 0056-57, paras 129-130; P-0291: T-051, p. 14, lines 9-25; P-0876 Interview Transcripts, CAR-OTP-2046-0295-R01, at 0309, lines 496-504; CAR-OTP-2046-0380-R01, at 0381-82, lines 26-43; P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0330, para. 38; P-2926 Report, CAR-OTP-2127-4289, at 4296, para. 17; P-2050 Statement, CAR-OTP-2076-0911-R02, at 0914, para. 17; P-2050: T-240, p. 30, line 25 – p. 31, line 19. See also Commission of Inquiry Report, CAR-OTP-2001-7017, at 7065-66, para. 161. While Adrien Poussou testified that he heard from a named source that COAC leaders distributed machetes in the 4th arrondissement, he also made clear that he did not ask further about who those leaders were and his reference to Steve Yambété and Mr Ngaïssona was based on his own assumptions (see P-2625: T-188, p. 39, line 14 – p. 40, line 8, p. 44, lines 2-18, p. 46, line 5 – p. 47, line 3; T-192, p. 17, line 23 – p. 20, line 15, p. 20, line 17 – p. 21, line 14; T-193, p. 67, line 14 – p. 68, line 13).

707. The second organisation active in mobilising support for François Bozizé and resistance against the Seleka advance at the end of 2012 and in early 2013 was, as mentioned above, COAC. The Chamber received less evidence regarding this organisation. The evidence before it indicates that COAC was led by Steve Yambété,¹³⁶⁰ appointed as *chargé de mission* to the ministry of youth in December 2012 and still in this function when Mr Ngaïssona was appointed as minister of youth.¹³⁶¹
708. From some media statements which seem to have been issued by Steve Yambété, it appears that COAC was also active at roadblocks and checkpoints with a view to checking passers-by and vehicles, in support of the Bozizé government.¹³⁶² According to P-2232, COAC was very similar to COCORA and started at the same time,¹³⁶³ and both movements dealt with vigilance and security.¹³⁶⁴ Alfred Legrand Ngaya similarly said that COAC's goal was to foster self-defence against the Seleka, they searched for Seleka infiltrators and once organised an action to burn the French flag.¹³⁶⁵ Adrien Poussou testified that COAC was the counterpart of COCORA and both groups were thought of as groups of militiamen close to the government who organised the rally at PK0.¹³⁶⁶ Other witnesses knew of Steve Yambété, but did not have any information in relation to COAC.¹³⁶⁷ Jacob Mokpem-Bionli stated that Steve Yambété was close to François Bozizé and supported the activities of the latter's regime at the time.¹³⁶⁸ P-1847 similarly said that Steve Yambété was one of the youth who

¹³⁶⁰ P-2232: T-075, p. 14, lines 16-23; T-078, p. 14, lines 6-10; P-2926 Report, CAR-OTP-2127-4289, at 4296, para. 17; P-2926: T-031, p. 41, lines 2-24; P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0349, para. 153. *See also* P-0876: T-085, p. 16, line 15 – p. 17, line 3.

¹³⁶¹ *See* paragraphs 710-711 below.

¹³⁶² *See* Audio, CAR-OTP-2000-0687; Transcript, CAR-OTP-2107-1493, at 1494; Audio, CAR-OTP-2000-0688; Transcript, CAR-OTP-2107-6884, at 6885; Translation, CAR-OTP-2122-2243; Audio, CAR-OTP-2000-0691; Transcript, CAR-OTP-2135-1460; Translation, CAR-OTP-2135-1465, at 1469; Audio, CAR-OTP-2042-2137; Transcript, CAR-OTP-2107-1481, at 1482; Audio, CAR-OTP-2042-0262; Transcript, CAR-OTP-2118-0003; Translation, CAR-OTP-2125-0466, at 0468-69.

¹³⁶³ P-2232: T-075, p. 14, lines 16-23; T-078, p. 14, lines 6-10.

¹³⁶⁴ P-2232: T-075, p. 14, line 24 – p. 15, line 15.

¹³⁶⁵ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0349, para. 153.

¹³⁶⁶ P-2625: T-188, p. 38, line 25 – p. 39, line 13; T-192, p. 3, lines 8-19.

¹³⁶⁷ P-0884: T-054, p. 36, line 23 – p. 37, line 22; P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0317, paras 189-193; P-1847: T-022, p. 46, lines 1-21. D30-4720 stated not knowing Steve Yambété well, but that he got close to François Bozizé through the church, while she did not know anything about Steve Yambété's relations with Mr Ngaïssona (*see* D30-4720: T-280, p. 18, line 8 – p. 20, line 10).

¹³⁶⁸ P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0317, paras 189-193.

was in the close circles of François Bozizé’s power and well known and popular among the youth.¹³⁶⁹

709. The Chamber notes the evidence of Adrien Poussou according to which Steve Yambété led COAC along with Mr Ngaïssona,¹³⁷⁰ and that observers considered that their respective appointments to the ministry of youth took place so they could organise the Central African youth to defend the interests of the regime.¹³⁷¹ P-2232 testified that while Mr Ngaïssona was not the one who created the group, all activities relating to the youth were carried out under the aegis of the ministry of youth.¹³⁷² The Ngaïssona Defence argues more generally that Mr Ngaïssona played no role in COCORA or COAC, also considering his absence from the CAR for part of the relevant time, that he did not fund either, or any other movement, at the time, and that he did not arm COCORA activists.¹³⁷³
710. At the outset, the Chamber considers that mere physical absence from the CAR at the relevant time does not, in and of itself, negate any involvement in activities within the CAR. At the same time, the Chamber has not received evidence more concrete than the above that would suggest that Mr Ngaïssona was directly involved in the activities of either COCORA or COAC. The evidence available indicates that Steve Yambété was appointed as *chargé de mission* to the ministry of youth in December 2012.¹³⁷⁴ Thus, as of the time that

¹³⁶⁹ P-1847: T-023, p. 12, lines 5-21.

¹³⁷⁰ P-2625: T-188, p. 38, line 25 – p. 39, line 13; T-192, p. 3, lines 8-19; T-192-ENG, p. 4, line 1 – p. 5, line 9, p. 9, lines 1-16; T-192-FRA, p. 4, line 8 – p. 5, line 19.

¹³⁷¹ P-2625: T-188, p. 51, line 15 – p. 52, line 7.

¹³⁷² P-2232: T-075, p. 16, lines 6-16; T-078, p. 15, line 3 – p. 17, line 10.

¹³⁷³ Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, paras 415-416. *See also* Ngaïssona Defence Closing Statements: T-309, p. 25, line 12 – p. 26, line 6. *See further* D30-4720: T-280, p. 21, line 11 – p. 22, line 10 (who stated never having heard of Mr Ngaïssona being associated with either COCORA or COAC).

¹³⁷⁴ The Chamber notes that Adrien Poussou seemed to think that Steve Yambété was nominated as *chargé de mission* at the same time as Mr Ngaïssona became minister (*see* P-2625: T-188, p. 51, line 15 – p. 52, line 7; T-192, p. 23, line 21 – p. 24, line 3). In light of the decree available to the Chamber which indicates that Steve Yambété was appointed on 30 December 2012 (CAR-D30-0007-0728), the Chamber is of the view that the witness was mistaken on this point. However, the Chamber does not consider this to affect the witness’s overall credibility. In a similar vein, the Chamber disregards the press publication in CAR-OTP-2113-0664, which contains information different to the decree and which the Chamber considers to be unreliable (*see also* Annex A to Yekatom Defence Response to the “Prosecution’s Sixth Application for the Submission of Evidence from the Bar Table”, 15 May 2023, ICC-01/14-01/18-1868-Conf, 19 June 2023, ICC-01/14-01/18-1935-Conf-AnxA, p. 30; Annex 1 to Defence Response to the “Prosecution’s Sixth Application for the Submission of Evidence from the Bar Table” ICC-01/14-01/18-1868-Conf, 23 June 2023, ICC-01/14-01/18-1942-Conf-Anx1, pp. 27-28). *See also* P-2232: T-075, p. 14, lines 16-23; T-078, p. 14, lines 6-10; P-0884: T-054, p. 37, line 23 – p. 38, line 11.

Mr Ngaïssona was appointed as minister for youth,¹³⁷⁵ both worked in the same ministry.¹³⁷⁶ The Chamber recalls in this context that the post of minister of youth was seen as traditionally being used to instrumentalise the CAR youth for political ends.¹³⁷⁷

711. Several witnesses drew a link between COCORA or COAC and the later (re-)emergence of self-defence groups which would eventually form the Anti-Balaka. P-2232 noticed that the youth in the neighbourhoods became gradually more mobilised before the Seleka arrived in Bangui¹³⁷⁸ and stated that while the Anti-Balaka did not exist when COCORA or COAC were operational, there were no longer leaders to organise the young people when the leaders of these movements fled upon the Seleka take-over, and this vacuum was filled by the emerging Anti-Balaka.¹³⁷⁹ P-0889 similarly confirmed that certain youth that had been with COCORA or COAC later joined the Anti-Balaka.¹³⁸⁰ P-1847 testified that some senior officials of COCORA, such as Papa Javon Zama and David Banga, and some other members of the KNK, were involved in the Anti-Balaka movement.¹³⁸¹
712. Nicolas Tiangaye testified that on 15 March 2013, Bozizé organised a big ceremony to celebrate his ten years in power, and he announced that he would present himself again at the next presidential elections, which was in violation of the constitution and of the Libreville agreement – it was at this moment that the problems started and the Seleka attacked

¹³⁷⁵ See paragraph 694 above.

¹³⁷⁶ The Chamber also notes the evidence of Adrien Poussou, who did not know how COCORA or COAC found members, but said that there was a football club in the 4th arrondissement, *Stade Centrafricain*, of which Mr Ngaïssona was the president and many football fans were part of this group (see P-2625: T-188, p. 47, lines 5-11). The witness was one of the vice-presidents of the Mocaf club, one of the largest in the CAR, and supporters and fanatics of football in the country were well acquainted with each other – he explained that especially within COCORA there were supporters of Tempête Mocaf (see P-2625: T-192, p. 22, lines 8-24; T-192, p. 21, line 16 – p. 22, line 6). He also said that they were in vehicles belonging to people in power, BJ75, starting off with Steve Yambété, a SCAF supporter (see P-2625: T-192, p. 22, line 25 – p. 23, line 10). See also P-1847: T-023, p. 13, lines 8-17; T-024, p. 16, lines 11-13.

¹³⁷⁷ See paragraph 695 above. See also Aurélien Llorca, member of the CAR Panel, who stated that in his analysis, Mr Ngaïssona as minister of youth under François Bozizé ‘could have been instrumental in mobilising the Anti-Balaka later on’ (P-0287 Statement, CAR-OTP-2115-0239-R01, at 0247, para. 38; P-0287: T-020, p. 13, line 20 – p. 14, line 9; T-021, p. 96, lines 1-16).

¹³⁷⁸ P-2232: T-075, p. 15, lines 16-24.

¹³⁷⁹ P-2232: T-075, p. 18, line 18 – p. 19, line 4.

¹³⁸⁰ P-0889 Interview Transcript, CAR-OTP-2122-7517-R02, at 7550-51, lines 1330-1357, at 7552, lines 1398-1400; P-0889: T-108, p. 64, lines 6-22.

¹³⁸¹ P-1847: T-022, p. 45, lines 15-25. See also P-1847 Second Statement, CAR-OTP-2122-8251-R01, at 8270, para. 178.

government forces.¹³⁸² Adrien Poussou similarly testified that on 15 March 2013, a large rally was held to celebrate François Bozizé's ten years in power.¹³⁸³ The Chamber refers to its discussion of the speeches made in the context of this rally below¹³⁸⁴ as well as of Steve Yambété's radio address on 22 March 2013.¹³⁸⁵

713. On the basis of the above, the Chamber concludes that COCORA, led by Levy Yakété, and COAC, led by Steve Yambété, were two youth organisations with direct links to François Bozizé, the KNK and Bozizé's government, including Mr Ngaïssona at least while he was minister therein, which were active specifically between the end of 2012 and the end of March 2013, when the Seleka took power. They erected checkpoints and/or roadblocks at which passers-by and vehicles were checked, with the objective of identifying Seleka infiltrators and people deemed to be associated with or supportive of them, including Muslims. The individuals manning these checkpoints were armed with bladed weapons and, in some cases, AK-47s.

iii. The take-over of power by the Seleka

On 24 March 2013, the Seleka took control of Bangui. Michel Djotodia proclaimed himself President of the CAR.

714. It is undisputed that Seleka elements advanced on Bangui in the period leading up to 24 March 2013 and took control of the city and power over the country on this day. Indeed, the Chamber has received consistent evidence in this regard, as further outlined below. It also appears from the evidence outlined below that this arrival was welcomed at least by parts of the population who thought the Seleka would bring about a desired change.
715. Nicolas Tiangaye testified that on 22 March 2013, Seleka elements crossed the demarcation line in Damara and advanced towards Bangui, passing the Bossembélé axis where they successfully procured a significant number of weapons.¹³⁸⁶ He stated that another 'army' came from Bossembélé and on 24 March 2013, these two groups united their forces at

¹³⁸² P-0291 Statement, CAR-OTP-2024-0036-R05, at 0045-46, para. 58; P-0291: T-051, p. 16, line 16 – p. 17, line 20.

¹³⁸³ P-2625: T-188, p. 43, line 16 – p. 44, line 1.

¹³⁸⁴ See paragraphs 1276-1280 below.

¹³⁸⁵ See paragraphs 1281 below.

¹³⁸⁶ P-0291 Statement, CAR-OTP-2024-0036-R05, at 0047, para. 67, at 0047-48, para. 70; Investigator's report, CAR-OTP-2034-0002-R02; P-0291: T-051, p. 76, lines 9-16.

PK12.¹³⁸⁷ According to the witness, when the Seleka arrived in Bangui, they already had weapons, combat attire, and uniforms.¹³⁸⁸ Nicolas Tiangaye called the army general chief of staff at the time, General Jules Bernard Ouande, who said that he was only a simple general without troops and that Bozizé in his quality as commander-in-chief was absent, and the general at the head of the army did not take any action.¹³⁸⁹ According to the witness, the then-FOMAC¹³⁹⁰ commander also told him that they could not fight the Seleka which had 7000-8000 fighters, and the CAR did not possess any operational combat planes to address the situation.¹³⁹¹

716. P-2232 testified that [REDACTED] he saw the convoy of François Bozizé going towards Marabena square and trying to enter the South African embassy grounds, where they were refused, then François Bozizé returned to the presidency.¹³⁹² P-2232 also said that when the Seleka took power the following morning, Mr Ngaïssona was on a mission abroad and the people in Bangui mobilising the youth were Levy Yakété and Steve Yambété.¹³⁹³ He stated that they saw soldiers getting rid of their uniforms and fleeing, and the next morning, François Bozizé left on a helicopter together with one of his children, Franklin, and Eric Danboy, his director of security, while the rest, including Mokom, Francis Bozizé, Dédi Bozizé, and others crossed to the DRC.¹³⁹⁴

717. On 24 March 2013, François Bozizé left the country eventually reaching Cameroon¹³⁹⁵ and the Seleka entered Bangui, Bozizé's government was toppled and Michel Djotodia took power, proclaiming himself president.¹³⁹⁶ According to one UN report, this led to the CAR

¹³⁸⁷ P-0291 Statement, CAR-OTP-2024-0036-R05, at 0047, para. 67; Investigator's report, CAR-OTP-2034-0002-R02.

¹³⁸⁸ P-0291: T-051, p. 76, lines 17-21.

¹³⁸⁹ P-0291 Statement, CAR-OTP-2024-0036-R05, at 0047, para. 68.

¹³⁹⁰ *Force multinationale de l'Afrique centrale*. See also footnote 1464 below.

¹³⁹¹ P-0291 Statement, CAR-OTP-2024-0036-R05, at 0047, para. 69.

¹³⁹² P-2232: T-075, p. 22, line 13 – p. 23, line 5.

¹³⁹³ P-2232: T-075, p. 23, lines 6-12.

¹³⁹⁴ P-2232: T-075-ENG, p. 23, line 13 – p. 24, line 10; T-075-FRA, p. 23, line 10 – p. 24, line 11.

¹³⁹⁵ See also paragraphs 753-768 below.

¹³⁹⁶ P-0291 Statement, CAR-OTP-2024-0036-R05, at 0048, para. 71; P-2926 Report, CAR-OTP-2127-4289, at 4298, para. 21; UNHCHR Report, CAR-OTP-2001-0172, at 0176, para. 9; UN SG Report, CAR-D30-0004-0102, at 0103, para. 6. See also FIDH report, CAR-OTP-2001-2890, at 2899. The Chamber refers to its remarks on this report as outlined in footnote 1232 above.

‘plunging into a state of general anarchy marked by a complete breakdown of law and order’, and that there were ‘increasing signs of mounting resistance from the population’.¹³⁹⁷

718. A number of other witnesses described their experiences of the Seleka entering Bangui on 24 March 2013.¹³⁹⁸
719. Jean Louis Yamodo stated that when the Seleka entered Bangui, people stood on the side of the road clapping and cheering since they thought that the Seleka would be a good change for the country.¹³⁹⁹ Similarly, P-0884 testified that people initially applauded the Seleka when taking power because François Bozizé, at a certain point, ‘lost it’ with his government: he surrounded himself with people from his own ethnic group, there was nepotism, he was accused of keeping everything to himself, his family and close relatives.¹⁴⁰⁰ He testified there was a certain marginalisation of some people, Vakaga and others, and for Muslims in Vakaga, Birao, and Ndélé, there were problems of a lack of government structure.¹⁴⁰¹ Similarly, P-2324 stated that before the conflict started, most people were already fed up with the Bozizé regime, and people were happy with the arrival of the Seleka because of the idea that high positions in the government were reserved for people of the Gbaya ethnic group, and many non-Muslims felt that way too because they were not Gbaya.¹⁴⁰²

¹³⁹⁷ UN SG Report, CAR-D30-0004-0102, at 0106, paras 22, 25.

¹³⁹⁸ P-0461 Statement, CAR-OTP-2031-0190-R01, at 0193-94, para. 21; P-1143 Statement, CAR-OTP-2058-0227-R03, at 0231, para. 24; P-1598 Statement, CAR-OTP-2057-0892-R02, at 0894, para. 14, at 0894-95, para. 16; P-1654 Statement, CAR-OTP-2053-0112-R04, at 0114, para. 12; P-1647 Statement, CAR-OTP-2050-0654-R02, at 0656, para. 16; P-1647 Corrections, CAR-OTP-00000826, at 000001 (The Chamber notes that the witness indicated this took place in ‘2012 or 2013’, but notes that the date of the Seleka take-over in 2013 is well known and not contested.); P-0954 Statement, CAR-OTP-2048-0171-R03, at 0173-74, paras 12-14; P-2652 Statement, CAR-OTP-2126-0175-R01, at 0180, paras 28-30; P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0040, para. 5; P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0037-38, para. 18; P-2133 Statement, CAR-OTP-2093-0267-R02, at 0270, paras 22-23; P-2841 Statement, CAR-OTP-2127-4238-R01, at 4241, para. 16; P-2546 Statement, CAR-OTP-2114-0402-R01, at 0409, para. 26; P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0330, para. 40; P-0801: T-033, p. 65, lines 1-11; P-1847 First Statement, CAR-OTP-2061-1534, at 1536-39, paras 13-24; P-1847: T-022, p. 62, line 11 – p. 67, line 21.

¹³⁹⁹ P-1143 Statement, CAR-OTP-2058-0227-R03, at 0231, para. 25.

¹⁴⁰⁰ P-0884: T-054, p. 41, line 24 – p. 43, line 1. *See also* P-2625: T-191, p. 4, lines 7-21; Analysis, CAR-OTP-2123-0430, at 0430.

¹⁴⁰¹ P-0884: T-054, p. 43, lines 3-22.

¹⁴⁰² P-2324 Statement, CAR-OTP-2100-2002-R02, at 2005, para. 16, at 2006, para. 18.

720. In addition to the evidence regarding the actual take-over of Bangui on 24 March 2013, the Chamber also received evidence on aspects of what happened immediately following the coup.
721. Specifically, Jean-Jacques Demafouth was in Bangui around the time of the 24 March 2013 coup, at Camp M'Poko, the FOMAC military base, and, since Nicolas Tiangaye and Mboli-Goumba were also at the camp, could directly follow the developments of how a new government would be made and how François Bozizé was received by the Cameroonian authorities.¹⁴⁰³ According to the witness, the night when François Bozizé lost the battle and came back to Bangui, he held a meeting with the entourage, particularly officers from the military and those responsible for COCORA, and gave them instructions as regards armaments, weapons, and resources to create complete disorder in the country, and asked some of them to be ready so he could call upon them and they could join him.¹⁴⁰⁴ Jean-Jacques Demafouth said that when François Bozizé understood that his army had lost, he sent an instruction that all the arms from all the soldiers who came from the front be recuperated, but those weapons were never in the state armoury, they simply disappeared and were re-distributed to people who did not have an entitlement, for example, members of the militia such as COCORA, and supporters of the KNK to defend themselves.¹⁴⁰⁵ Jean-Jacques Demafouth said that he met various people at Camp M'Poko, including generals, the protocol man of Bozizé, the director of the training school, Mokom; and that, at that moment, no one regarded him as an enemy, so they talked.¹⁴⁰⁶ In the camp, the witness already had information that resistance was being organised, and contacts started to be made at that point.¹⁴⁰⁷
722. Adrien Poussou, who was not in Bangui when the Seleka entered, went there three days after the coup¹⁴⁰⁸ and spent seven days in the city, of which five were at the Hotel Ledger, the centre of power at the time where he exchanged with Crépin Mboli-Goumba, the minister of

¹⁴⁰³ P-2328: T-046, p. 68, lines 6-13, p. 69, line 19 – p. 70, line 22, p. 73, line 21 – p. 74, line 4.

¹⁴⁰⁴ P-2328: T-046, p. 74, lines 5-22.

¹⁴⁰⁵ P-2328: T-046, p. 75, lines 11-22.

¹⁴⁰⁶ P-2328: T-046, p. 75, line 23 – p. 76, line 16.

¹⁴⁰⁷ P-2328: T-046, p. 76, line 23 – p. 77, line 13.

¹⁴⁰⁸ P-2625: T-188, p. 58, line 19 – p. 59, line 3.

state and minister of public works, and met Nicolas Tiangaye, Michel Djotodia and others.¹⁴⁰⁹

iv. The Seleka violence

After the Seleka took control of Bangui on 24 March 2013, they committed violence and abuses in various localities across the CAR, in particular against individuals considered to be associated with François Bozizé, his Gbaya ethnic group, his government's security forces, and non-Muslims. Mr Ngaïssona's properties in Bangui were looted. However, the Muslim civilian population was not entirely spared from this violence.

The Seleka included fighters in particular from Chad and Sudan. It was led by Central African Muslims. Due to the violence and abuses committed by the Seleka and in light of its perceived composition, tensions in particular between Muslim and non-Muslim communities increased.

723. The Chamber has received a significant amount of evidence concerning the violence committed by members of the Seleka following the take-over of Bangui, in the city itself and other locations across the CAR territory. That the Seleka committed abuses following their take-over of Bangui is indeed not disputed between the parties.¹⁴¹⁰ It transpires from the evidence before the Chamber that, certainly at the outset, the violence targeted in particular supporters of the former regime or individuals perceived to be so, including members of the regular armed forces, including FACA, police and gendarmerie, members of the Gbaya ethnic group, or inhabitants of neighbourhoods and areas in which supporters of François Bozizé were generally thought to be living.

724. Catherine Samba-Panza testified that once the Seleka entered Bangui, they committed many acts of violence and abuse, theft, as well as destroyed public and private property, and religious buildings.¹⁴¹¹ The witness agreed with the suggestion that the Seleka targeted non-Muslims, particularly Gbaya and people suspected of being close to François Bozizé, and that many people deemed close to François Bozizé were in Boy-Rabe, which was regularly attacked by the Seleka.¹⁴¹² Catherine Samba-Panza stated that the Seleka thought that the

¹⁴⁰⁹ P-2625: T-188, p. 64, line 16 – p. 65, line 14. *See also* List, CAR-OTP-2123-0452.

¹⁴¹⁰ *See* [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 45; [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 167; [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 145.

¹⁴¹¹ P-0952: T-249, p. 9, lines 10-15.

¹⁴¹² P-0952: T-251, p. 5, lines 1-25.

people in Boy-Rabe were pro-Bozizé and resisting its attacks to disarm elements, so she had to intervene to provide assistance.¹⁴¹³ The witness agreed with the suggestion that crimes by the Seleka did not come to an end when she became president in January 2014, at which time the armed forces had practically disappeared and internal forces were trying to ensure the defence, security and protection of the people, and the international forces, given their numbers, could not be everywhere and could not protect the civilian population everywhere.¹⁴¹⁴

725. P-2050 testified that on [REDACTED] April 2013, she visited Mr Ngaïssona's house in Boy-Rabe,¹⁴¹⁵ an area which she was told the Seleka had punished for being close to François Bozizé, coming three or four times to pillage.¹⁴¹⁶ P-2050 could see that Boy-Rabe had been heavily looted: houses were empty, doors were destroyed, loose elements were wandering around looking for food, including some men in Seleka uniforms.¹⁴¹⁷ P-2050 was told [REDACTED] that there were militiamen of Bozizé in Boy-Rabe at the time and that Mr Ngaïssona, before he fled Bangui, had ordered a militia be set up.¹⁴¹⁸ P-2050 testified that Mr Ngaïssona's residence was the biggest in the area and she knew it was his because [REDACTED] confirmed it to her.¹⁴¹⁹ It had the biggest gate with a lot of bullet holes visible on it and P-2050 was told that the Seleka targeted the house before looting it.¹⁴²⁰ P-2050 described [REDACTED].¹⁴²¹ P-2050 noticed [REDACTED].¹⁴²² [REDACTED]¹⁴²³ [REDACTED].¹⁴²⁴

¹⁴¹³ P-0952: T-251, p. 6, line 15 – p. 7, line 19.

¹⁴¹⁴ P-0952: T-251, p. 8, line 6 – p. 11, line 14. *See also* Letter, CAR-OTP-2087-9328.

¹⁴¹⁵ P-2050 Statement, CAR-OTP-2076-0911-R02, at 0914, para. 19.

¹⁴¹⁶ P-2050 Statement, CAR-OTP-2076-0911-R02, at 0918, para. 42.

¹⁴¹⁷ P-2050 Statement, CAR-OTP-2076-0911-R02, at 0918-19, para. 44; P-2050: T-240, p. 34, line 4 – p. 35, line 20. *See also* Notes, CAR-OTP-2076-1002, at 1007-10.

¹⁴¹⁸ P-2050 Statement, CAR-OTP-2076-0911-R02, at 0918-19, para. 44; P-2050: T-240, p. 34, line 4 – p. 35, line 20. *See also* Notes, CAR-OTP-2076-1002, at 1007-10.

¹⁴¹⁹ P-2050 Statement, CAR-OTP-2076-0911-R02, at 0919, para. 45.

¹⁴²⁰ P-2050 Statement, CAR-OTP-2076-0911-R02, at 0919, para. 45.

¹⁴²¹ P-2050 Statement, CAR-OTP-2076-0911-R02, at 0919, para. 46; P-2050: T-240, p. 33, lines 11-18. *See also* P-2050: T-240, p. 32, line 8 – p. 33, line 10 and Photographs, CAR-OTP-2076-1415; CAR-OTP-2076-1418; CAR-OTP-2076-1419; Audio, CAR-OTP-2076-1062; Transcript, CAR-OTP-2087-8914.

¹⁴²² P-2050 Statement, CAR-OTP-2076-0911-R02, at 0919, para. 46; P-2050: T-240, p. 33, lines 11-18.

¹⁴²³ P-2050 Statement, CAR-OTP-2076-0911-R02, at 0919, para. 47; P-2050: T-240, p. 33, line 19 – p. 34, line 3.

¹⁴²⁴ P-2050 Statement, CAR-OTP-2076-0911-R02, at 0919, para. 48. *See also* Audio, CAR-OTP-2076-1059; Transcript, CAR-OTP-2087-8910.

726. Other witnesses also testified to the looting of Mr Ngaïssona's properties in Boy-Rabe.¹⁴²⁵

727. As discussed below, the evidence before the Chamber shows that the Seleka, at least at the outset, targeted in particular individuals of Gbaya ethnicity – the ethnicity of François Bozizé – and neighbourhoods in which perceived Bozizé supporters were considered to be living, in addition to security forces such as FACA, gendarmerie and police, as well as generally non-Muslims.¹⁴²⁶

728. For example, Nicolas Tiangaye in his speech to the UN General Assembly deplored killings in Boy-Rabe and Boeing.¹⁴²⁷ Other witnesses testified that Boy-Rabe, in the 4th arrondissement, and Boeing were particularly targeted.¹⁴²⁸ According to some, the Seleka considered especially Boy-Rabe to be a Bozizé stronghold,¹⁴²⁹ while P-2843 stated it was because many soldiers lived there.¹⁴³⁰

¹⁴²⁵ P-0884: T-054, p. 46, lines 4-10; P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0292, para. 26; P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0015-16, para. 30; P-0808: T-070, p. 13, lines 2-5; P-1647 Statement, CAR-OTP-2050-0654-R02, at 0657, paras 21-23; D30-4756: T-268, p. 16, line 1 – p. 18, line 24, p. 20, line 3 – p. 22, line 21, p. 23, line 18 – p. 28, line 23, p. 30, line 2 – p. 31, line 13; D30-4914 Statement, CAR-D30-0024-0001-R01, at 0005, lines 136-142. *See also* Photographs, CAR-OTP-2076-1411; CAR-OTP-2076-1421; CAR-OTP-2076-1422; Sketch, CAR-OTP-2032-0783; D30-4848: T-298, p. 46, line 20 – p. 47, line 6.

¹⁴²⁶ The Chamber notes that many witnesses refer to 'Christians', but understands this in most cases to be a more general reference to individuals that were not Muslims. Unless there are reasons to specifically refer to 'Christians' on the basis of certain individuals' faith, the Chamber refers to 'non-Muslims' throughout.

¹⁴²⁷ P-0291: T-052, p. 5, line 14 – p. 7, line 3. *See* Speech, CAR-OTP-2100-1796; Speech, CAR-D29-0012-0011, at 0014.

¹⁴²⁸ P-0884: T-057, p. 23, line 20 – p. 24, line 2; P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0291, paras 16-17; P-0808: T-071, p. 86, lines 1-20; P-1143 Statement, CAR-OTP-2058-0227-R03, at 0231, para. 26, at 0232-33, paras 31-35, at 0233, para. 41, at 0234, para. 44, at 0237-38, paras 68-69; P-1990: T-237, p. 14, line 25 – p. 15, line 8; P-0446 Interview Transcript, CAR-OTP-2059-1498-R02, at 1510-12, lines 406-507; P-0889 Statement, CAR-OTP-2027-2290-R02, at 2292-93, para. 15. *See also* P-2926 Report, CAR-OTP-2127-4289, at 4304, para. 33; Video, CAR-D29-0008-0014, at approximately 00:01:20-00:03:34; Transcript, CAR-D29-0006-1183.

¹⁴²⁹ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0330, para. 41, at 0331, para. 46; P-0461 Statement, CAR-OTP-2031-0190-R01, at 0194, para. 22; P-1143 Statement, CAR-OTP-2058-0227-R03, at 0231, para. 29; P-0446 Interview Transcript, CAR-OTP-2059-1433-R01, at 1443-44, lines 362-411; CAR-OTP-2059-1468-R01, at 1482-86, lines 482-644, at 1492-96, lines 847-1011; CAR-OTP-2059-1498-R02, at 1501-09, lines 86-403, at 1516-17, lines 646-694, at 1518-19, lines 749-761, at 1520-22, lines 802-877; P-0889 Statement, CAR-OTP-2027-2290-R02, at 2293, para. 16. *See also* Press article, CAR-D29-0002-0128.

¹⁴³⁰ P-2843: T-074, p. 7, lines 3-13.

729. Further evidence suggests that the Seleka attacked individuals specifically identified as supporters of François Bozizé or the KNK,¹⁴³¹ as well as Gbaya¹⁴³² and non-Muslim individuals or institutions.¹⁴³³ The evidence before the Chamber also indicates that the Seleka singled out individuals identified as members of the security forces, especially FACA.¹⁴³⁴

730. Numerous witnesses provided specific examples of violence at the hand of Seleka elements they experienced or heard about, including in localities such as Bangui,¹⁴³⁵ Bossangoa,¹⁴³⁶

¹⁴³¹ P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0015, para. 25; P-0808: T-071, p. 84, line 21 – p. 85, line 15; P-1558 Statement, CAR-OTP-2105-0195-R01, at 0197-98, para. 16; P-1719: T-141, p. 32, line 15 – p. 33, line 10; D30-4720: T-280, p. 40, lines 3-13. *See also* P-2269 Statement, CAR-OTP-2111-0336-R01, at 0340-41, para. 33.

¹⁴³² P-0884: T-054, p. 27, lines 1-10, p. 32, line 25 – p. 33, line 4; P-2843: T-074, p. 9, lines 5-10. *See also* P-2926 Report, CAR-OTP-2127-4289, at 4304, para. 33; P-1576: T-239, p. 38, line 13-17.

¹⁴³³ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0060, para. 63; P-0808: T-071, p. 76, line 17 – p. 77, line 10; P-0889 Statement, CAR-OTP-2027-2290-R02, at 2293, para. 17; P-0446 Interview Transcripts, CAR-OTP-2059-1433-R01, at 1443-44, lines 362-411; CAR-OTP-2059-1468-R01, at 1482-86, lines 482-644, at 1492-96, lines 847-1011; CAR-OTP-2059-1498-R02, at 1501-09, lines 86-403, at 1516-17, lines 646-694, at 1518-19, lines 749-761, at 1520-22, lines 802-877; P-2422 Statement, CAR-OTP-2110-0801-R02, at 0807, para. 22; P-1042: T-163, p. 65, lines 15-17; P-0461 Statement, CAR-OTP-2031-0190-R01, at 0194, para. 22; D30-4608: T-291, p. 31, line 16 – p. 32, line 4; P-1813: T-182, p. 4, lines 12-18; P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0330, para. 41.

¹⁴³⁴ P-0952: T-252, p. 8, lines 5-8; P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0330, para. 41; P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0014, para. 20; P-0808: T-070-ENG, p. 17, line 12 – p. 18, line 3, p. 18, lines 14-23; T-070-FRA, p. 19, line 18 – p. 20, line 3; P-0446 Interview Transcript, CAR-OTP-2059-1468-R01, at 1491-92, lines 813-845; P-1042: T-163, p. 65, line 18 – p. 66, line 1; P-1143 Statement, CAR-OTP-2058-0227-R03, at 0238, para. 70; P-0520 Statement, CAR-OTP-2050-0788-R02, at 0791, para. 18; P-2232: T-078, p. 5, lines 13-17; P-1647 Statement, CAR-OTP-2050-0654-R02, at 0656, para. 17; P-1647: T-195, p. 5, line 4 – p. 9, line 6; D30-4608: T-291, p. 25, line 11 – p. 26, line 2; P-2084 Statement, CAR-OTP-2094-0968-R02, at 0973, para. 29; D30-4914 Statement, CAR-D30-0024-0001-R01, at 0004-05, lines 120-135, at 0005, lines 149-153; D30-4914: T-302, p. 18, line 20 – p. 19, line 25. *See also* HRW Report, CAR-OTP-2001-1870, at 1938-40; P-0287 Statement, CAR-OTP-2115-0239-R01, at 0261, para. 106; P-0966: T-118, p. 54, line 20 – p. 55, line 12; P-0974: T-243, p. 36, line 18 – p. 37, line 7. The Chamber notes that Nicolas Tiangaye did not think that the Seleka systematically attacked FACA elements and was of the view that some FACA elements who felt threatened or in danger went into exile, while those who were close to François Bozizé also left (*see* P-0291: T-051, p. 73, line 23 – p. 74, line 11). In light of the evidence before it to the contrary as referenced, the Chamber does not rely on this aspect of P-0291's evidence.

¹⁴³⁵ *See e.g.* P-0889 Statement, CAR-OTP-2027-2290-R02, at 2294, para. 26; P-1839: T-170, p. 14, line 17 – p. 16, line 2; T-172, p. 17, lines 8-21, p. 30, line 7 – p. 31, line 3; P-0965 Interview Transcript, CAR-OTP-2046-0122-R01, at 0124-25, lines 66-98, at 0126-28, lines 113-183; P-1172 First Statement, CAR-OTP-2046-1003-R03, at 1006, paras 20-21; P-1143 Statement, CAR-OTP-2058-0227-R03, at 0234, paras 45-47, at 0235-37, paras 53-67; P-1654 Statement, CAR-OTP-2053-0112-R04, at 0114, paras 14-16; P-1576 Statement, CAR-OTP-2060-0280-R01, at 0282, para. 14; P-1576 Corrections, CAR-OTP-00001673, at 000001; P-1576: T-239, p. 38, lines 10-24 (*see also* Photographs, CAR-OTP-2075-0074); P-0446 Interview Transcript, CAR-OTP-2059-1468-R01, at 1482-91, lines 482-811; P-2133 Statement, CAR-OTP-2093-0267-R02, at 0272-73, paras 45-48; P-2673 Statement, CAR-OTP-2127-6435-R01, at 6440, para. 31; P-2673: T-042, p. 54, line 22 – p. 55, line 16.

¹⁴³⁶ *See e.g.* P-2269 Statement, CAR-OTP-2111-0336-R01, at 0339, para. 20; P-2658 Statement, CAR-OTP-2126-0012-R02, at 0015, para. 18; P-2453 Statement, CAR-OTP-2111-0415-R04, at 0418-19, paras 20-21; P-2453: T-137, p. 12, line 13 – p. 13, line 5, p. 19, line 22 – p. 20, line 20, p. 26, line 1 – p. 27, line 20; P-2133 Statement, CAR-OTP-

and the PK9/Mbaïki axis.¹⁴³⁷ The Chamber also received evidence on violence committed by Seleka elements in locations of interest to its later discussions, including in Yaloké and surrounding areas,¹⁴³⁸ Guen,¹⁴³⁹ Carnot,¹⁴⁴⁰ Boda¹⁴⁴¹ and Berbérati.¹⁴⁴² Other witnesses described Seleka abuses in their respective localities.¹⁴⁴³ The evidence suggests moreover

2093-0267-R02, at 0273, paras 47-48, at 0275, paras 62-64; D30-4608 Statement, CAR-D30-0017-0004-R01, at 0007, para. 23, at 0009, paras 35-39; D30-4608: T-291, p. 28, line 11 – p. 31, line 12, p. 32, line 11 – p. 34, line 16, p. 35, line 14 – p. 36, line 12, p. 36, line 23 – p. 40, line 1, p. 42, line 22 – p. 43, line 19, p. 51, lines 4-11, p. 71, line 22 – p. 91, line 11; T-292, p. 3, line 15 – p. 8, line 3, p. 8, line 17 – p. 10, line 4, p. 55, line 3 – p. 58, line 6; Photograph, CAR-D30-0011-0480; D30-4953 Statement, CAR-D30-0026-0001-R01, at 0002, paras 8-11; D30-4514 Statement, CAR-D30-0025-0001-R001, at 0012-13, lines 376-387, at 0016, lines 485-501, at 0025-28, lines 798-898. *See also* HRW Report, CAR-OTP-2001-1870, at 1888, 1917-20; Mapping Project Report, CAR-OTP-2055-1987, at 2120; Memorandum, CAR-OTP-2001-3268, at 3274-75; Facebook post, CAR-OTP-2114-0543, at 0547-48; HRW Report, CAR-OTP-2001-2308, at 2325; Letter, CAR-OTP-2006-0129-R01. The Chamber notes the evidence provided by P-2200, according to which the Seleka did not cause any harm in Bossangoa, did not destroy houses or kill anyone, but fought against the Anti-Balaka and destroyed their houses in response to attacks (*see* P-2200 Statement, CAR-OTP-2088-2146-R04, at 2150, para. 23, at 2151, para. 26). In light of the evidence mentioned above, the Chamber does not rely on this part of P-2200's evidence. However, it does not consider this to affect P-2200's credibility as a whole.

¹⁴³⁷ *See e.g.* P-1595 Statement, CAR-OTP-2104-0274-R02, at 0278, para. 24; P-1595: T-106, p. 18, line 19 – p. 19, line 18, p. 20, lines 1-6, p. 20, line 17 – p. 21, line 1, p. 24, lines 2-6; P-2354 Statement, CAR-OTP-2105-0991-R03, at 0994, paras 17-18, 20, at 0995, paras 23-24; P-2354: T-210, p. 34, line 19 – p. 35, line 4, p. 35, line 20 – p. 37, line 7; P-1666: T-230, p. 31, line 24 – p. 32, line 12, p. 38, lines 6-18; P-1838 Statement, CAR-OTP-2100-0252-R05, at 0255-56, para. 21, at 0256, paras 22-23, at 0257, para. 30, at 0257-58, para. 31, at 0259-60, para. 41; P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0039, para. 30, at 0039-40, para. 31, at 0340, para. 33; P-1813: T-180, p. 41, line 22 – p. 42, line 15; T-182, p. 6, lines 2-22, p. 17, line 14 – p. 18, line 4, p. 18, lines 6-15; P-1858 Statement, CAR-OTP-2063-0050-R04, at 0053, paras 21-22, at 0053-54, para. 24; P-1858: T-185, p. 65, line 21 – p. 67, line 20.

¹⁴³⁸ P-2546 Statement, CAR-OTP-2114-0402-R01, at 0410-11, para. 30, at 0411, para. 32, at 0411-12, para. 34, at 0412, paras 35-37, at 0413, para. 40; P-1990 Statement, CAR-OTP-2124-0247-R02, at 0252, para. 22; P-1990: T-237, p. 12, line 18 – p. 13, line 6.

¹⁴³⁹ P-1598 Statement, CAR-OTP-2057-0892-R02, at 0894-95, paras 14-16, at 0895, para. 18; P-0732 Statement, CAR-OTP-2061-0003-R02, at 0007, paras 28-29.

¹⁴⁴⁰ P-0289 Statement, CAR-OTP-2024-0288-R02, at 0290-0291, para. 15, at 0291-92, paras 17-23; P-2132 Statement, CAR-OTP-2080-0884-R01, at 0890-91, paras 34-37; P-2393 Statement, CAR-OTP-2108-0140-R03, at 0144, paras 24-28, at 0145-46, paras 34-35; P-1042: T-163, p. 63, line 18 – p. 64, line 10. *See also* Sketch, CAR-OTP-2024-0307-R01.

¹⁴⁴¹ P-1773 Statement, CAR-OTP-2064-0063-R03, at 0066-67, paras 21-24; P-1871 Statement, CAR-OTP-2064-0884-R02, at 0886, para. 14.

¹⁴⁴² P-2324 Statement, CAR-OTP-2100-2002-R02, at 2006, para. 19, at 2006-07, para. 20, at 2007, para. 22; P-2325 Statement, CAR-OTP-2100-2386-R02, at 2388, para. 13, at 2389, para. 15, at 2390, paras 17, 19.

¹⁴⁴³ P-1847 First Statement, CAR-OTP-2061-1534, at 1571, paras 234-235; P-0306: T-064, p. 13, line 12 – p. 15, line 14, p. 19, lines 13-21, p. 21, lines 12-19; T-066, p. 42, lines 16-23; P-0975 Statement, CAR-OTP-2033-7885-R02, at 7888, paras 20-24; P-0974 Statement, CAR-OTP-2058-0165-R01, at 0168-69, paras 20-22, at 0169, paras 24-25, at 0170, paras 29-33, at 0172, paras 44-45; P-0974 Corrections, CAR-OTP-00001761, at 000007; P-0974: T-243, p. 39, line 17 – p. 41, line 21, p. 42, line 3 – p. 43, line 3; P-1042 Interview Transcripts, CAR-OTP-2107-0159-R01, at 0186-99, lines 931-1339, at 0192, lines 1147-1161; CAR-OTP-2107-0202-R02, at 0203-04, lines 14-38; P-1042: T-163, p. 64, line 11 – p. 65, line 6, p. 68, lines 7-23, p. 69, lines 5-12; P-2556 Statement, CAR-OTP-2112-1300-R01, at 1303, paras 19-22; P-1865 Statement, CAR-OTP-2066-0134-R01, at 0137, paras 15-19; P-2041 Statement, CAR-OTP-2104-0003-R02, at 0006, paras 18-24. *See also* HRW Report, CAR-OTP-2001-1870, at 1913-38; HRW press publication, CAR-OTP-2001-1973; AI Report, CAR-OTP-2001-1767, at 1782, 1785-86.

that Muslims and ethnic groups other than Gbaya were also not always spared from the violence.¹⁴⁴⁴

731. The Chamber notes all this evidence, but is of the view that no further detailed discussion thereof is apposite for purposes of adjudicating the allegations before it. Overall, it is clear from this evidence and the evidence outlined below¹⁴⁴⁵ that at the latest by October 2013, the situation in the CAR had reached such a state that the UN Security Council expressed concerns about violations of international humanitarian law and human rights in particular by Seleka elements and also other armed groups, demanding that all Seleka and other armed groups immediately lay down their arms.¹⁴⁴⁶
732. In the context of the Seleka violence, it is of import for the determinations of the Chamber to analyse the impact of such abuses on the CAR communities. In this regard, the Chamber turns to the composition of the Seleka and proportion of foreign elements within it, which is discussed by numerous witnesses.¹⁴⁴⁷
733. The Ngäissona Defence argues that Sudanese and Chadian mercenaries formed the backbone of the Seleka forces and that mercenaries were the ‘overwhelming majority’ within the Seleka.¹⁴⁴⁸

¹⁴⁴⁴ P-0884: T-054, p. 52, lines 3-9 (specified that while the Seleka initially attacked Gbaya, they later committed crimes against other ethnic groups); P-2393 Statement, CAR-OTP-2108-0140-R03, at 0147, para. 39 (said that the Seleka in Carnot did not spare anybody and harassed Muslims and Christians alike); P-2389 Statement, CAR-OTP-2104-0033-R03, at 0036, para. 19; P-2389: T-238, p. 20, lines 20-25 (stated that the behaviour of the Seleka in Pissa was not good and targeted the whole community, though they were more brutal towards the Christians); P-2353 Statement, CAR-OTP-2100-0226-R03, at 0228, para. 15, at 0229, para. 19 (stated that the Seleka in Mbaïki treated the Muslim community as harshly as the Christian community). *See also* P-1823 Statement, CAR-OTP-2063-0369-R02, at 0372, para. 18; P-1779 Statement, CAR-OTP-2087-9894-R02, at 9899, para. 32; P-2393 Statement, CAR-OTP-2108-0140-R03, at 0147, para. 42; P-2325 Statement, CAR-OTP-2100-2386-R02, at 2388-89, para. 14; P-2354: T-210, p. 34, line 19 – p. 35, line 4; P-1666: T-230, p. 31, line 24 – p. 32, line 12; P-1838 Statement, CAR-OTP-2100-0252-R05, at 0257, para. 30.

¹⁴⁴⁵ *See* section II.A.6 below.

¹⁴⁴⁶ Resolution S/RES/2121 (2013), CAR-OTP-2001-0256, at 0256, at 0259, para. 8, at 0260, para. 13.

¹⁴⁴⁷ *See also* paragraphs 662-680 above.

¹⁴⁴⁸ [Ngäissona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 142.

734. Numerous witnesses testified about the Seleka including individuals from Chad or Sudan, as well as some considered to be Janjaweed, often in reference to Seleka elements not speaking Sango or French, but only Arabic.¹⁴⁴⁹
735. The report presented by P-2926 concluded that the Seleka included fighters from ethnicities of the north of the CAR, including Gula, Runga, Sara, Kara, Peul, and others, as well as park rangers of Bamingui-Bangoran, diamond collectors such as Abdoulaye Hissène and Abakar Zakaria, to which were added Chadian and Sudanese combatants, such as Moussa Assimeh, leader of the Janjaweed.¹⁴⁵⁰ An NGO report found that the extended force of the Seleka included local people from the CAR, as well as foreign mercenaries and poachers.¹⁴⁵¹ Kasper Agger testified in this regard that while there were senior members and commanders of the Seleka who were from Sudan, for example Assimeh, a well-known former member of the Janjaweed,¹⁴⁵² it was still his impression that the majority of the Seleka were Central Africans.¹⁴⁵³ The CAR Panel similarly concluded that the Seleka included Chadian and Sudanese combatants, but that this was not unique, in that the rebellion led by François Bozizé in 2003 was also comprised of substantial amounts of foreign fighters, mostly from Chad.¹⁴⁵⁴ Yet any reference to a ‘foreign invasion’ in the panel’s report simply conveyed the

¹⁴⁴⁹ P-0884: T-054, p. 27, lines 11-13, p. 43, line 23 – p. 44, line 19, p. 44, line 25 – p. 45, line 8, p. 45, line 15 – p. 46, line 2; T-057, p. 24, lines 3-15; P-0446 Interview Transcript, CAR-OTP-2059-1468-R01, at 1480, lines 423-435, at 1481-82, lines 470-477; P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0291, paras 14-15; P-2084 Statement, CAR-OTP-2094-0968-R02, at 0972-73, paras 26-27; P-2084: T-234, p. 55, lines 11-18, p. 80, line 10 – p. 81, line 6; P-2453 Statement, CAR-OTP-2111-0415-R04, at 0419, para. 22; P-2453: T-137, p. 9, lines 14-19; P-2682: T-017, p. 32, lines 12-17; T-018, p. 50, line 17 – p. 51, line 13; P-1595 Statement, CAR-OTP-2104-0274-R02, at 0280, paras 33-34; P-1823 Statement, CAR-OTP-2063-0369-R02, at 0372-73, para. 19; P-0475: T-091, p. 31, line 17 – p. 32, line 2; P-0808: T-070, p. 13, lines 15-22, p. 16, lines 10-22; P-2841: T-029, p. 62, line 25 – p. 63, line 17; D29-5012: T-293, p. 47, line 2 – p. 48, line 13; T-295, p. 34, lines 12-18; D30-4914: T-302, p. 22, line 22 – p. 23, line 6; D30-4720: T-281, p. 3, line 18 – p. 4, line 13; D30-4848: T-296, p. 21, lines 10-13; D30-4756: T-268, p. 11, lines 15-19; P-1042 Interview Transcript, CAR-OTP-2107-0243-R01, at 0250-51, lines 206-268; P-1042: T-163, p. 66, lines 3-9, p. 66, lines 14-16; P-2325 Statement, CAR-OTP-2100-2386-R02, at 2390, para. 18; P-2546 Statement, CAR-OTP-2114-0402-R01, at 0410, para. 29; P-1598 Statement, CAR-OTP-2057-0892-R02, at 0895, para. 18; P-1847 First Statement, CAR-OTP-2061-1534, at 1572, para. 241.

¹⁴⁵⁰ P-2926 Report, CAR-OTP-2127-4289, at 4292-93, paras 7-8. *See also* P-2926: T-032, p. 75, line 6 – p. 76, line 10. The report further referred to a report of the International Crisis Group to state that the Seleka were a heterogeneous coalition of Central African and foreign combatants with the only thing in common that they were in majority Muslim (*see* P-2926 Report, CAR-OTP-2127-4289, at 4295, para. 14).

¹⁴⁵¹ Report ‘Behind the Headlines’, CAR-OTP-2001-2564, at 2573.

¹⁴⁵² P-2012: T-025, p. 26, line 14 – p. 28, line 6, p. 37, lines 2-13.

¹⁴⁵³ P-2012: T-025, p. 36, line 15 – p. 37, line 1.

¹⁴⁵⁴ Annex 2 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0865, paras 11-13, at 0865-66, para. 15; P-0287: T-021, p. 64, lines 18-20, p. 65, lines 1-4, p. 69, line 4 – p. 73, line 5. *See also* P-0287: T-021, p. 63, line 5 – p. 64, line 6.

statements brought to their attention in which that term may have occurred.¹⁴⁵⁵ Indeed, the Seleka was often perceived as being in the majority ‘foreign’, without however there being concrete information on the Seleka’s actual composition, let alone how many actually foreign fighters it may have included.¹⁴⁵⁶ Catherine Samba-Panza testified that the Seleka was led by Central African Muslims.¹⁴⁵⁷ P-1577 was also aware of the names of significant high-level Seleka commanders who were from the CAR.¹⁴⁵⁸

736. The Chamber notes that some evidence suggests that foreign fighters were in the majority within the Seleka.¹⁴⁵⁹ However, of the reports mentioned, neither provides any sources for this claim.

737. Overall, the Chamber considers that the evidence before it does not allow it to reach a firm conclusion on the exact percentage which combatants from outside of the CAR may have formed within the Seleka.¹⁴⁶⁰ The evidence shows that the Seleka clearly included foreign fighters, in particular from Chad and Sudan including some referred to as Janjaweed. The evidence equally shows that the Seleka was led by CAR nationals of Muslim faith¹⁴⁶¹ and in its origins formed through a coalition of groups opposing the Bozizé regime within the CAR.¹⁴⁶²

738. The Chamber further notes in this context that some witnesses suggested that Seleka members passed themselves off as FOMAC elements,¹⁴⁶³ while others thought there to be a

¹⁴⁵⁵ P-0287: T-021, p. 66, line 25 – p. 67, line 17, p. 68, line 12 – p. 69, line 2.

¹⁴⁵⁶ See CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0845, para. 27. See also P-0808: T-070, p. 16, lines 10-22; P-1847: T-024, p. 4, line 10 – p. 11, line 14.

¹⁴⁵⁷ P-0952: T-249, p. 7, lines 12-18, p. 8, lines 6-21.

¹⁴⁵⁸ P-1577: T-028, p. 23, lines 12-16.

¹⁴⁵⁹ P-2625: T-188, p. 28, line 20 – p. 29, line 13; T-191, p. 42, line 18 – p. 43, line 1 (testified that not many people know exactly the overall composition of the Seleka, particularly the percentage of mercenaries, though in his rough estimate it could be said there were more foreign mercenaries than native born combatants); AU Letter, CAR-D30-0004-0114, at 0121, para. 12; FIDH Report, CAR-OTP-2001-2769, at 2772 (which both state that according to ‘certain sources’ and ‘some estimates’, respectively, foreigner fighters would make up to 80% of the Seleka). The Chamber notes its remarks on the latter report as outlined under footnote 1309 above.

¹⁴⁶⁰ See also paragraphs 744-751 below.

¹⁴⁶¹ See paragraph 737 above.

¹⁴⁶² See paragraphs 662-680 above. See also P-2926 Report, CAR-OTP-2127-4289, at 4292-93, paras 5-9; IPIS Report, CAR-OTP-2001-5739, at 5754-55; FIDH Report, CAR-OTP-2001-2890, at 2897-98. The Chamber notes its remarks on the latter report as outlined under footnote 1232 above.

¹⁴⁶³ P-0306: T-068, p. 66, line 20 – p. 67, line 4; P-2084 Statement, CAR-OTP-2094-0968-R02, at 0971-72, para. 23; P-2084: T-234, p. 89, line 13 – p. 90, line 4; P-0888: T-121, p. 19, line 7 – p. 21, line 2. The Chamber notes that

collaboration with or support of the Seleka by Chadian FOMAC/MISCA¹⁴⁶⁴ elements.¹⁴⁶⁵

The Chamber emphasises in this regard the evidence of Catherine Samba-Panza who testified that saying that the Seleka were aided by FOMAC ‘would be pushing it too much’.¹⁴⁶⁶

Nicolas Tiangaye stated not having received information according to which certain Seleka would have worn FOMAC armbands (see P-0291: T-052-ENG, p. 34, lines 14-16; T-052-FRA, p. 37, lines 4-7).

¹⁴⁶⁴ The Chamber notes that witnesses often seemed to refer to the acronyms of international forces operating in the CAR across the relevant period interchangeably and irrespective of which force may in fact have been active at any particular time. It appears that the ‘*Mission de consolidation de la paix de la Communauté économique des États de l’Afrique centrale en République centrafricaine*’ (MICOPAX) with its military component FOMAC, set up in 2008, was replaced by the ‘*Mission internationale de soutien à la Centrafrique sous conduite africaine*’ (MISCA) starting in July 2013 (see AU Press release, CAR-D29-0002-0668; Press article, CAR-D29-0002-0690, at 0692-93; Press article, CAR-D29-0002-0656; UNHCHR Report, CAR-OTP-2001-0172, at 0176, para. 12; HRW Report, CAR-OTP-2001-1870, at 1885). Given the deployment of various international or internationalised forces in the CAR over prolonged periods, the Chamber considers this confusion of terms to be understandable and will refer to the acronyms as they were used in witness testimony, with the understanding that this may not necessarily accurately refer to the force in fact operating at the respective time.

¹⁴⁶⁵ P-0291: T-052-ENG, p. 33, line 22 – p. 34, line 11; T-052-FRA, p. 36, line 11 – p. 37, line 1; D30-4514 Statement, CAR-D30-0025-0001-R01, at 0024-25, lines 779-795; P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0043, para. 53; P-1813: T-182, p. 22, line 23 – p. 23, line 11; P-0801: T-037, p. 41, line 25 – p. 42, line 4; D29-5013: T-285, p. 21, line 12 – p. 22, line 15; P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0291, para. 20; P-1193: T-126, p. 15, line 8 – p. 16, line 5. See Paper, CAR-OTP-2002-0371, at 0400; P-0567 Statement, CAR-OTP-2059-0084-R04, at 0097, para. 84; P-2926 Report, CAR-OTP-2127-4289, at 4294-95, paras 12-13; P-2012: T-025, p. 28, lines 7-25. See also Video, CAR-OTP-2005-0129, at approximately 00:34:13-00:35:26; Transcript, CAR-OTP-2130-1184, at 1197-98, lines 468-493; Translation, CAR-OTP-2130-1307, at 1324-25, lines 606-633; Press article, CAR-OTP-2001-4274, at 4274-75.

¹⁴⁶⁶ P-0952: T-252, p. 26, line 21 – p. 27, line 7. See also P-0952: T-252-ENG, p. 27, line 13 – p. 28, line 15; T-252-FRA, p. 29, line 27 – p. 31, line 6 (the witness explained that the issue of FOMAC opening fire on civilians in Bangui was in the context of convoys with Muslim population to the north and east being protected by Chadian troops, and when there were attempts to attack, these Chadian troops fired, unfortunately at the population around the trucks). See further D29-5013: T-285, p. 10, line 17 – p. 11, line 14; Press article, CAR-D29-0002-0696; Report ‘Behind the Headlines’, CAR-OTP-2001-2564, at 2583.

739. Witnesses mentioned that some Muslims in the CAR actively joined the Seleka,¹⁴⁶⁷ that Seleka provided weapons to certain members of the Muslim population,¹⁴⁶⁸ or that some individuals pointed the Seleka to other people or property for abuses.¹⁴⁶⁹
740. Other witnesses suggested that some Muslims in the CAR collaborated with or supported the Seleka in various ways.¹⁴⁷⁰ Also other evidence points to the perception that some Muslims collaborated with the Seleka.¹⁴⁷¹ It appears that members of the Muslim population

¹⁴⁶⁷ P-1962: T-140, p. 36, line 24 – p. 37, line 9; P-0475 Statement, CAR-OTP-2104-0116-R04, at 0121-22, para. 37; P-0475: T-090, p. 87, lines 15-21, p. 88, lines 6-23; T-091, p. 26, lines 7-14; P-2200 Statement, CAR-OTP-2088-2146-R04, at 2151, para. 25; P-2049: T-102, p. 12, line 22 – p. 13, line 13; D30-4953 Statement, CAR-D30-0026-0001-R01, at 0003, para. 17; D30-4496 Statement, CAR-D30-0022-0001-R03, at 0004 para. 21; D30-4496: T-289, p. 42, line 21 – p. 44, line 16, p. 55, lines 3-16. *See also* P-2416 Statement, CAR-OTP-2106-0489-R02, at 0497-98, para. 24; P-1042: T-163, p. 66, line 17 – p. 67, line 14; P-0974 Statement, CAR-OTP-2058-0165-R01, at 0168, paras 19-21.

¹⁴⁶⁸ P-0884: T-058, p. 25, line 22 – p. 26, line 19; P-1858 Statement, CAR-OTP-2063-0050-R04, at 0053, paras 19-20; P-1858 Corrections, CAR-OTP-00000777, at 000001; P-1858: T-185, p. 56, line 16 – p. 57, line 16; P-0808: T-071, p. 81, lines 11-23, p. 85, lines 17-23; P-2652 Statement, CAR-OTP-2126-0175-R01, at 0181, para. 32; P-1595 Statement, CAR-OTP-2104-0274-R02, at 0280, para. 33; P-1595: T-106, p. 25, line 11 – p. 26, line 20; P-1838 Statement, CAR-OTP-2100-0252-R05, at 0258, para. 33, at 0259, para. 38; P-1838: T-215, p. 46, lines 10-25; P-1813: T-182, p. 9, line 11 – p. 10, line 3; P-2353 Statement, CAR-OTP-2100-0226-R03, at 0230, para. 25; P-2353: T-162, p. 13, line 1 – p. 15, line 18; D29-5012: T-293, p. 41, line 6 – p. 42, line 11; P-1193 Statement, CAR-OTP-2045-0048-R03, at 0053, para. 32.

¹⁴⁶⁹ P-0291: T-051, p. 73, lines 8-15; P-0952: T-252, p. 7, line 20 – p. 8, line 4; P-1823 Statement, CAR-OTP-2063-0369-R02, at 0372-73, para. 19; P-1823: T-183, p. 66, lines 5-15, p. 68, line 16 – p. 69, line 1; D30-4551 Statement, CAR-D30-0021-0001-R01, at 0002, para. 8; D30-4514 Statement, CAR-D30-0025-0001-R01, at 0014, lines 426-441; D30-4953 Statement, CAR-D30-0026-0001-R01, at 0003, para. 17; P-1813: T-182, p. 7, line 12 – p. 9, line 10. *See also* P-1595: T-106, p. 24, line 25 – p. 25, line 10.

¹⁴⁷⁰ P-0475: T-091, p. 17, lines 5-17; P-1858 Statement, CAR-OTP-2063-0050-R04, at 0053, para. 18; P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0042, para. 17; P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0017, para. 37; P-2652 Statement, CAR-OTP-2126-0175-R01, at 0181, para. 32; D30-4953 Statement, CAR-D30-0026-0001-R01, at 0003, paras 16, 18; P-1813: T-182, p. 20, lines 9-21, p. 21, line 19 – p. 22, line 7; P-2389 Statement, CAR-OTP-2104-0033-R03, at 0037, para. 23; P-2389: T-238, p. 21, lines 2-7; D29-5012: T-293, p. 31, lines 3-17, p. 33, lines 2-17; P-2546 Statement, CAR-OTP-2114-0402-R01, at 0411, para. 33. The impression of these witnesses is not negated by the evidence of P-2453, who pointed out that there was no particular relation between the Seleka and Muslims in Bossangoa, except for the usual that exists between the Seleka as authorities at the time and local traders about their business and tax payments, and as the majority of the Seleka were Muslims, they would also sometimes see them at the mosques for prayers (*see* P-2453 Statement, CAR-OTP-2111-0415-R04, at 0419, para. 22; P-2453: T-137, p. 19, lines 3-9; T-138, p. 17, line 4 – p. 18, line 6, p. 23, line 23 – p. 24, line 4, p. 24, line 15 – p. 27, line 8).

¹⁴⁷¹ P-2325 Statement, CAR-OTP-2100-2386-R02, at 2388-89, para. 14; P-1042: T-163, p. 67, lines 15-20. *See also* HRW Report, CAR-OTP-2001-1870, at 1888; Statement before US House Sub-Committee, CAR-OTP-2001-3307, at 3308, which suggests: ‘Seleka militia often raid villages to steal cattle, livestock, and other property. Seleka militia men then pass the livestock to Central African Muslim herders to take care of because like them, herding is part of their shared culture’ (also at [REDACTED]).

in particular in Kilomètre 5, also called KM5 or PK5,¹⁴⁷² in Bangui, were considered to be supportive of or in collaboration with the Seleka.¹⁴⁷³

741. In addition, some opined that Muslims in the CAR did not, or not sufficiently, denounce the abuses committed by the Seleka.¹⁴⁷⁴ Furthermore, it appears that some considered the Seleka to be a Muslim force, although it also included non-Muslims.¹⁴⁷⁵ This was the case even though witnesses were clear that not all Muslims joined or supported the Seleka, and that Muslims also suffered from the Seleka violence.¹⁴⁷⁶
742. All of the above impressions and perceptions led to increasing tensions, in particular between Muslim and non-Muslim communities. Nicolas Tiangaye explained that some individuals who had previously been on good terms with their neighbours suddenly became violent and arrogant, exacerbating tension within the communities and explaining why, when the Seleka lost power, the victims went into vengeance mode.¹⁴⁷⁷ Catherine Samba-Panza agreed with the suggestion that following the Seleka's arrival, certain Muslim civilians took advantage and became more arrogant, abusive, and violent towards their non-Muslim neighbours, and the non-Muslims sometimes expressed a feeling of betrayal, and the longer the Seleka governance lasted, the more the atmosphere degraded and the anger increased.¹⁴⁷⁸

¹⁴⁷² The Chamber notes that this area of Bangui is referred to by the mentioned terms differently across the evidence before it. In its evidentiary analysis, the Chamber has used the term as mentioned by witnesses or in other evidence, and in the understanding from the overall context that this refers to the same location.

¹⁴⁷³ P-0475 Statement, CAR-OTP-2104-0116-R04, at 0122, para. 39; P-0475: T-091, p. 9, line 22 – p. 10, line 24; P-1858 Statement, CAR-OTP-2063-0050-R04, at 0053, paras 19-20; P-1858 Corrections, CAR-OTP-00000777, at 000001; P-1858: T-185, p. 56, line 16 – p. 57, line 16; P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0042, para. 17; P-1962: T-140, p. 36, line 24 – p. 37, line 9; P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0341, para. 109; P-0808: T-071, p. 79, line 14 – p. 81, line 10.

¹⁴⁷⁴ P-0475 Statement, CAR-OTP-2104-0116-R04, at 0119, para. 22, at 0121, paras 31-36; P-0475: T-090, p. 76, line 25 – p. 77, line 10, p. 78, lines 9-13, p. 84, lines 6-19; P-0808: T-071, p. 79, line 14 – p. 81, line 10.

¹⁴⁷⁵ P-1858 Statement, CAR-OTP-2063-0050-R04, at 0053, para. 18; P-0475 Statement, CAR-OTP-2104-0116-R04, at 0119, para. 19; P-0475: T-090, p. 29, lines 10-19; T-091, p. 30, lines 3-17, p. 31, lines 5-15; P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0042, para. 18; P-2200 Statement, CAR-OTP-2088-2146-R04, at 2151, para. 26; P-2084 Statement, CAR-OTP-2094-0968-R02, at 0972-73, para. 27; P-0889 Statement, CAR-OTP-2027-2290-R02, at 2292-93, para. 15; P-1779 Statement, CAR-OTP-2087-9894-R02, at 9898, para. 27, at 9899, para. 29; P-2926 Report, CAR-OTP-2127-4289, at 4293, para. 9. *See also* P-2926: T-031, p. 64, lines 9-13.

¹⁴⁷⁶ P-0291: T-051-ENG, p. 75, line 2 – p. 76, line 3; T-051-FRA, p. 77, lines 5-8; P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0017, para. 39; P-0475: T-090, p. 15, lines 17 – p. 16, line 8, p. 76, line 25 – p. 77, line 17, p. 78, lines 9-13; P-0884: T-054, p. 44, lines 20-24, p. 45, lines 9-14. *See* paragraph 730, 739-740 above.

¹⁴⁷⁷ P-0291: T-051, p. 73, lines 15-21.

¹⁴⁷⁸ P-0952: T-252, p. 18, line 9 – p. 19, line 9. *See also* P-0884: T-057-ENG, p. 24, lines 3-15; T-057-ENG, p. 26, lines 1-7; T-057-FRA, p. 26, lines 8-15; P-0475 Statement, CAR-OTP-2104-0116-R04, at 0142, para. 206; P-0808:

743. The CAR Panel similarly concluded that the high number of human rights violations during the Seleka rule ‘mainstreamed an anti-foreign discourse into the political arena’,¹⁴⁷⁹ and that due to the presence of Chadian and Sudanese soldiers within the Seleka, most Central Africans perceived the rebel coalition as a foreign group that subjugated the majority of the population: ‘harassment of the mostly non-Muslim communities by the Seleka exacerbated dormant resentments that were opportunistically channelled, for political purposes, through the anti-balaka’.¹⁴⁸⁰

The number of Seleka elements varied greatly in the course of 2013. While counting several thousand elements at the time of the take-over in March 2013, their numbers grew significantly until the end of that year.

744. Catherine Samba-Panza testified that when the Seleka started marching towards Bangui, they were about 5,000 and as the group advanced towards Bangui, it gained strength, growing even further when they arrived there, with youth, traders, civilians, Muslims joining as they advanced and in Bangui.¹⁴⁸¹

745. Jean-Jacques Demafouth testified that the number of Seleka elements changed a lot, but when they arrived at Sibut and Damara, FOMAC estimated they had between 2,000 and 2,500 elements, while their number swelled to 6,000 a month after they took power.¹⁴⁸² When the witness was asked to be the DDR and RSS coordinator in April 2013, they estimated the number at over 10,000 – Jean-Jacques Demafouth explained the background: some time prior to the Seleka’s arrival in Bangui, François Bozizé had launched a recruitment in the armed forces and over 3,000 people had come forward to be recruited, but only about 500 of these individuals were taken, and so there were a lot of unhappy young people in Bangui at the time; and subsequently, when the Seleka arrived, these people all joined.¹⁴⁸³

T-071, p. 86, line 23 – p. 87, line 25; P-1042: T-163, p. 68, lines 2-6; P-2393 Statement, CAR-OTP-2108-0140-R03, at 0147, para. 40; P-0289 Statement, CAR-OTP-2024-0288-R02, at 0290, para. 12; D29-5013: T-285, p. 29, lines 12-20; P-0801: T-037, p. 41, lines 15-24. *See also* P-1576: T-239, p. 50, lines 4-6, p. 90, lines 7-18.

¹⁴⁷⁹ CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0844, para. 24.

¹⁴⁸⁰ CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0845, para. 27. *See also* P-0287: T-021, p. 62, line 9 – p. 63, line 4.

¹⁴⁸¹ P-0952: T-252, p. 4, line 14 – p. 7, line 6.

¹⁴⁸² P-2328: T-046-ENG, p. 50, line 21 – p. 51, line 15; T-046-FRA, p. 50, line 23 – p. 51, line 21.

¹⁴⁸³ P-2328: T-046, p. 50, line 21 – p. 51, line 15.

746. Similarly, Nicolas Tiangaye confirmed the suggestion that the figure of 7,000 to 8,000 Seleka troops would have tripled by November 2013 and explained that, as the Seleka came closer to Bangui, their numbers significantly increased, and many more joined when they effectively took power.¹⁴⁸⁴ According to the witness, some Central African civilians joined their ranks, as did mercenaries from Chad and Sudan.¹⁴⁸⁵
747. One NGO report concluded that the total number of fighters in the Seleka was unclear, but people in Bangui estimated that the group started with 5,000 fighters and gradually grew to 20,000 when they captured Bangui.¹⁴⁸⁶ Another report outlined that reliable estimates on the numbers are difficult to find, mentioning an AU report that spoke of 10-20,000 combatants before the Seleka arrived in Bangui, a UN estimate of 1,600 fighters at the beginning of the December 2012 offensive and 3,500 when reaching Bangui,¹⁴⁸⁷ as well as other sources referring to 5,000 Central African combatants and about 10,000 foreign mercenaries.¹⁴⁸⁸
748. P-1847 recalled that, in 2012, the Seleka spokesperson Narkoyo said on RFI that there were about 20,000 elements.¹⁴⁸⁹
749. P-2841 confirmed that once the Seleka arrived in Bangui in March 2013, their numbers grew significantly since with this type of movement, young unemployed people would join, and a lot of damage was caused in Bangui due to these young people who knew the city well.¹⁴⁹⁰ Adrien Poussou similarly testified that when he was a member of government, Michel

¹⁴⁸⁴ P-0291: T-051, p. 72, lines 3-13.

¹⁴⁸⁵ P-0291: T-051, p. 72, lines 14-20.

¹⁴⁸⁶ Report 'Behind the Headlines', CAR-OTP-2001-2564, at 2573, 2576. *See also* P-2926: T-031, p. 63, line 19 – p. 64, line 8.

¹⁴⁸⁷ *See* UN Commission of Inquiry, CAR-OTP-2001-1075, at 1087, para. 42. The Chamber notes that both Defence teams argue that the probative value of this report, if any, is outweighed by the prejudice reliance on it would cause (*see* Annex A to Response to "Prosecution's Ninth Application for the Submission of Evidence from the Bar Table and request for reconsideration of the Decision on the submission of CAR-OTP-2053-0576", 14 July 2023, ICC-01/14-01/18-1978-Conf-AnxA (the 'Annex A to the Response'), pp. 8-10; Annex 1 to Defence Response to the "Prosecution's Ninth Application for Submission of Evidence from the Bar Table and request for reconsideration of the Decision on the submission of CAR-OTP-2053-0576" ICC-01/14-01/18-1947-Conf, 18 August 2023, ICC-01/14-01/18-2036-Conf-Anx1, pp. 9-10). The Chamber finds that, in the specific context at hand, it is not relying on this report to reach any conclusion on the Seleka numbers. It therefore does not consider it necessary to further discuss these arguments.

¹⁴⁸⁸ IPIS Report, CAR-OTP-2001-5739, at 5753 *referring to* FIDH report, CAR-OTP-2001-2890, at 2905 (mentioning Seleka commanders being accompanied by 5,000 elements when entering Bangui, and numbering 20,000 at the end of June across the country). The Chamber refers to its remarks on the latter report as outlined in footnote 1232 above.

¹⁴⁸⁹ P-1847: T-022, p. 31, lines 6-12.

¹⁴⁹⁰ P-2841: T-030, p. 47, lines 9-18.

Djotodia said that the elements which continued to commit violations in Bangui were made up of youth who had joined the Seleka on their way to Bangui and in Bangui, not only Muslims, but also Christians.¹⁴⁹¹ The witness did not know the relative number of people that joined the Seleka in Bangui or on the way down from Birao; they ('we') had no idea of the number of people who officially belonged to the Seleka and those who joined later.¹⁴⁹²

750. In contrast, Joachim Kokaté could not answer the question if, after the March 2013 coup, many civilians joined the Seleka as he was not in Bangui, and just heard about it.¹⁴⁹³ He said that while he was in the prime minister's office under André Nzapayéké in 2014,¹⁴⁹⁴ Seleka members were billeted at M'Poko camp, Béal and RDOT, but he could not confirm that 20,000 individuals could live in those camps – he only knew that the Seleka authorities had handed over a list of the members of their group to the prime minister and president, and these people were in the camps.¹⁴⁹⁵

751. The Chamber is of the view that the numbers in the evidence before it diverge to such an extent that it cannot reach a conclusive finding as to how many elements the Seleka may have counted at specific times in 2013. However, the Chamber can conclude, on the basis of the evidence before it, that the Seleka counted several thousand elements at the time of the take-over of power in March 2013, growing significantly over time and until the end of the year.

2. Individuals and their activities in Cameroon and the Democratic Republic of the Congo

Following the Seleka taking over Bangui and control in the CAR, François Bozizé, Mr Ngaïssona, Bernard Mokom and others fled to Cameroon. Maxime Mokom, Mr Yekatom and others fled to Zongo, Democratic Republic of the Congo (DRC). Through meetings in Cameroon and communications with individuals in Zongo, in particular Maxime Mokom, who in turn liaised with persons and groups in Bangui and in the provinces, François Bozizé, Mr Ngaïssona, Bernard Mokom and others planned steps to respond to the

¹⁴⁹¹ P-2625: T-188, p. 54, lines 6-23.

¹⁴⁹² P-2625: T-188, p. 54, line 25 – p. 55, line 6.

¹⁴⁹³ P-0801: T-036, p. 66, line 7 – p. 67, line 4.

¹⁴⁹⁴ See P-0801: T-033, p. 11, lines 2-7.

¹⁴⁹⁵ P-0801: T-036, p. 67, line 5 – p. 68, line 8.

Seleka violence in the CAR as well as to ensure François Bozizé's return to power, by all means possible, including through armed violence.

During his time outside of the CAR in 2013, Mr Ngaïssona was actively involved in planning steps to respond to the Seleka violence in the CAR and to ensure François Bozizé's return to power by meeting and liaising with François Bozizé, Bernard Mokom and others to discuss strategies and plans, reaching out to individuals within and outside of the CAR with a view to gathering support for their cause, and providing financial assistance to those willing to assist in their activities. In this context, Mr Ngaïssona travelled to the border between Cameroon and the CAR with a view to liaising with groups meant to assist their efforts. Mr Ngaïssona continued providing financial assistance also after the coordinated attacks of 5 December 2013.

At the same time, Mr Yekatom briefly went to Zongo in 2013 and then started forming a group, over which he assumed control, with Freddy Ouandjio, also known as Cœur de Lion, and Habib Beina, with a view to planning a response to the Seleka violence and removing Michel Djotodia and the Seleka from power.

Maxime Mokom liaised with individuals and groups in Cameroon, Zongo and within the CAR, including his father Bernard Mokom, Mr Yekatom, and groups forming in the provinces, with a view to coordinating the activities and eventual advance onto Bangui.

Mr Ngaïssona provided financial contributions and engaged in activities pertaining to the organisation and coordination of groups for the purpose of facilitating the commission of criminal acts targeting the Muslim population, including the crimes found below.

i. Cameroon

752. The evidence before the Chamber, as further outlined below, shows that following the take-over of power by the Seleka forces, numerous individuals sought refuge in a number of different locations in Cameroon, most importantly Yaoundé, Douala, Bertoua and Garam-Boulai. The Chamber has heard from witnesses who were present in Cameroon for varying periods, and thus in a position to describe which other individuals were there and which contacts were established with persons both within Cameroon and in the CAR or other localities, including *inter alia* P-0884, Joachim Kokaté, P-2673, Adrien Poussou, P-1847 and P-0974. As further outlined below, some witnesses testified about meetings taking place in Cameroon involving François Bozizé, various of his sons, Mr Ngaïssona, Bernard Mokom and others.

a. Individuals in Cameroon

753. The evidence as outlined below shows that François Bozizé and several of his sons, as well as Mr Ngaïssona, Bernard Mokom and many other individuals fled the CAR following the Seleka takeover of power to Cameroon.
754. The Chamber notes in this regard that a passport of Mr Ngaïssona shows a visa for single entry to South Africa on or before 27 March 2013, issued in Yaoundé on 19 March 2013.¹⁴⁹⁶
755. P-1847 [REDACTED] François Bozizé to Yaoundé [REDACTED] until the latter went to Uganda.¹⁴⁹⁷ A number of Central Africans who had fled the coup were in Cameroon, a lot of the same ethnicity, Gbaya, but also KNK supporters.¹⁴⁹⁸ Many ‘deserters’ from the armed forces were at the Cameroon-CAR border, they retrieved all the weapons they got and took them to a military base in Bertoua.¹⁴⁹⁹ The Cameroonian state took the weapons and returned them after 2014.¹⁵⁰⁰ The soldiers in Cameroon included Colonel Ngoya, Captain Koudemon, whose elements were numerous, came with many weapons to the Cameroonian borders and were all billeted at Bertoua.¹⁵⁰¹
756. Joachim Kokaté went to Yaoundé at a time at which Mr Ngaïssona had already arrived in Cameroon, having been in phone contact with each other.¹⁵⁰² Mr Ngaïssona told Joachim Kokaté that he had fled to Congo Brazzaville and then Cameroon.¹⁵⁰³ According to Joachim Kokaté, many Central Africans, including civilians, soldiers, members of François Bozizé’s family, fled to Cameroon, DRC, Congo Brazzaville.¹⁵⁰⁴ Many soldiers also fled to Cameroon and Joachim Kokaté received information that they were gathered in a camp or centre in Bertoua.¹⁵⁰⁵ Soldiers in Yaoundé included those living with François Bozizé and Mr

¹⁴⁹⁶ Passport, CAR-OTP-2098-0095, at 0105.

¹⁴⁹⁷ P-1847: T-022, p. 27, lines 6-15.

¹⁴⁹⁸ P-1847: T-022, p. 9, lines 10-11, p. 68, lines 14-17, p. 69, line 25 – p. 70, line 10.

¹⁴⁹⁹ P-1847 First Statement, CAR-OTP-2061-1534, at 1546, para. 80; P-1847: T-022, p. 70, lines 11-16.

¹⁵⁰⁰ P-1847: T-022, p. 70, lines 7-24, p. 71, lines 5-11, p. 73, lines 4-11.

¹⁵⁰¹ P-1847 First Statement, CAR-OTP-2061-1534, at 1546, para. 81.

¹⁵⁰² P-0801: T-033, p. 70, lines 4-21.

¹⁵⁰³ P-0801: T-033, p. 70, line 22 – p. 71, line 6.

¹⁵⁰⁴ P-0801: T-033, p. 71, lines 5-13.

¹⁵⁰⁵ P-0801: T-033, p. 71, lines 17-21, p. 72, lines 6-9.

Ngaïssona: Eric Danboy, Franklin Bozizé and others.¹⁵⁰⁶ Also some members of his group ‘*Collectif des officiers libres*’ were in Cameroon, some in Douala and some in Yaoundé.¹⁵⁰⁷

757. P-0884 was another of the individuals who went to Cameroon.¹⁵⁰⁸ When he reached Cameroon, Mr Ngaïssona and others were already there.¹⁵⁰⁹ According to P-0884, Mr Ngaïssona was initially in Yaoundé, but when he arrived in Douala, Kevin Kpefio,¹⁵¹⁰ [REDACTED],¹⁵¹¹ [REDACTED].¹⁵¹² P-0884 testified that in Yaoundé, [REDACTED] at Mr Ngaïssona’s residence, but the latter was always travelling.¹⁵¹³ P-0884 [REDACTED] in Mr Ngaïssona’s house in Yaoundé, until he returned to Bangui after [REDACTED].¹⁵¹⁴ Mr Ngaïssona was frequently not there, travelling for football matters, so they lived in the residence with ‘his soldiers’.¹⁵¹⁵ The two soldiers at Mr Ngaïssona’s residence¹⁵¹⁶ were [REDACTED],¹⁵¹⁷ also known [REDACTED],¹⁵¹⁸ both of them known to P-0884 and former ‘liberators’.¹⁵¹⁹ [REDACTED] was in Cameroon even before the Seleka took power, fleeing from Bossangoa.¹⁵²⁰ He regularly travelled between Yaoundé and Douala and was very well known to the Central Africans in Douala.¹⁵²¹

758. François Bozizé was also in Yaoundé while P-0884 was there, but he was living in a residence allocated to him by the Cameroonian government.¹⁵²² P-0884 further saw David Gbanga, general director of ‘CAR television’,¹⁵²³ on the street in Yaoundé.¹⁵²⁴ Similarly, P-

¹⁵⁰⁶ P-0801: T-034, p. 57, lines 9-18.

¹⁵⁰⁷ P-0801: T-033, p. 71, line 22 – p. 72, line 15.

¹⁵⁰⁸ P-0884: T-054, p. 53, lines 7-10.

¹⁵⁰⁹ P-0884: T-054, p. 53, lines 11-24.

¹⁵¹⁰ P-0884: T-054, p. 58, lines 2-14 (the witness knew [REDACTED] from Bangui, a member of the KNK who, according to what P-0884 heard, was involved with the KNK youth).

¹⁵¹¹ P-0884: T-054, p. 58, lines 19-23.

¹⁵¹² P-0884: T-054, p. 53, line 25 – p. 54, line 10, p. 56, lines 2-8, p. 57, line 17 – p. 58, line 1.

¹⁵¹³ P-0884: T-054, p. 53, line 25 – p. 54, line 10, p. 56, lines 2-8, p. 56, line 20 – p. 57, line 2, p. 57, line 17 – p. 58, line 1, p. 58, line 24 – p. 59, line 10, p. 59, line 21 – p. 60, line 3, p. 61, lines 21-25, p. 62, lines 3-8, p. 67, line 6 – p. 68, line 7.

¹⁵¹⁴ P-0884: T-054, p. 56, lines 9-19.

¹⁵¹⁵ P-0884: T-054, p. 56, lines 9-19.

¹⁵¹⁶ P-0884: T-054, p. 57, lines 3-8, p. 64, line 25 – p. 65, line 3.

¹⁵¹⁷ P-0884: T-054, p. 60, lines 4-11, p. 64, lines 12-19.

¹⁵¹⁸ P-0884: T-054, p. 63, lines 11-13.

¹⁵¹⁹ P-0884: T-054, p. 60, line 12 – p. 61, line 3, p. 63, lines 11-19.

¹⁵²⁰ P-0884: T-054, p. 63, line 20 – p. 64, line 1.

¹⁵²¹ P-0884: T-054, p. 64, lines 3-11.

¹⁵²² P-0884: T-055, p. 9, lines 4-9.

¹⁵²³ P-0884: T-054, p. 65, lines 6-7.

¹⁵²⁴ P-0884: T-054, p. 65, lines 8-11.

0884 met Bernard Mokom, whom he knew from the latter's time as sub-prefect in Gamboula, on the road in Yaoundé and they greeted each other.¹⁵²⁵ Further, while in Cameroon, P-0884 got to know [REDACTED], who was living in the same house as [REDACTED], which was rented by Levy Yakété – they were all in the KNK and had fled the country.¹⁵²⁶ P-0884 also met [REDACTED], a police commissioner [REDACTED], in Douala in some bars, but P-0884 did not know what he did precisely.¹⁵²⁷

759. P-0884 heard that Joachim Kokaté was in Yaoundé, but did not meet him, just as he did not meet Levy Yakété, who lived [REDACTED].¹⁵²⁸ P-0884 did not meet former CAR ambassador to Cameroon, Louis Oguere Ngaikoumon,¹⁵²⁹ in Yaoundé.¹⁵³⁰ [REDACTED] were from the same village as P-0884, so they knew each other very well.¹⁵³¹ They were all from the same ethnic group, Gbaya Bossangoa, and from the same village close to Bozizé.¹⁵³² [REDACTED] he was very close to Bozizé and also knew Mr Ngaïssona very well.¹⁵³³

760. Jacob Mokpem-Bionli, who was indirectly in contact with Mr Ngaïssona through Alfred Legrand Ngaya during this time,¹⁵³⁴ testified that before the arrival of the Seleka, Mr Ngaïssona was in France, while François Bozizé fled to Cameroon and remained there with his team.¹⁵³⁵ When the Seleka took power, Mr Ngaïssona went to Cameroon where he met with François Bozizé, one of his sons, Franklin, an advisor and many other people, and they started organising themselves in Cameroon.¹⁵³⁶ They began to talk about the situation in the country; Mr Ngaïssona is from the same ethnic group as François Bozizé and they met

¹⁵²⁵ P-0884: T-054, p. 66, line 6 – p. 67, line 5.

¹⁵²⁶ P-0884: T-055, p. 4, lines 5-22.

¹⁵²⁷ P-0884: T-055, p. 4, line 23 – p. 5, line 15.

¹⁵²⁸ P-0884: T-054, p. 65, lines 16-24; T-055, p. 4, lines 15-18.

¹⁵²⁹ P-0884: T-054, p. 65, line 25 – p. 66, line 3.

¹⁵³⁰ P-0884: T-054, p. 66, lines 4-5.

¹⁵³¹ P-0884: T-055, p. 5, lines 18-24.

¹⁵³² P-0884: T-055, p. 5, line 25 – p. 6, line 6.

¹⁵³³ P-0884: T-055, p. 6, lines 16-17, p. 7, lines 21-24, p. 8, line 22 – p. 9, line 2.

¹⁵³⁴ P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0304-05, para. 104.

¹⁵³⁵ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0054, paras 29-30; P-0992: T-092, p. 17, line 24 – p. 18, line 18; T-095, p. 38, line 13 – p. 40, line 2.

¹⁵³⁶ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0054, para. 32, at 0057, para. 46. *See also* P-2232: T-075-ENG, p. 36, lines 16-23; T-075-FRA, p. 36, lines 6-16 (the witness stated that at the time of the coup, Mr Ngaïssona was on mission and they learned that he had returned and was in Cameroon).

under those conditions and wanted to talk and were trying to find a solution.¹⁵³⁷ Jacob Mokpem-Bionli was not there and did not know exactly what they were doing, but heard information from Cameroon from all kinds of sources.¹⁵³⁸ The witness also knew that Captain Olivier Koudemon known as ‘Gbangouma’ (gendarme, previously FACA), Landry Touabou (aide-de-camp of François Bozizé), Colonel Bozizé (son of François Bozizé), and Gbadora went to Cameroon to be safe.¹⁵³⁹ Jacob Mokpem-Bionli further stated that Bernard Mokom – father of Maxime Mokom and first cousin of François Bozizé – was in Cameroon and also returned when Mr Ngaïssona returned to Bangui; they lived in the same area in Cameroon and often saw each other, and when Bernard Mokom returned to Bangui, he attended the national coordination meetings, being a member of the national coordination.¹⁵⁴⁰

761. D30-4720 was a civilian who decided to leave Bangui for Cameroon [REDACTED].¹⁵⁴¹ [REDACTED].¹⁵⁴² D30-4720 was in Cameroon [REDACTED].¹⁵⁴³

762. P-0965 said Francis Bozizé fled to Brazzaville while François Bozizé was initially in Cameroon before going into exile; Gbangouma was in Douala, Cameroon.¹⁵⁴⁴

763. P-2232 testified that Bernard Mokom, father of Maxime Mokom, was a sub-prefect in a locality bordering Cameroon and after the Seleka came to power, he found refuge in Cameroon along with Levy Yakété, François Bozizé, and many other officers.¹⁵⁴⁵ According to P-2232, Mr Ngaïssona was on mission and joined them later.¹⁵⁴⁶

764. D30-4848 fled through Zongo, Gemena – where he saw François Bozizé’s daughter, Eugène Ngaïkosset, Claude Ngaïkosset – and Kinshasa, Brazzaville to eventually reach Douala in

¹⁵³⁷ P-0992: T-092, p. 17, line 24 – p. 18, line 18.

¹⁵³⁸ P-0992: T-092, p. 19, lines 3-25.

¹⁵³⁹ P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0304-05, para. 104. *See also* P-0992: T-092, p. 24, lines 3-21.

¹⁵⁴⁰ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0068, para. 117.

¹⁵⁴¹ D30-4720: T-280, p. 50, line 23 – p. 51, line 8.

¹⁵⁴² D30-4720: T-280, p. 51, lines 9-13, p. 53, lines 13-21.

¹⁵⁴³ D30-4720: T-280, p. 53, lines 2-9.

¹⁵⁴⁴ P-0965 Interview Transcripts, CAR-OTP-2046-0037-R02, at 0042, lines 167-175; CAR-OTP-2046-0213-R02, at 0215-16, lines 68-84; P-0965 Corrections, CAR-OTP-2130-9411, at 9411.

¹⁵⁴⁵ P-2232: T-075, p. 56, lines 1-15; T-076, p. 9, lines 22-25 (the witness specified that the location in which Bernard Mokom was sub-prefect was Amadagaza).

¹⁵⁴⁶ P-2232: T-076, p. 9, lines 4-9, p. 18, lines 9-18.

Cameroon.¹⁵⁴⁷ He fled because he was [REDACTED] no longer protected within the system.¹⁵⁴⁸ D30-4848 stayed in Douala until one month after Djotodia resigned.¹⁵⁴⁹ He did not know when Mr Ngaïssona arrived to Douala, but thought it was well before himself.¹⁵⁵⁰

765. P-0974, [REDACTED] in [REDACTED] at the time of the Seleka coup, fled to Cameroon [REDACTED] when he was warned that the Seleka knew where he was and would come to [REDACTED] to get him.¹⁵⁵¹ P-0974 said that FACA who were close to Bozizé's regime fled to Cameroon, including PG member 'Gbangouma' Koudeman.¹⁵⁵² P-0974 remained for a month in Bertoua [REDACTED], while many FACA stayed at the barracks and were restricted in their movements.¹⁵⁵³ After about a month, P-0974 went to Bangui, arriving there in September or October 2013.¹⁵⁵⁴

766. D30-4914, [REDACTED] in Beloko, in October 2013.¹⁵⁵⁵ According to D30-4914, Michel Djotodia and his supporters created a 'watertight system' to prohibit any exits in the Garam-Boulai, Berbérati, Gamboula, Beloko area.¹⁵⁵⁶ D30-4914 said that they went to Bouar and then to 'Garoua-Boulai',¹⁵⁵⁷ and then moved on to Yaoundé, at the Bertoua refugee camp.¹⁵⁵⁸ Many CAR security forces were in exile in Cameroon; those who had worked with François Bozizé were forced into exile, they had no choice if they wanted to stay alive.¹⁵⁵⁹ D30-4914 said that Gbangouma and Ganazoui also crossed,¹⁵⁶⁰ and recalled that Guerson Nganadekoe was in Yaoundé in 2013 [REDACTED].¹⁵⁶¹ Martial Wango spent about one and a half months in 'Garoua-Boulai' before going to Bangui.¹⁵⁶²

¹⁵⁴⁷ D30-4848: T-296, p. 20, lines 19-25, p. 23, line 25 – p. 28, line 18.

¹⁵⁴⁸ D30-4848: T-269, p. 21, lines 1-9.

¹⁵⁴⁹ D30-4848: T-296, p. 28, lines 20-24.

¹⁵⁵⁰ D30-4848: T-296, p. 33, lines 11-17.

¹⁵⁵¹ P-0974 Statement, CAR-OTP-2058-0165-R01, at 0169, para. 26.

¹⁵⁵² P-0974 Statement, CAR-OTP-2058-0165-R01, at 0167, para. 15.

¹⁵⁵³ P-0974 Statement, CAR-OTP-2058-0165-R01, at 0169, para. 26.

¹⁵⁵⁴ P-0974 Statement, CAR-OTP-2058-0165-R01, at 0169-70, para. 28.

¹⁵⁵⁵ D30-4914 Statement, CAR-D30-0024-0001-R01, at 0005-06, lines 154-171; D30-4914: T-302, p. 17, line 15 – p. 18, line 10, p. 21, line 22 – p. 22, line 5.

¹⁵⁵⁶ D30-4914: T-302, p. 31, line 17 – p. 32, line 11, p. 35, lines 9-21.

¹⁵⁵⁷ D30-4914 Statement, CAR-D30-0024-0001-R01, at 0006, lines 177-186.

¹⁵⁵⁸ D30-4914: T-302, p. 33, line 16 – p. 34, line 4.

¹⁵⁵⁹ D30-4914 Statement, CAR-D30-0024-0001-R01, at 0007, lines 212-214.

¹⁵⁶⁰ D30-4914 Statement, CAR-D30-0024-0001-R01, at 0007, lines 215-217.

¹⁵⁶¹ D30-4914 Statement, CAR-D30-0024-0001-R01, at 0021, lines 853-855.

¹⁵⁶² D30-4914 Statement, CAR-D30-0024-0001-R01, at 0023, lines 899-908.

767. P-2841 stated that Gbangouma – Olivier ‘Koudemo’ Gbangouma – was part of the Bozizé rebellion in 2003 and close to Bozizé; when Bozizé lost power, he went to the border in Cameroon where he led a team of Presidential Guards (the ‘PG’); he later ended up in Yaoundé.¹⁵⁶³

768. According to P-2926’s report, the individuals identified as close to François Bozizé in Cameroon at the beginning of 2014 included Achille Berfoe, Eric Danboy, Koudemon Olivier, Ngaikossé Eugène, Sendiko, Steve Yambete, Célestin Namkpeta, Dazoumi, Lengbe Thierry, Feimonazoui, Damas Namgana, David Gbanga, Doctor Nombet, Francis Bozizé, Landry Touaboy, Jules Feikouman, Mbathes Olivier Jean Constatin, and Sani Yalo.¹⁵⁶⁴

b. Communication and coordination within and across borders

i. *Meetings in Yaoundé*

769. The evidence before the Chamber as further outlined below shows that CAR nationals in Cameroon engaged in various activities, including meetings at the Hilton hotel in Yaoundé, gathering *inter alia* François Bozizé, Mr Ngaïssona, Bernard Mokom, and others. These initial discussions centred around criticising the Seleka’s coup, as well as thinking of first steps to ensure the return to ‘the constitutional order’, which meant François Bozizé’s return to power – by all means possible.

770. The Ngaïssona Defence argues that (i) Mr Ngaïssona did not follow François Bozizé to Cameroon, regularly visit him or live at his residence; (ii) Mr Ngaïssona’s alleged proximity to François Bozizé cannot be inferred from shared ethnicity; (iii) Mr Ngaïssona did not participate in youth mobilisation; (iv) Mr Ngaïssona never expressed anti-Muslim sentiment or sowed division within the CAR population; and (v) Mr Ngaïssona did not participate in meetings with François Bozizé in Cameroon.¹⁵⁶⁵

771. The Ngaïssona Defence argues that the Prosecution failed to establish that François Bozizé’s intent was to reclaim power at all costs and that the evidence regarding meetings held in

¹⁵⁶³ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4246, para. 42; P-2841: T-029, p. 16, line 10 – p. 17, lines 3.

¹⁵⁶⁴ P-2926 Report, CAR-OTP-2127-4289, at 4325-26. *See also* P-2926: T-032, p. 84, lines 4-13.

¹⁵⁶⁵ Ngaïssona Defence Closing Brief, ICC-01/14-01/15-2736-Conf-AnxA-Corr, paras 408-434.

Cameroon or France does not support the inference that they had a criminal purpose.¹⁵⁶⁶ It further submits that the Prosecution failed to establish that François Bozizé was involved in the Anti-Balaka movement, whether by creating, organising or financing it.¹⁵⁶⁷ The Ngaïssona Defence also argues that due to the lack of specificity in identifying the ‘inner circle’ around François Bozizé, a minimal level of coordination cannot be established.¹⁵⁶⁸

772. The Ngaïssona Defence argues that the evidence does not establish that any ‘anti-Muslim’ rhetoric was expressed and endorsed during alleged meetings in Cameroon, stating that (i) the testimony of Adrien Poussou on the alleged meetings at the Hilton hotel is contradicted by Joachim Kokaté and P-1847; (ii) there is no credible evidence for the allegations that specific roles were assigned to attendees; (iii) there is no evidence of a criminal policy stemming out of an alleged subsequent meeting at the CAR embassy; and (iv) the alleged meetings at the Golf residence are based solely on the indirect evidence of P-1847, whose credibility is minimal.¹⁵⁶⁹

773. On the basis of the evidence, as further outlined below, the Chamber considers the Ngaïssona Defence’s arguments in this regard without merit, including in relation to the expression of an ‘anti-Muslim’ animus.¹⁵⁷⁰

774. The Chamber first turns to the meetings at the Hilton hotel that Joachim Kokaté and Adrien Poussou attended themselves, and those that P-1847 heard about.

775. Joachim Kokaté described being called by François Bozizé about one or one and a half months after the Seleka took power, saying he was at the Hilton hotel in Yaoundé and wanted to meet him.¹⁵⁷¹ The witness was contacted by Francis Bozizé and as soon as he arrived in Yaoundé, he was received by François Bozizé.¹⁵⁷² Once Joachim Kokaté got to Yaoundé, he went to greet François Bozizé at the Hilton.¹⁵⁷³ The witness was in phone contact with Mr

¹⁵⁶⁶ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/15-2736-AnxA-Corr-Red, para. 156.

¹⁵⁶⁷ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/15-2736-AnxA-Corr-Red, para. 156.

¹⁵⁶⁸ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/15-2736-AnxA-Corr-Red, para. 165.

¹⁵⁶⁹ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/15-2736-AnxA-Corr-Red, paras 167-173.

¹⁵⁷⁰ See section II.A.5 below.

¹⁵⁷¹ P-0801: T-033, p. 67, lines 16-20, p. 69, line 25 – p. 70, line 11, p. 72, lines 16-19 (the witness specified that he did not recall if he was called directly by François Bozizé, or if the latter had someone else call him).

¹⁵⁷² P-0801: T-034, p. 4, lines 1-14.

¹⁵⁷³ P-0801: T-033, p. 72 line 20 – p. 73, line 13.

Ngaïssona at that time, who was also aware that Joachim Kokaté was coming to see Bozizé.¹⁵⁷⁴ Many people were in the lobby of the Hilton, but as soon as Joachim Kokaté arrived, he was received by Bozizé who had given instructions to his guards.¹⁵⁷⁵ Coming back down from this encounter, Joachim Kokaté saw Mr Ngaïssona, Bernard Mokom, Socrate Bozizé, Adrien Poussou, Bozizé supporters, Levy Yakété, Louis Oguere, David Banga.¹⁵⁷⁶ Mr Ngaïssona was part of François Bozizé's family, a member of the KNK, he was close to him.¹⁵⁷⁷ Levy Yakété was an influential member, he was very close to Bozizé and he had influence on the political party of Bozizé.¹⁵⁷⁸

776. Joachim Kokaté testified that the meeting in François Bozizé's hotel suite lasted for about 45 minutes to one hour; Oguere was there, Mr Ngaïssona, Adrien Poussou, but the witness did not remember everyone.¹⁵⁷⁹ Bozizé – who was in a state of confusion and shock as he had just lost power – told them that he had not understood why the Libreville agreement had not been complied with by the Seleka coalition, that he was going to contact the CEAC heads of state to implement the agreement and bring him back to power to complete his term of office, and he talked about a complicity of certain neighbouring countries, and he could not accept that he had lost power.¹⁵⁸⁰ All those present were not in agreement with the Seleka seizing power, everyone was in support of François Bozizé and in favour of him contacting the ECCAS president to come back to power.¹⁵⁸¹ Bozizé tried to call the Chadian and Congolese authorities, but nobody picked up.¹⁵⁸² Bozizé did not talk, on that day, about other options to engage the heads of states.¹⁵⁸³ Joachim Kokaté did not have any particular role that day, Bozizé only talked about returning the constitutional order and there was a feeling of unhappiness, dissatisfaction because someone had lost power and so did the people in his

¹⁵⁷⁴ P-0801: T-033, p. 73, lines 16-23.

¹⁵⁷⁵ P-0801: T-034, p. 5, lines 7-14.

¹⁵⁷⁶ P-0801: T-034, p. 5, line 14 – p. 6, line 6; T-037, p. 69, line 11 – p. 70, line 19.

¹⁵⁷⁷ P-0801: T-034, p. 15, lines 18-23.

¹⁵⁷⁸ P-0801: T-034, p. 15, line 24 – p. 16, line 3.

¹⁵⁷⁹ P-0801: T-034, p. 6, line 7 – p. 7, line 13.

¹⁵⁸⁰ P-0801: T-034, p. 7, line 22 – p. 8, line 12, p. 10, lines 15-21, p. 24, lines 10-12.

¹⁵⁸¹ P-0801: T-034, p. 8, lines 13-20, p. 10, line 25 – p. 11, line 5, p. 11, line 17 – p. 12, line 23.

¹⁵⁸² P-0801: T-034, p. 8, lines 21-23.

¹⁵⁸³ P-0801: T-034, p. 9, lines 4-14, p. 10, lines 4-9.

entourage, and because the Libreville agreement had not been respected, in addition to receiving information from the country about atrocities.¹⁵⁸⁴

777. Adrien Poussou also travelled from France to Cameroon in April 2013.¹⁵⁸⁵ He had had exchanges with many of his fellow countrymen at the time, including François Bozizé's son Socrate who was in Yaoundé with his father, whom Adrien Poussou wanted to interview.¹⁵⁸⁶ In Yaoundé, Adrien Poussou went directly to the Hilton hotel where François Bozizé was staying, and where he was welcomed by Socrate Bozizé.¹⁵⁸⁷ A number of people belonging to François Bozizé's inner circle were present at the entrance of the Hilton hotel, including Levy Yakété, David Banga, Mr Ngaïssona, Joachim Kokaté, one of Bozizé's aides-de-camp, Vincent Wapounaba.¹⁵⁸⁸

778. Socrate Bozizé took Adrien Poussou to see his father, with whom the witness had a frank exchange about the situation in the country and about what would come next, with François Bozizé telling Adrien Poussou that he needed him and all those who did not want the country to fall into the hands of foreigners, that 'everything' needed to be done (*'il fallait tout faire'*) to go back to the constitutional order, and the constitutional order was himself, so everything had to be done for him to be able to regain power.¹⁵⁸⁹ Adrien Poussou did not talk to François Bozizé about what the other people mentioned were doing at the hotel, but he supposed they were there to take part in his plan to regain power; the witness was surprised to see them at the hotel.¹⁵⁹⁰ François Bozizé wanted Adrien Poussou to write a thank you letter to Paul Biya and to help organise his communication – he was determined to raise awareness among the general public, leaders in the sub-region and heads of state, and to convey to them the need for him to return to power to finish his term in office.¹⁵⁹¹ Following this encounter, Adrien

¹⁵⁸⁴ P-0801: T-034, p. 16, line 13 – p. 17, line 10.

¹⁵⁸⁵ P-2625: T-188, p. 66, line 13 – p. 67, line 3.

¹⁵⁸⁶ P-2625: T-188, p. 67, lines 5-24.

¹⁵⁸⁷ P-2625: T-188, p. 68, line 23 – p. 69, line 12.

¹⁵⁸⁸ P-2625: T-188, p. 69, lines 18-24.

¹⁵⁸⁹ P-2625: T-188, p. 69, line 25 – p. 70, line 16.

¹⁵⁹⁰ P-2625: T-188, p. 70, lines 17-24.

¹⁵⁹¹ P-2625: T-188, p. 70, line 25 – p. 72, line 3. See Letter, CAR-OTP-2123-0413, dated 15 April 2013.

Poussou met François Bozizé with the people mentioned earlier, and before returning to Paris, the witness had a third, individual, meeting with François Bozizé.¹⁵⁹²

779. Following the drafting of the mentioned letter, possibly the day after, Adrien Poussou attended a meeting with François Bozizé and the people he saw at the entrance hall of the Hilton hotel, as well as Louis Oguere.¹⁵⁹³ Adrien Poussou did not see Thierry Bongolo in Yaoundé, but in Paris during the meeting at which FROCCA was set up.¹⁵⁹⁴ A CEEAC summit convening the heads of state of the CEMAC was supposed to take place in N'Djamena and François Bozizé absolutely wanted to take part to plead his case; the subject matter of the meeting had essentially a bearing on his return to power.¹⁵⁹⁵ Bozizé had taken stock of the situation, as he had done in 2012, that the country was in the hands of foreigners, invaders, who had taken their ('our') country away from them; and were they ('we') to do nothing, they would find themselves without their land, countryless.¹⁵⁹⁶
780. The idea expressed by some of the participants, including Levy Yakété and Joachim Kokaté, was to do everything possible, including fighting, using violence, to bring François Bozizé back to power, which would mean taking back control over their country.¹⁵⁹⁷ According to Adrien Poussou, Levy Yakété was the most vindictive at the meeting, to the extent he had a bone to pick with Michel Djotodia, and said everything had to be done, one had to fight, to bring François Bozizé back to power, referring to the men he had out in the field, implying he was in constant contact with his men in the field who had remained in Bangui.¹⁵⁹⁸ Kokaté shared the viewpoint of the other participants, the idea of using armed violence in order to return to power; he was saying that he was ready to go out into the field and fight.¹⁵⁹⁹ No objection was raised to the possibility of using armed violence in order to bring him back to power; nobody voiced an opinion to the contrary.¹⁶⁰⁰ All the participants of this meeting wished and wanted to work for the return of Bozizé to power; the supporters and participants

¹⁵⁹² P-2625: T-188, p. 72, lines 6-11; T-189, p. 3, lines 17-23.

¹⁵⁹³ P-2625: T-189, p. 3, line 24 – p. 4, line 22; T-192, p. 28, lines 3-9.

¹⁵⁹⁴ P-2625: T-189, p. 3, line 24 – p. 4, line 18; T-192, p. 28, lines 3-21. See paragraphs 999-1005 below.

¹⁵⁹⁵ P-2625: T-189, p. 4, line 23 – p. 5, line 8.

¹⁵⁹⁶ P-2625: T-189, p. 5, line 9 – p. 6, line 5.

¹⁵⁹⁷ P-2625: T-189, p. 5, line 9 – p. 6, line 20.

¹⁵⁹⁸ P-2625: T-189, p. 6, line 21 – p. 7, line 10.

¹⁵⁹⁹ P-2625: T-189, p. 7, lines 11-15.

¹⁶⁰⁰ P-2625: T-189, p. 7, lines 16-21.

at the meeting agreed on this objective.¹⁶⁰¹ Adrien Poussou stated that at the first meeting in Yaoundé, Gbanga David and Mr Ngaïssona said that one had to return to the Libreville agreements, but when they got to Paris, the positions had changed – the Anti-Balaka were already fighting the Seleka and there were casualties in the field.¹⁶⁰² The meeting lasted approximately half an hour, and François Bozizé asked them to continue the meeting, or on the same line of reflection, and subsequent to this meeting they (‘we’) went to the *Hôtel des Députés*, where Adrien Poussou was staying, and held a further meeting there.¹⁶⁰³

781. The same or the following day, they met at *Hôtel des Députés* without François Bozizé, but with David Gbanga, an eminent member of the KNK, Mr Ngaïssona, Joachim Kokaté, Levy Yakété.¹⁶⁰⁴ The meeting was somewhat lively in that those close to François Bozizé reproached Adrien Poussou, saying they (‘we’) had contributed to the regime’s fall, while Adrien Poussou said they were accountable for the situation in the country as their behaviour and acts in power had created the frustration and given rise to the rebellion.¹⁶⁰⁵ Once this was out of the way, they broached the drafting of a memorandum outlining the situation in the country, violence, and possible solutions, to be sent to the heads of state meeting in N’Djamena, which David Gbanga, Levy Yakété and Adrien Poussou drafted together.¹⁶⁰⁶
782. According to Adrien Poussou, the supporters of François Bozizé had espoused the idea that the foreigners had taken their country away from them, it was their leitmotif, and the consequence for them to take back control of the country essentially came down to using armed violence to such ends.¹⁶⁰⁷ The witness did not share this point of view and expressed his own, also stating that a solution to the crisis could not be solely military, there was a political one as the crisis was political.¹⁶⁰⁸
783. The witness stated that Mr Ngaïssona, on the other hand, not only shared the view of taking back the country through force and distinguishing between foreigners and Central Africans

¹⁶⁰¹ P-2625: T-192, p. 42, lines 7-15.

¹⁶⁰² P-2625: T-192, p. 38, line 25 – p. 40, line 3, p. 41, line 21 – p. 42, line 5.

¹⁶⁰³ P-2625: T-189, p. 7, line 22 – p. 8, line 2.

¹⁶⁰⁴ P-2625: T-189, p. 8, lines 3-17.

¹⁶⁰⁵ P-2625: T-189, p. 8, line 19 – p. 9, line 8.

¹⁶⁰⁶ P-2625: T-189, p. 8, line 19 – p. 9, line 8.

¹⁶⁰⁷ P-2625: T-189, p. 9, lines 14-23.

¹⁶⁰⁸ P-2625: T-189, p. 9, line 24 – p. 10, line 8.

and clearly expressed this, but also let it be understood that he coordinated and organised elements in the field in this context.¹⁶⁰⁹ During the discussions, Mr Ngaïssona received a phone call, and what Adrien Poussou understood from this was that he was speaking to people in Douala, asking them to wait for his return – at the time, many members of the former PG had taken refuge in Douala.¹⁶¹⁰ Adrien Poussou could not precisely say whom he was in contact with, but he was constantly on the phone with different individuals, and in the witness's interpretation of the circumstances, he assumed Mr Ngaïssona was speaking to former FACA, PG, and militiamen from COAC.¹⁶¹¹ The Chamber notes in this regard that Adrien Poussou clarified that specifically Mr Ngaïssona referred to being in contact with 'the children' in the field, which he considered to be coded language referring to militiamen or former PG soldiers, in the context of their later exchanges in Paris.¹⁶¹² The Chamber considers of note in this context that other witnesses used the term 'children' when referring to individuals within the Anti-Balaka.¹⁶¹³ Indeed, Mr Ngaïssona himself repeated this expression in another context, when speaking of the Anti-Balaka during an interview in 2014.¹⁶¹⁴

784. Once the mentioned memorandum was drafted, they had another meeting with François Bozizé to approve it.¹⁶¹⁵ The contents were read, and it was decided to transform the memorandum into an official letter to the foreign minister of France which Adrien Poussou then gave to the advisor of a cabinet member in the ministry of foreign affairs on his return to France.¹⁶¹⁶ The former ambassador to Cameroon, Oguere, was present at this meeting.¹⁶¹⁷ The tone of the meeting was practically the same as the first, with the main idea being to bring François Bozizé back to power using military means, and implying diplomatic

¹⁶⁰⁹ P-2625: T-189, p. 10, lines 9-17.

¹⁶¹⁰ P-2625: T-189, p. 10, line 18 – p. 11, line 3.

¹⁶¹¹ P-2625: T-189, p. 11, lines 4-11; T-192, p. 44, line 18 – p. 45, line 5, p. 45, line 8 – p. 46, line 6, p. 46, line 7 – p. 47, line 17, p. 48, lines 11-23.

¹⁶¹² P-2625: T-189, p. 6, lines 6-20, p. 10, line 18 – p. 11, line 3; T-192-ENG, p. 34, line 22 – p. 37, line 15, p. 43, line 14 – p. 44, line 17; T-192-FRA, p. 35, line 22 – p. 38, line 17, p. 46, lines 2-8. See paragraph 901 below.

¹⁶¹³ See e.g. P-0884: T-055, p. 71, lines 9-21; P-0992: T-092, p. 24, line 22 – p. 25, line 20.

¹⁶¹⁴ Press article, CAR-OTP-2001-4818 (in which Mr Ngaïssona is reported as saying that '*quand je donne l'ordre à ces enfants, je pense que c'est immédiatement suivi d'effet*').

¹⁶¹⁵ P-2625: T-189, p. 11, lines 12-22.

¹⁶¹⁶ P-2625: T-189, p. 11, lines 12-22.

¹⁶¹⁷ P-2625: T-189, p. 11, line 23 – p. 12, line 10.

endeavours of lobbying with the heads of state in the sub-region and of France.¹⁶¹⁸ Adrien Poussou left the meeting after about half an hour and did not enquire about the further discussion after he left.¹⁶¹⁹ Adrien Poussou surmised after these two meetings that François Bozizé and his supporters were determined to use armed violence, through former members of FACA and PG, many of whom were in Cameroon, and by means of a rebellion or an armed attack to bring François Bozizé back to power.¹⁶²⁰ The witness did not recall if anyone raised the prospect of potential consequences in the context of an armed rebellion.¹⁶²¹ François Bozizé and the people close to him wanted to regain power whatever the cost – and when one considers using means other than democratic ones, one must expect there to be damage, death, to have civilian and other victims; Adrien Poussou did not hear anyone voice the possibility of there being civilian victims.¹⁶²²

785. After the two meetings with François Bozizé, Adrien Poussou also interviewed him for publication in *'Afrique Nouvelle'*.¹⁶²³ Two days before this interview, on 13 and 14 April 2013, the Seleka had attacked Boy-Rabe, looted and killed civilians, so François Bozizé's answer when Adrien Poussou asked him about the degeneration of the crisis into a religious confrontation did not surprise the witness, it was a logical consequence of everything else he had already said, of his reasoning on their country being taken over by foreigners, meaning Muslims.¹⁶²⁴ François Bozizé's indication of restoring constitutional order being the first of his conditions was the founding idea during the meetings that Adrien Poussou attended, because François Bozizé saw himself as the constitutional order and so this restoration meant his return to power.¹⁶²⁵ Adrien Poussou was certain that François Bozizé and his supporters were going to use armed violence with a view to returning to power, and when he said that as a matter of principle, he preferred dialogue over armed conflict, this buttressed what Adrien Poussou was already thinking: in principle he preferred dialogue, but if there was no dialogue, he would resort to armed confrontation.¹⁶²⁶ François Bozizé also

¹⁶¹⁸ P-2625: T-189, p. 12, lines 11-19.

¹⁶¹⁹ P-2625: T-189, p. 11, line 23 – p. 12, line 10, p. 12, lines 20-23.

¹⁶²⁰ P-2625: T-189, p. 12, line 24 – p. 13, line 7.

¹⁶²¹ P-2625: T-189, p. 13, lines 8-12.

¹⁶²² P-2625: T-189, p. 13, lines 13-20.

¹⁶²³ P-2625: T-189, p. 13, line 21 – p. 14, line 11.

¹⁶²⁴ P-2625: T-189, p. 15, line 1 – p. 16, line 20.

¹⁶²⁵ P-2625: T-189, p. 18, line 9 – p. 19, line 10.

¹⁶²⁶ P-2625: T-189, p. 19, line 23 – p. 20, line 7.

wanted Adrien Poussou to work on public relations or communications for him in Paris, which the witness did by setting up interviews and establishing contacts.¹⁶²⁷

786. The Chamber notes that the published interview, which mentions meeting François Bozizé at the Hilton hotel in Yaoundé on 15 April 2013, reports François Bozizé as stating, *inter alia*, that FACA members could not do anything against the Seleka takeover in light of the lack of resources and training, that they were the only ones respecting the Libreville agreements, that mineral and other resources were one of the main reasons for the ‘external aggression’, that the Seleka had clearly lost control over their mercenaries, and that ‘all that is outside the democratic framework distances from peace’ (*‘tout ce qui se fait en dehors du cadre démocratique éloigne la paix’*), while the return to the constitutional order remained the first condition.¹⁶²⁸ According to Adrien Poussou, François Bozizé’s answer on ‘everything done outside the context of democracy distancing itself from peace’ was contradictory, but did not come as a surprise to the witness – it was not his first renouncement, and he was a politician after all, with politics in the CAR being ‘the art of saying the contrary to what one really thinks’.¹⁶²⁹
787. P-1847 also talked of meetings at the Hilton hotel. The Chamber notes in this regard the observations of the Ngaïssona Defence on P-1847’s evidence,¹⁶³⁰ as well as its discussion below.¹⁶³¹
788. P-1847 stated that when they were at the Hilton hotel, the people of François Bozizé’s party tried to regroup and maybe ten days after people arrived, he organised the meeting at the Hilton hotel to see who would be his spokesperson and to fight against the accusation of the

¹⁶²⁷ P-2625: T-189, p. 13, line 21 – p. 14, line 24. *See also* P-2625: T-189, p. 28, line 7 – p. 29, line 19, p. 29, line 20 – p. 30, line 9.

¹⁶²⁸ Press Article, CAR-OTP-2123-0414, at 0421. The Chamber notes that the Ngaïssona Defence argued that low probative weight should be accorded to this item in light of the responses from P-2625 to the leading line of questioning of the Prosecution in this context (*see* email from the Ngaïssona Defence, 30 January 2023, at 20:52). In the view of the Chamber, this concerns the weight which, according to the Ngaïssona Defence, should be given to the testimony of P-2625 rather than this published interview of François Bozizé. Moreover, and in any event, the Chamber has considered this article in the context of the other evidence before it and is of the view that François Bozizé’s answers, as reported, are in line with other evidence on his position at the time.

¹⁶²⁹ P-2625: T-189, p. 19, lines 11-20.

¹⁶³⁰ *See* paragraphs 365-373 above; [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 168-169.

¹⁶³¹ *See* paragraph 797 below.

Seleka on Bozizé at that time.¹⁶³² P-1847 also met [REDACTED] Bernard Mokom in Yaoundé, and Mr Ngaïssona [REDACTED].¹⁶³³ At the Hilton hotel, François Bozizé was staying with his wife, the two bodyguards, including Vincent Wapounaba, and two pilots; his sons came a little later, Franklin, Giscard, Rodrigue; Francis was there and then went to Congo, passing via Zongo to go to Kinshasa, and Socrate was there and went to Senegal.¹⁶³⁴ P-1847 [REDACTED] the Hilton, where the Cameroon government put security and anyone who wanted to see François Bozizé went through that security.¹⁶³⁵ François Bozizé met all compatriots like the ambassador Oguere, the ambassador of South Africa, two Chadian opponents, Iman Ertiny, Levy Yakété, Joachim Kokaté, Yvon Songuet, Marius Faimonazoui; Ginza Sanzé was a member of the KNK, elected in the Sibut area.¹⁶³⁶

789. P-1847 stated that François Bozizé had a meeting at the Hilton hotel around April 2013 attended by Yakété, David Banga, Sanzé, the ambassador, Bernard Mokom, Joachim Kokaté, but P-1847 [REDACTED] did not participate.¹⁶³⁷ [REDACTED].¹⁶³⁸ [REDACTED] who said that they wanted to organise something to defend the cause of François Bozizé when they started accusing him, and he wanted Yakété to be his spokesman to defend him against those allegations; there was also talk about the KNK structure and the position of Gina Sanzé.¹⁶³⁹ The objective of the meeting was clear: organise responses to the Seleka exactions and see how to return the constitutional order in the CAR, meaning François Bozizé's return to power.¹⁶⁴⁰ P-1847 heard this from [REDACTED].¹⁶⁴¹ [REDACTED] the president said Yakété would be the spokesperson, and that he would start contacting journalists, David Banga was responsible for 'all the administrative stuff', Gina Sanzé should be interim head of the KNK, and Oguere was appointed as the diplomatic

¹⁶³² P-1847: T-022, p. 76, line 21 – p. 77, line 3.

¹⁶³³ P-1847: T-022, p. 77, lines 4-24.

¹⁶³⁴ P-1847 First Statement, CAR-OTP-2061-1534, at 1539, paras 26-27; P-1847: T-022, p. 77, line 25 – p. 78, line 19; T-023, p. 16, lines 4-17.

¹⁶³⁵ P-1847 First Statement, CAR-OTP-2061-1534, at 1539, para. 29, at 1541, para. 39; P-1847: T-022, p. 78, line 20 – p. 79, line 22.

¹⁶³⁶ P-1847 First Statement, CAR-OTP-2061-1534, at 1540, para. 32, at 1541-42, paras 41-46; P-1847: T-022, p. 79, line 23 – p. 80, line 23.

¹⁶³⁷ P-1847 First Statement, CAR-OTP-2061-1534, at 1540, para. 34; P-1847: T-022, p. 81, line 13 – p. 82, line 24, p. 84, lines 10-14.

¹⁶³⁸ P-1847 First Statement, CAR-OTP-2061-1534, at 1541, para. 38; P-1847: T-022, p. 85, lines 12-20.

¹⁶³⁹ P-1847: T-022, p. 82, lines 7-13.

¹⁶⁴⁰ P-1847 First Statement, CAR-OTP-2061-1534, at 1540, para. 35.

¹⁶⁴¹ P-1847: T-022, p. 84, lines 15-25.

advisor responsible for establishing contacts outside and inside the country.¹⁶⁴² Oguere was responsible for discussing with the diplomats he had contact with, while P-1847 did not know exactly on that day the role Joachim Kokaté was supposed to play – later, they created FROCCA and the latter became its spokesperson.¹⁶⁴³

790. P-1847 said that [REDACTED] left for Douala immediately after the meeting, but one week later he came back to Yaoundé to meet Levy Yakété [REDACTED] to see how to organise everything and how to resume contact with people; Yakété said that he would still stay in Cameroon for a while; afterwards [REDACTED] he had to contact all the former military, also the military who left the country, he wanted to gather them together to get a more ‘dynamic arrangement’.¹⁶⁴⁴ The aim was to mobilise individuals to chase out (*chasser*) the Seleka and get power again – that was the objective of the people at the meeting,¹⁶⁴⁵ including François Bozizé, Bernard Mokom, Levy Yakété, Louis Oguere, David Banga, Joachim Kokaté, but there were other people who went directly to the meeting, [REDACTED] also an ambassador.¹⁶⁴⁶

791. According to P-1847, there were at least two meetings at the Hilton, with the one described being the second, and the first when Levy Yakété arrived.¹⁶⁴⁷ P-1847 thought Bernard Mokom and Joachim Kokaté were at the second, but not at the first meeting.¹⁶⁴⁸ P-1847 confirmed that there were concerns about the Cameroonian authorities finding out what was going on in respect of the meetings at the Hilton hotel, they controlled everything, and François Bozizé was told to refrain from organising politically on Cameroonian territory.¹⁶⁴⁹ Journalists wondered what François Bozizé’s intentions were, they wanted to know what he was going to do, whether they would have a return to constitutional order.¹⁶⁵⁰ When François Bozizé talked about restoring constitutional order he wanted to establish it as president, he

¹⁶⁴² P-1847 First Statement, CAR-OTP-2061-1534, at 1540, para. 36; P-1847: T-022, p. 85, lines 3-11.

¹⁶⁴³ P-1847: T-022, p. 82, line 14 – p. 83, line 12.

¹⁶⁴⁴ P-1847: T-023, p. 14, line 13 – p. 15, line 5.

¹⁶⁴⁵ P-1847: T-023, p. 15, lines 6-12.

¹⁶⁴⁶ P-1847: T-023, p. 15, lines 13-20.

¹⁶⁴⁷ P-1847: T-023, p. 16, lines 18 – p. 17, line 6.

¹⁶⁴⁸ P-1847: T-023, p. 17, lines 7-15.

¹⁶⁴⁹ P-1847: T-023, p. 17, lines 16-19, p. 18, lines 1-24.

¹⁶⁵⁰ P-1847: T-023, p. 18, line 25 – p. 19, line 6.

relied on everyone to help him regain his position.¹⁶⁵¹ There were military who fled from the Seleka, and also some in Garam-Boulaï, and the aim of the second meeting was to pick up contact with those military to reorganise themselves, meaning to fight the Seleka and take back power in the CAR.¹⁶⁵² P-1847 agreed with the suggestion that Michel Djotodia had suspended the CAR constitution and dissolved the government and national assembly, and it was this that François Bozizé referred to when talked of reinstating the constitutional order.¹⁶⁵³ After Levy Yakété and Joachim Kokaté passed through Douala after the meeting, they contacted some people in Douala; at the time of the second meeting, one colonel whose name P-1847 did not recall came by.¹⁶⁵⁴

792. The Chamber does not consider the information provided by Joachim Kokaté, Adrien Poussou and P-1847 to be contradictory or mutually exclusive. P-1847 did not participate in any meetings himself, but heard about their content from others. In this, his evidence supports that of Adrien Poussou, in that he also heard of discussions to return François Bozizé to power by all means possible, which is evidenced by his mentioning the idea of establishing contact with military to reorganise, and to fight the Seleka to regain power. Moreover, that Adrien Poussou recalled more details of such meetings than Joachim Kokaté and P-1847 does not, by itself, render such details unreliable. The Chamber notes in this context that some of those details mentioned by Adrien Poussou but not Joachim Kokaté implicated the latter in wanting to use all means possible to return François Bozizé to power.
793. Similarly, the information on the meeting provided by these three witnesses is not impacted by the evidence of Didier Ouebio, whose room at the Hilton hotel was one floor down from François Bozizé, where Didier Ouebio mostly stayed playing cards, or played cards in Wapounaba's room.¹⁶⁵⁵ Indeed, while stating that he did 'not recall' if he saw Mr Ngaïssona or Levy Yakété at the hotel,¹⁶⁵⁶ and not knowing about meetings with several people at the

¹⁶⁵¹ P-1847: T-023, p. 19, lines 9-12.

¹⁶⁵² P-1847: T-023, p. 19, lines 13-20.

¹⁶⁵³ P-1847: T-024, p. 12, lines 1-8.

¹⁶⁵⁴ P-1847: T-023, p. 25, line 23 – p. 26, line 8.

¹⁶⁵⁵ D30-4679: T-299, p. 38, line 7 – p. 39, line 22, p. 40, line 4 – p. 41, line 18; T-301, p. 28, lines 5-14.

¹⁶⁵⁶ D30-4679: T-299, p. 44, lines 2-23.

hotel,¹⁶⁵⁷ the witness also conceded that he would not necessarily have been aware of François Bozizé's meetings at the Hilton or the Golf, or his activities outside thereof.¹⁶⁵⁸

794. In addition to meetings at the Hilton hotel, Joachim Kokaté also mentioned two meetings at the CAR embassy in Yaoundé, leading to ambassador Oguere's dismissal.¹⁶⁵⁹ One meeting took place about one week after the meeting at the Hilton hotel¹⁶⁶⁰ and was attended by Bozizé, Oguere, Bozizé's sons including Socrate, Franklin, Rodrigue, Levy Yakété, David Banga, Mr Ngaïssona, Poussou, Bernard Mokom, Eric Danboy who lived in the same residence as Bozizé and was part of his protection, and many people, there were also women, Joachim Kokaté did not know everyone.¹⁶⁶¹ They talked about the Seleka violence in Bangui, François Bozizé talked about his return to power, and he said that he was still attempting to get into contact with his former colleagues so as to organise his return.¹⁶⁶² They received alarming information from the country, including about the body of Bozizé's mother being profaned, which Bozizé said was unacceptable, that he would assume his responsibilities and that they needed to defend and organise themselves.¹⁶⁶³ The two meetings in the embassy in Yaoundé dealt practically with the same subjects.¹⁶⁶⁴ All participants in the meetings at the Hilton and the embassy were not at all in agreement with the Seleka, there was a feeling of discontent, everyone was nervous, no one accepted what was happening in Bangui, but the person directing the discussions was Bozizé, and whatever was happening was according to how he was organising it.¹⁶⁶⁵

¹⁶⁵⁷ D30-4679: T-299, p. 44, line 25 – p. 45, line 5, p. 45, lines 13-21.

¹⁶⁵⁸ D30-4679: T-301, p. 29, line 21 – p. 31, line 15.

¹⁶⁵⁹ P-0801: T-033, p. 73, lines 1-13; T-034, p. 17, line 18 – p. 18, line 10.

¹⁶⁶⁰ P-0801: T-034, p. 18, lines 9-24. The Chamber notes in this regard the Ngaïssona Defence's challenge to the witness's evidence on the basis of the ambassador having been dismissed on 2 May 2013 (see Decree, CAR-D30-0006-0004), time at which Joachim Kokaté gave an interview in Paris, and on the basis of another individual stating that the ambassador never received François Bozizé at the embassy (see P-0801: T-038, p. 22, lines 5-18, p. 23, line 4 – p. 24, line 24, p. 24, line 25 – p. 27, line 24; Screening note, CAR-OTP-2127-4453). Without anything further, the Chamber does not consider this to diminish the witness's evidence. With a meeting at the embassy having taken place approximately one week after a meeting at the Hilton hotel which, from the evidence outlined, may have taken place in April, this does not exclude such meeting leading to a dismissal having taken place on 2 May 2013.

¹⁶⁶¹ P-0801: T-034, p. 18, line 25 – p. 19, line 21.

¹⁶⁶² P-0801: T-034, p. 19, line 22 – p. 20, line 6.

¹⁶⁶³ P-0801: T-034, p. 20, line 7 – p. 22, line 23, p. 24, line 13.

¹⁶⁶⁴ P-0801: T-034, p. 20, lines 16-17.

¹⁶⁶⁵ P-0801: T-034, p. 25, line 22 – p. 26, line 6.

795. The Chamber does not consider this evidence to be impacted by the information provided by D30-4720. Indeed, this witness appears to have arrived in Yaoundé after [REDACTED]¹⁶⁶⁶ – and that it appears that Louis Oguere was secretary-general of the KNK.¹⁶⁶⁷ That D30-4720 did not see any FACA,¹⁶⁶⁸ or Levy Yakété, David Banga or Mr Ngaïssona in Cameroon,¹⁶⁶⁹ did not hear talk about regaining power using weapons,¹⁶⁷⁰ or did not hear about any meetings at the Hilton hotel¹⁶⁷¹ is immaterial to assessing the reliability of the evidence provided by other witnesses on these aspects. Similarly, that Didier Ouebio stated going to the embassy with François Bozizé once and waited outside for Bozizé who was inside for ‘perhaps 15 or 20 minutes’¹⁶⁷² does not negate the possibility of François Bozizé attending meetings at the embassy on other occasions.

796. In addition to the meetings at the Hilton hotel and the CAR embassy, Joachim Kokaté also participated in a meeting at one of the residences of Mr Ngaïssona to which Bozizé came whilst Joachim Kokaté was there during the meeting.¹⁶⁷³ This was shortly after the meeting at the embassy, the ambassador had already been dismissed from his functions,¹⁶⁷⁴ though the witness could not say when exactly it took place.¹⁶⁷⁵ Mr Ngaïssona told Joachim Kokaté that they would see each other in one of his residences in Yaoundé, a map was given to Joachim Kokaté, though he did not know where exactly in Yaoundé the residence was.¹⁶⁷⁶ Mr Ngaïssona himself said it was one of his homes.¹⁶⁷⁷ People present included Bozizé, Mr Ngaïssona, Wapounaba, Levy Yakété, David Banga, Bernard Mokom, and others.¹⁶⁷⁸ Bozizé continued speaking about the main subjects they had dealt with at the embassy, said that so far he had not had any contacts with the heads of states, but he would not stand idly and

¹⁶⁶⁶ D30-4720: T-280, p. 55, line 11 – p. 59, line 6, p. 59, line 24 – p. 61, line 12, p. 63, line 18 – p. 64, line 7.

¹⁶⁶⁷ P-0992: T-093, p. 10, line 20 – p. 11, line 7.

¹⁶⁶⁸ D30-4720: T-280, p. 61, line 13 – p. 62, line 5.

¹⁶⁶⁹ D30-4720: T-280, p. 65, line 18 – p. 66, line 20.

¹⁶⁷⁰ D30-4720: T-280, p. 64, line 15 – p. 65, line 3.

¹⁶⁷¹ D30-4720: T-280, p. 65, line 18 – p. 66, line 20.

¹⁶⁷² D30-4679: T-301, p. 31, line 16 – p. 32, line 17.

¹⁶⁷³ P-0801: T-034, p. 27, lines 6-13.

¹⁶⁷⁴ P-0801: T-034, p. 27, line 15 – p. 28, line 1.

¹⁶⁷⁵ P-0801: T-038, p. 29, line 1 – p. 30, line 7.

¹⁶⁷⁶ P-0801: T-034, p. 28, lines 2-6, 14-19, p. 29, line 21 – p. 30, line 2; T-037, p. 76, lines 8-19.

¹⁶⁷⁷ P-0801: T-037, p. 73, line 4 – p. 74, line 23.

¹⁶⁷⁸ P-0801: T-034, p. 28, lines 7-9, p. 28, line 20 – p. 29, line 14; T-037, p. 73, line 4 – p. 74, line 23.

watch what the Seleka were doing.¹⁶⁷⁹ No tasks were assigned during that meeting.¹⁶⁸⁰ After the meeting, Commander Bangouma was outside and told Bozizé that he needed money, Bozizé gave him 30,000 CFA and he was not pleased with the amount.¹⁶⁸¹

797. Joachim Kokaté stated that at some point he returned to France, but the meetings continued.¹⁶⁸² According to the witness, François Bozizé had a certain way of operating which meant there were meetings where everybody was invited, and meetings in a very restricted circle with members of his family who were in Yaoundé included, as he had more trust and confidence in people of his family and of his ethnic group.¹⁶⁸³ Joachim Kokaté met many people in Yaoundé¹⁶⁸⁴ and travelled to Cameroon several times during 2013, including each month from August to December.¹⁶⁸⁵

798. Alfred Legrand Ngaya stated that in 2013, he went twice to Yaoundé for professional activities.¹⁶⁸⁶ Alfred Legrand Ngaya and Mr Ngaïssona discussed some actions that they could take from Bangui, for instance, twice between May and July 2013, they decided to ask people in the neighbourhoods to play a ‘concert of pots’ at a specific time.¹⁶⁸⁷ They discussed actions to create pressure which led, together with international community pressure, to Djotodia’s resignation.¹⁶⁸⁸ In October 2013 in Yaoundé, Alfred Legrand Ngaya had dinner with Bernard Mokom, Bozizé’s [REDACTED], Freddy Ngaïssona and Mr Ngaïssona at Mr Ngaïssona’s house, in the residential area of Yaoundé.¹⁶⁸⁹ The witness did not have any suspicions with regard to them and did not imagine that they might be involved in military operations.¹⁶⁹⁰ Alfred Legrand Ngaya had called Mr Ngaïssona to arrange dinner, but it was

¹⁶⁷⁹ P-0801: T-034, p. 28, lines 9-13.

¹⁶⁸⁰ P-0801: T-034, p. 29, lines 15-20.

¹⁶⁸¹ P-0801: T-037, p. 74, line 23 – p. 75, line 2.

¹⁶⁸² P-0801: T-034, p. 30, lines 8-15.

¹⁶⁸³ P-0801: T-034, p. 31, line 15 – p. 32, line 1.

¹⁶⁸⁴ P-0801: T-034, p. 31, lines 6-11.

¹⁶⁸⁵ P-0801: T-034, p. 32, lines 3-11, p. 63, line 24 – p. 64, line 5.

¹⁶⁸⁶ P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0020, paras 55-56.

¹⁶⁸⁷ P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0020-21, para. 58.

¹⁶⁸⁸ P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0021, para. 58.

¹⁶⁸⁹ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0337, para. 87; P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0021, para. 59.

¹⁶⁹⁰ P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0021, para. 59.

Bernard Mokom who picked him up from the hotel; the witness was surprised to see Bernard Mokom, not knowing that the latter was in Cameroon.¹⁶⁹¹

799. In addition to the evidence of witnesses who participated in meetings, witnesses who were not present also heard about such meetings.
800. For instance, P-1719 heard about several meetings in Yaoundé attendees of which included Mr Ngaïssona, Levy Yakété, Kevin Kpefio, Kombo Hubert, Bernard Mokom and many others.¹⁶⁹² The most important meetings took place in Yaoundé, which P-1719 heard while in Douala, and he heard there was a leadership struggle between Levy Yakété and Mr Ngaïssona and that there were problems with ethnic origins.¹⁶⁹³ Levi Yakété was of Mandja ethnicity, whereas Mr Ngaïssona and Bernard Mokom were Gbaya.¹⁶⁹⁴ The purpose was to struggle to return to the country, and they struggled for power and positions, but did not understand each other and there were ethnic problems, so Levy Yakété distanced himself and travelled to France.¹⁶⁹⁵ P-1719 assumed that one of the people in direct contact with Mr Ngaïssona was Kevin Kpefio, president of the KNK youth and in contact with the young people of the CAR; from time to time, they received information from various places and some of that information was partially disclosed.¹⁶⁹⁶ P-1719 [REDACTED].¹⁶⁹⁷ Kombo Hubert, sometimes called Juvenal or ‘General’,¹⁶⁹⁸ seeing that he was part of the network related to the defeated president, he and Mr Ngaïssona collaborated closely [REDACTED].¹⁶⁹⁹
801. Later, Bernard Mokom said [REDACTED] that he was part of the brains of the movement, the ‘*éminences grises*’, but P-1719 did not know what role he was playing in practical terms.¹⁷⁰⁰ The people who had influence and who had begun the movement whom P-1719

¹⁶⁹¹ P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0021, paras 60-61.

¹⁶⁹² P-1719: T-141, p. 38, lines 14-18.

¹⁶⁹³ P-1719: T-144, p. 22, line 20 – p. 23, line 13.

¹⁶⁹⁴ P-1719: T-141, p. 39, lines 7-17.

¹⁶⁹⁵ P-1719: T-141, p. 38, line 19 – p. 40, line 5.

¹⁶⁹⁶ P-1719: T-141, p. 40, lines 6-11, 18-20; T-144, p. 15, line 13 – p. 17, line 3.

¹⁶⁹⁷ P-1719: T-141, p. 40, lines 12-17.

¹⁶⁹⁸ P-1719: T-141, p. 40, lines 21-24.

¹⁶⁹⁹ P-1719: T-141, p. 40, line 25 – p. 41, line 9. *See also* P-1719: T-144, p. 20, line 11 – p. 21, line 21.

¹⁷⁰⁰ P-1719: T-141, p. 41, lines 10-19.

knew personally were Mr Ngaïssona, Bernard Mokom, Maxime Mokom.¹⁷⁰¹ Bernard Mokom is the father of Maxime Mokom, Mr Ngaïssona was related to both of them because they all come from the same prefecture, Bossangoa and Ouham, they are all from the same ethnic group.¹⁷⁰² At the time, Maxime Mokom was not in Yaoundé, he was in Zongo, while Bernard Mokom was in Yaoundé together with Mr Ngaïssona, as P-1719 concluded.¹⁷⁰³ Before P-1719's meeting with Mr Ngaïssona, those based in Yaoundé did not share the information that they had just in any manner, they were not yet talking about the Anti-Balaka, and when it was created, it was only Mr Ngaïssona and Bernard Mokom who were at the head.¹⁷⁰⁴ To P-1719's knowledge, Francis Bozizé was in Yaoundé since March 2013 after the coup, the authorities of the country were in Yaoundé.¹⁷⁰⁵

802. Both P-2841 and P-2673 heard [REDACTED] about meetings held with Levy Yakété, Mr Ngaïssona, Bernard Mokom and David Gbanga, former director of Radio Centrafrique, at which the military and the Anti-Balaka movement were discussed, as well as Michel Djotodia's removal from power.¹⁷⁰⁶
803. While P-2841 mentioned diplomatic solutions to meet the latter goal, P-2673 specified that he heard that it was said during the meeting, 'We are going back to B[angui], we are going to organise ourselves with the Anti-Balaka to form an armed group to fight D[jotodia]'.¹⁷⁰⁷
804. According to P-2673, the orders came from Bozizé, Mr Ngaïssona and Mokom father.¹⁷⁰⁸ [REDACTED].¹⁷⁰⁹ According to P-2673, in the meetings all were Gbaya; Achille was in Bertoua but attended when they called, they sent money for his transport; Achille and Kpefio were very close.¹⁷¹⁰ P-2673 heard [REDACTED] that Mr Ngaïssona and Mokom father led the meetings, and they were always together at these meetings.¹⁷¹¹ P-2673 knew military

¹⁷⁰¹ P-1719: T-141, p. 42, lines 2-7.

¹⁷⁰² P-1719: T-141, p. 42, lines 8-16.

¹⁷⁰³ P-1719: T-141, p. 42, lines 22-24. *See also* P-1719: T-143, p. 13, line 21 – p. 14, line 3.

¹⁷⁰⁴ P-1719: T-143, p. 24, line 15 – p. 25, line 7.

¹⁷⁰⁵ P-1719: T-143, p. 27, line 9 – p. 28, line 2.

¹⁷⁰⁶ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4257, paras 112-113; P-2673 Statement, CAR-OTP-2127-6435-R01, at 6442, para. 44.

¹⁷⁰⁷ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6442, para. 44.

¹⁷⁰⁸ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6442, para. 44.

¹⁷⁰⁹ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6442, para. 45.

¹⁷¹⁰ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6442, para. 46.

¹⁷¹¹ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6442-43, paras 47-48.

people attended, Mokom father, and François Bozizé's aide-de-camp Colonel Wapounaba was at the Golf, Bozizé's residence [REDACTED].¹⁷¹² Alfred Legrand Ngaya was not at these meetings, he was not of their ethnicity [REDACTED].¹⁷¹³ Guerson took part in the meetings, but P-2673 did not know his role.¹⁷¹⁴ [REDACTED].¹⁷¹⁵ Yambété said to the MISCA [REDACTED] that he was the coordinator of the Anti-Balaka at the border, who went to Beloko.¹⁷¹⁶ P-2673 heard [REDACTED] that Kokaté went to the Golf residence to meet Mr Ngaïssona and Mokom father, but did not know what they talked about; P-2673 did not meet Kokaté [REDACTED].¹⁷¹⁷ Alesco did not participate in meetings with Mr Ngaïssona and Mokom father, he was in Douala [REDACTED].¹⁷¹⁸ [REDACTED].¹⁷¹⁹ [REDACTED] was in contact with Mr Ngaïssona and Mokom and everyone, they were very close; they were all Gbaya.¹⁷²⁰

805. P-0884 testified that he did not participate in any meetings with [REDACTED],¹⁷²¹ and never heard of a meeting amongst them.¹⁷²² He only knew that Bernard Mokom regularly went to François Bozizé's residence.¹⁷²³ It was in Bangui that he heard of meetings, but not when he was himself in Cameroon.¹⁷²⁴ When P-0884 returned to Bangui, before July, August 2013,¹⁷²⁵ he was questioned by a gendarme called Ouandji about his stay in Cameroon,¹⁷²⁶ to see whether in Cameroon they had had meetings with the purpose of organising a coup and P-0884 said that he was not aware and that he did not have enough to eat so decided to come home.¹⁷²⁷ P-0884 stated, asked what his understanding was how three people – Bernard Mokom, Kokaté, Mr Ngaïssona – were organising to be able to attack the Seleka, that he had this information because they set up a group in Cameroon; everybody knew they were in

¹⁷¹² P-2673 Statement, CAR-OTP-2127-6435-R01, at 6443, para. 52.

¹⁷¹³ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6444, para. 58.

¹⁷¹⁴ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6444, para. 58.

¹⁷¹⁵ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6445, para. 64.

¹⁷¹⁶ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6445, para. 64.

¹⁷¹⁷ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6449, para. 86.

¹⁷¹⁸ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6455, paras 129-130.

¹⁷¹⁹ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6455, para. 130.

¹⁷²⁰ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6455, para. 130.

¹⁷²¹ P-0884: T-055, p.8, lines 22-24, p. 9, lines 10-13.

¹⁷²² P-0884: T-055, p. 9, lines 14-20.

¹⁷²³ P-0884: T-055, p. 9, lines 14-20.

¹⁷²⁴ P-0884: T-055, p. 9, lines 14-20.

¹⁷²⁵ P-0884: T-055, p. 10, lines 9-11.

¹⁷²⁶ P-0884: T-055, p. 11, lines 9-23, p. 12, lines 13-25.

¹⁷²⁷ P-0884: T-055, p. 11, line 24 – p. 12, line 6.

Cameroon and that they were resetting up a resistance structure; [REDACTED] they had their organisation, but P-0884 did not really know exactly what was going on with this organisation; it is once ‘he’ came back to Bangui that he became ‘the general political coordinator of the Anti-Balaka’.¹⁷²⁸ Everybody was fighting the Seleka, not only Mr Ngaïssona, but ‘everybody’, Maxime Mokom, the others [REDACTED], and they on their side organised military operations in the field; the content of the conversations P-0884 had with Maxime Mokom and others concerned the Anti-Balaka being due to attack the capital on 5 December.¹⁷²⁹ ‘Their side’ was primarily Maxime Mokom, Bernard Mokom, including Mr Ngaïssona and Kokaté – they were in Cameroon, organised the Anti-Balaka who were advancing on Bangui, some from Bossangoa, Bouca, Batangafo.¹⁷³⁰

806. Aurélien Llorca, member of the CAR Panel, testified that a confidential source had told him that Bernard Mokom took part in the initial planning meetings in Yaoundé in 2013 and that Mr Ngaïssona was also in Cameroon and supposed to take command and control of the movement.¹⁷³¹ A confidential source told the witness that planning meetings took place in Yaoundé, Cameroon, in a private house before the attack of 5 December 2013 on Bangui, and that Bernard Mokom attended at least one meeting.¹⁷³² During his interview on 3 May 2014, Mr Ngaïssona told Aurélien Llorca that ‘he himself and the Anti-Balaka have no link with Bozizé in the sense that Bozizé was not – at that point in time – backing his group’.¹⁷³³ The CAR Panel’s 2014 interim report indicated that according to a diplomatic source in Yaoundé, the Cameroonian territory had been used by François Bozizé and his supporters to prepare the offensive on Bangui.¹⁷³⁴ It continued that before being asked to leave Cameroon, François Bozizé ‘was actively pursuing his objective of “restoring the constitutional order” using various channels including propaganda by some organisations led by his supporters’.¹⁷³⁵

¹⁷²⁸ P-0884: T-055, p. 46, line 14 – p. 47, line 1.

¹⁷²⁹ P-0884: T-055, p. 49, lines 2-7.

¹⁷³⁰ P-0884: T-055, p. 49, lines 12-23.

¹⁷³¹ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0247, para. 38.

¹⁷³² P-0287 Statement, CAR-OTP-2115-0239-R01, at 0247, para. 40.

¹⁷³³ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0252, para. 58.

¹⁷³⁴ Annex 5 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0875, para. 4. *See also* Annex 5.1 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0879.

¹⁷³⁵ Annex 3 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0868, para. 3.

807. D30-4914 heard of meetings of military leaders in Yaoundé [REDACTED].¹⁷³⁶ D30-4914 heard of the ‘*Cité du Golfe*’ [REDACTED].¹⁷³⁷ D30-4914 never heard of money being distributed from Yaoundé; Yaoundé is a big city where the Cameroonian head of state lives and people did not risk such matters for fear of being arrested by the Cameroonian authorities.¹⁷³⁸
808. P-2673 explained that Bernard Mokom joined Mr Ngaïssona in October 2013 at the Golf residence in Yaoundé, where they shared the same house until Mokom father, Fono Davy, an aide-de-camp of Mr Ngaïssona, and the younger brother of Colonel Wapounaba went to Bangui, with Mr Ngaïssona.¹⁷³⁹ P-2673 did not see Mr Ngaïssona at the Golf residence.¹⁷⁴⁰ P-2673 heard about Mr Ngaïssona and Mokom living together [REDACTED].¹⁷⁴¹ P-2673 was told that Mr Ngaïssona was at his home in Douala and when in Yaoundé, lived in the residence in which the former president had resided.¹⁷⁴² When François Bozizé left Yaoundé, his former aide-de-camp Vincent Wapounaba looked after the residence and Mr Ngaïssona went to live there, as did Mokom father.¹⁷⁴³ According to P-2673, when Mr Ngaïssona left for Douala or elsewhere for a few days for business, Mokom returned to where he lived in his Yaoundé neighbourhood, but towards the end of 2013 Mr Ngaïssona and Mokom father lived together at the residence and neither left without the other.¹⁷⁴⁴ Wapounaba stayed at the residence with the cook Sosthène.¹⁷⁴⁵ P-2673 did not know if Mr Ngaïssona visited the residence while François Bozizé was still living there.¹⁷⁴⁶
809. The Chamber notes in this regard that it has been suggested that Mr Ngaïssona lived in Douala with his family, rather than in Yaoundé. In the Chamber’s view, the evidence of P-2673 already provides the more nuanced perspective to this suggestion which is also borne out by the evidence: while Mr Ngaïssona’s family lived in Douala, Mr Ngaïssona himself

¹⁷³⁶ D30-4914 Statement, CAR-D30-0024-0001-R01, at 0016, lines 620-623.

¹⁷³⁷ D30-4914 Statement, CAR-D30-0024-0001-R01, at 0016, lines 634-635.

¹⁷³⁸ D30-4914 Statement, CAR-D30-0024-0001-R01, at 0016, lines 638-641.

¹⁷³⁹ P-2673: T-042, p. 9, line 19 – p. 10, line 14, p. 12, line 18 – p. 13, line 4.

¹⁷⁴⁰ P-2673: T-042, p. 10, lines 17-20.

¹⁷⁴¹ P-2673: T-042, p. 14, lines 12-25; P-2673 Statement, CAR-OTP-2127-6435-R01, at 6449-50, paras 91-92.

¹⁷⁴² P-2673: T-042, p. 18, line 16 – p. 19, line 3.

¹⁷⁴³ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6449, para. 91.

¹⁷⁴⁴ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6449, para. 91; P-2673: T-041, p. 20, lines 13-19.

¹⁷⁴⁵ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6449, para. 91.

¹⁷⁴⁶ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6450, para. 92.

clearly stayed in different places at different times, including both Yaoundé and Douala, while also travelling for various purposes, including to the border area and to Paris, as further discussed below. Further, the Chamber notes in this regard that the evidence of P-2673 on Mr Ngaïssona, Bernard Mokom and also Wapounaba and Sosthène staying in one residence is supported by the information given by Alfred Legrand Ngaya outlined above, who testified to visiting Mr Ngaïssona, being picked up by Bernard Mokom for this purpose, and in the end having dinner with Mr Ngaïssona, Sosthène and also others.

810. Further in this context, the Chamber considers to be unreliable P-1847's denial of Mr Ngaïssona ever having stayed at the Golf residence, or Mr Ngaïssona meeting François Bozizé there while the latter still lived at this residence. The witness's answers in court on these matters were directly contradictory to the information in his prior recorded testimony,¹⁷⁴⁷ with the witness providing deflective and evasive answers when asked about such contradictions.¹⁷⁴⁸
811. At the same time, what the witness did maintain in court was telling: P-1847 stated that Levy Yakété participated in meetings at the Golf residence [REDACTED], having been twice to meetings with Kokaté, Wapounaba, Bernard Mokom and later David Banga.¹⁷⁴⁹ P-1847 confirmed the purpose was the same, namely François Bozizé's return to power; they were asked to take up contact with people at Bossangoa, Bernard Mokom was responsible for contacting the Anti-Balaka in Bossangoa and at the frontier with Cameroon, and others in the CAR.¹⁷⁵⁰
812. In a similar vein, the Chamber considers that Didier Ouebio, who stated to have been living at the Golf residence for several months,¹⁷⁵¹ was clearly trying to avoid providing fully truthful information. While he testified that Bozizé mainly stayed at this residence and received visitors there, but never organised meeting,¹⁷⁵² he also stated that 'during meetings',

¹⁷⁴⁷ P-1847: T-023, p. 21, line 15 – p. 22, line 3, p. 26, lines 14-20. See P-1847 First Statement, CAR-OTP-2061-1534, at 1546, para. 84; P-1847 Second Statement, CAR-OTP-2122-8251-R01, at 8254, para. 24.

¹⁷⁴⁸ P-1847: T-023, p. 27, line 14 – p. 28, line 16, p. 48, line 16 – p. 49, line 13, p. 50, lines 10-25.

¹⁷⁴⁹ P-1847: T-023, p. 22, lines 4-23.

¹⁷⁵⁰ P-1847 First Statement, CAR-OTP-2061-1534, at 1547, para. 85; P-1847: T-023, p. 22, line 24 – p. 23, line 9.

¹⁷⁵¹ D30-4679: T-299, p. 45, line 22 – p. 47, line 12; T-299-ENG, p. 57, lines 5-13, p. 57, line 23 – p. 58, line 11; T-299-FRA, p. 55, line 26 – p. 56, line 7.

¹⁷⁵² D30-4679: T-299, p. 48, line 17 – p. 49, line 11.

he would always play cards,¹⁷⁵³ and that he would do so in the back and thus not know who would enter the residence into the lounge.¹⁷⁵⁴ In the Chamber's view, Didier Ouebio's evidence as to which visitors would have come to the residence, and how often, thus bears little value.¹⁷⁵⁵ Similarly, and on the basis of the above, the Chamber attaches little value to the witness's suggestion that Mr Ngaïssona never lived at the Golf for any period of time,¹⁷⁵⁶ or that he would have never seen Mr Ngaïssona and Bernard Mokom together,¹⁷⁵⁷ especially since he also claimed 'not remembering' if Bernard Mokom lived at the Golf,¹⁷⁵⁸ and then seemed to suggest that he visited more than once.¹⁷⁵⁹ In the same vein, the witness's generalised claims of 'never seeing' Juvenal Ngouakossi/Kombo, Steve Yambété, Aime Vincent Bozizé, Lamkague, Olivier Koudemon, Colonel Mboya, Semdiro or Didier Danboy at the Golf had no impact on the Chamber's determinations.¹⁷⁶⁰ Neither did his statements that he did not hear of soldiers receiving money from Mr Ngaïssona or not know how Mr Ngaïssona and/or Bernard Mokom would have given money to soldiers he never saw there.¹⁷⁶¹ Given the situation at the time and the overwhelming evidence on record according to which CAR nationals in exile in particular in Cameroon and Zongo were particular concerned about receiving news from their home country, D30-4769's claim that all they would do was playing cards and never discussed the situation in the CAR is equally not credible.¹⁷⁶² The Chamber further does not consider credible the witness's explanations as regards his exchanges with various individuals on Facebook, such as that an unambiguous exchange with Claude Behoundez in February 2014 would have related to their card games,¹⁷⁶³ or that his exchanges with Pedro Barroso, that clearly concerned securing military

¹⁷⁵³ D30-4679: T-299, p. 51, lines 6-10.

¹⁷⁵⁴ D30-4679: T-299, p. 49, lines 12-23, p. 50, lines 5-8.

¹⁷⁵⁵ D30-4679: T-299, p. 52, line 7 – p. 53, line 18.

¹⁷⁵⁶ D30-4679: T-299, p. 64, lines 2-8.

¹⁷⁵⁷ D30-4679: T-299, p. 62, line 15 – p. 63, line 5.

¹⁷⁵⁸ D30-4679: T-299, p. 66, line 9 – p. 67, line 2.

¹⁷⁵⁹ D30-4679: T-301, p. 59, lines 5-19.

¹⁷⁶⁰ D30-4679: T-299, p. 67, line 3 – p. 70, line 1, p. 70, lines 21-24.

¹⁷⁶¹ D30-4679: T-299-ENG, p. 71, lines 9-21; T-299-FRA, p. 69, line 28 – p. 70, line 15.

¹⁷⁶² D30-4679: T-299, p. 71, line 23 – p. 72, line 8.

¹⁷⁶³ D30-4679: T-300, p. 12, line 23 – p. 14, line 17. *See* Facebook messages, CAR-OTP-2132-6648, at 6662-63 ('Slt mn pote. x8 bien arivé mais tar hier nuit. x8 dan un motel près de l'aéroport g rejoindrè le patron tt aleur. Ms salutation a tt le monde. On e ensembl. Fo continué les violen comba. Il doiv mm double d'intensité. E Ippy doit être raze... complètement. Aucun coq dehor...rirrrrr' ('Cris Behoundez', 19 February 2014, 07:55:20); [...] 'Slt mon pote. Tt se pass bien pr mw. J'espère ke vs continue ls violen comba e ke Ippy e tombé pluzieur fois déjà. G me connecte juste pr vwr si g pa d messaj important okel g dw repondr pr éviter ts cs gen ki mapel sur mn num d Yaoundé en vain. Pr le

and material support to assist François Bozizé's efforts to return to power, would not have been based on the witness's discussion with François Bozizé and knowledge of his efforts but merely voicing his opinion.¹⁷⁶⁴ In this context, the Chamber also considers not credible the witness's explanations on exchanges he had with other individuals.¹⁷⁶⁵

momen rien n'è inscri a l'ordre du jour. Donk jaten tt simplemen. Salu a ts!' ('Cris Behoundez', 21 February 2014, 07:30:04); 'Salut Claude message bien reçu. Impayés ne tombe jamais, seulement hier m'a roulé trois fois dans la farine. À par ça rien de particulier. Portes toi bien et bon séjour' ('Épervier Voltigeur', 21 February 2014, 10:09:05)).¹⁷⁶⁴ D30-4679: T-300, p. 15, line 10 – p. 22, line 9; T-301, p. 19, line 13 – p. 27, line 6. See Facebook messages, CAR-OTP-2131-3310, at 3319 ('J'ai un contact en Angola m'a offert entrepreneurs militaires si le président veut reprendre Bangui' ('Pedro Barroso', 26 March 2013, 12:01:30)), at 3361 ('Que pensez-vous du président veut faire?' ('Pedro Barroso', 22 April 2013, 10:57:43); 'On veut reprendre le pays' ('Didier Épervier Voltigeur Ouebio', 22 April 2013, 10:58:17); 'Avec des appuis militaires amis' ('Didier Épervier Voltigeur Ouebio', 22 April 2013, 10:58:48)), 3366-67 ('demain je me retrouve à Porto avec des hommes responsables pour les Angolais, car je suis allé acheter le billet de train et la livraison au port demain à 13h30, je me retrouve avec eux dans un hôtel et à la fin de la journée already' Il t'appelle demain pour donner Nouvelles, mais ne savent pas s'ils vont au Cameroun pour payer leurs passages' ('Pedro Barroso', 22 April 2013, 17:09:53) [...] 'ce que le président a dit?' ('Pedro Barroso', 22 April 2013, 18:16:40); 'mais quel était son impression sur la conversation?' ('Pedro Barroso', 22 April 2013, 18:19:24); 'Satisfait et attend la suite' ('Didier Épervier Voltigeur Ouebio', 22 April 2013, 18:27:53)), 3369 ('comme je vous l'ai dit hier, je suis allé réunion et arrivé à la maison déjà trop tard donc j'ai appelé pas, mais aujourd'hui, ils vont m'envoyer un email texte avec des conditions de planification et si l'opération se concrétise, Informe le Président qui ils vont envoyer ce document à analyser et présenter des excuses, mais le temps est court!' ('Pedro Barroso', 24 April 2013, 13:02:57)), 3374 ('Qu'elles sont les Nouvelles, c'est vous qu'on attend' ('Didier Épervier Voltigeur Ouebio', 25 April 2013, 22:21:05); 'Aujourd'hui, j'ai parlé à leur demander de la proposition, mais ils doivent remplir et envoyer demain jusqu'à la fin de la journée' ('Pedro Barroso', 25 April 2013, 22:21:19); 'Ok, merci. Le président attend le document' ('Didier Épervier Voltigeur Ouebio', 25 April 2013, 22:22:15)), 3378 ('didier déjà reçu une proposition provisoire' ('Pedro Barroso', 26 April 2013, 20:29:33); 'besoin de savoir quels e-mail que vous souhaitez envoyer' ('Pedro Barroso', 26 April 2013, 20:30:01); 'Bonsoir Pedro, mon e-mail: [REDACTED]' ('Didier Épervier Voltigeur Ouebio', 26 April 2013, 22:05:39); 'Reçu et transmis au Patron. On vous fera signe dès que possible. Merci' ('Didier Épervier Voltigeur Ouebio', 27 April 2013, 09:21:29); 'Le Président me charge de te dire si vous pouvez dans l'immédiat nous fournir un dizaine d'instructeurs militaires dans tous les domaines de combat. Pour le projet, ça suivra après. J'attends ta réponse' ('Didier Épervier Voltigeur Ouebio', 27 April 2013, 09:48:19)), 3386 ('bonjour Didier Déjà il des nouvelles? Le président examine toujours la proposition acceptera ou non? Je vais Israël dans le 6 mai prochain à la formation. Si il ya des nouvelles au sujet de la proposition me dit. Je me souviens alors une autre situation qui peut réduire le prix des soumis' ('Pedro Barroso', 3 May 2013, 09:23:23); 'Bonjour Pedro', 'Je vois, il a dit la fois dernière un problème financier se pose et qu'il faut d'abord trouver une solution' ('Didier Épervier Voltigeur Ouebio', 3 May 2013, 09:24:01, 09:28:18)), 3426 ('Tu vas parler avec Serge aujourd'hui?' ('Pedro Barroso', 3 June 2013, 8:55:42); 'Oui il m'a appelé ce matin' ('Didier Épervier Voltigeur Ouebio', 3 June 2013, 08:56:59)), 3428 ('Le Bozizé aurait dû faire l'opération et de regagner le pays, est déjà la deuxième fois que s'enfuit et ce n'est pas bon' ('Pedro Barroso', 3 June 2013, 09:11:37); 'On attend de voir la suite' ('Didier Épervier Voltigeur Ouebio', 3 June 2013, 09:12:10); 'Il s'agit d'options, donc je pense que c'est fini maintenant! Je vous avais prévenu que les choses allaient mal tourner pour Bozizé! Il doit avoir beaucoup d'argent, mais ne veut pas investir' ('Pedro Barroso', 3 June 2013, 09:17:36); 'Je ne sais pas' ('Didier Épervier Voltigeur Ouebio', 3 June 2013, 09:18:20)).

¹⁷⁶⁵ D30-4679: T-300, p. 22, line 10 – p. 33, line 7. See Facebook messages, CAR-OTP-2133-3029, at 3030, 3039, 3057, 3062-63; CAR-OTP-2132-5489, at 5855; CAR-OTP-2131-3585, at 3610; CAR-OTP-2099-7606, at 7644; CAR-OTP-2132-1004, at 1018-19.

ii. *Activities in Douala*

813. While activities took place in Yaoundé, individuals of interest to the case, who were in Douala at the time, did not remain passive. The evidence suggests that Mr Ngaïssona also rented living spaces in Douala that were used by his family in particular, and by him on occasion when present in Douala.
814. P-1719, who joined the Anti-Balaka in Garam-Boulai later, was in Douala himself and stayed there [REDACTED].¹⁷⁶⁶ P-1719 recalled meeting senior officers of the army there and noting that they knew each other and shared information about what happened in the country.¹⁷⁶⁷ P-1719 said that, at that period, engaging in an armed struggle was not an option for them; there was an officer called [REDACTED], who rented a house in Douala and if there were problems with money, he would intervene and provide assistance to others; P-1719 visited another officer who had been a member of the presidential security because his wife prepared food for them.¹⁷⁶⁸ P-1719 recalled that [REDACTED] there were other subordinate officers, soldiers, civilians who came to know each other in Cameroon.¹⁷⁶⁹ P-1719 heard – but he did not see, did not attend – that there were meetings in the area of Akwa and in Yaoundé.¹⁷⁷⁰ In the evenings, some of those from the CAR would meet at a station to exchange information, and P-1719 heard that a meeting was held in Douala, but he did not know what happened; at one point P-1719 [REDACTED]¹⁷⁷¹ because he was in Douala, and asked for details, but he told him ‘there’s nothing else to do’ and they needed to wait and see what would happen, asking P-1719 to be patient because at that time, they did not share extremely sensitive information.¹⁷⁷²
815. P-1719 testified that many people from the CAR were in Douala and shared information [REDACTED].¹⁷⁷³ He said that there were several transactions, ‘the leader’ sent him money regularly, which meant that there was regular communication between them; so they shared

¹⁷⁶⁶ P-1719: T-141, p. 31, line 21 – p. 32, line 6.

¹⁷⁶⁷ P-1719: T-141, p. 34, lines 16-21.

¹⁷⁶⁸ P-1719: T-141, p. 34, line 22 – p. 35, line 8.

¹⁷⁶⁹ P-1719: T-141, p. 35, line 20 – p. 36, line 4.

¹⁷⁷⁰ P-1719: T-141, p. 35, lines 9-12.

¹⁷⁷¹ P-1719: T-141-FRA, p. 36, line 4.

¹⁷⁷² P-1719: T-141, p. 36, line 15 – p. 37, line 7.

¹⁷⁷³ P-1719: T-141, p. 47, line 23 – p. 48, line 14.

the information amongst them as people from the CAR who were in Douala.¹⁷⁷⁴ P-1719 did not know how Mohi managed to earn a living, but he was in contact with his ‘president of the federation’ and [REDACTED] had received money from Mr Ngaïssona to make ends meet.¹⁷⁷⁵ P-1719 did not know where Mohi was living, [REDACTED] regularly met at [REDACTED].¹⁷⁷⁶ [REDACTED] Mr Ngaïssona was calling upon all people of the CAR in Cameroon to go back home because they had to rise up in resolve.¹⁷⁷⁷ Tensions were running high, serious things were happening, and P-1719 was worried for his family in the CAR, so he told [REDACTED] to give him the phone number of the authority and P-1719 called him using his telephone, saying he wanted to meet with him, the superior, and he said that he was waiting for them.¹⁷⁷⁸

816. P-1719 was in regular contact with [REDACTED] he had his number [REDACTED] in Bertoua.¹⁷⁷⁹ P-1719 further exchanged with [REDACTED].¹⁷⁸⁰ P-1719 stated [REDACTED] did not yet have any intentions of military operations before he went to Yaoundé at the end of November 2013.¹⁷⁸¹ According to P-1719, he spoke to Levy Yakété because he was the youth president and there was a way to peacefully carry out the fight.¹⁷⁸² P-1719 did ask for money for transport, but because they had a few problems while still in Cameroon, not for the purpose of going to fight in the country, and when they were exchanging, they did not have a plan to go to the border.¹⁷⁸³

817. P-2673 went to Cameroon [REDACTED] and was put up in Douala.¹⁷⁸⁴ Initially while in Douala, P-2673 [REDACTED].¹⁷⁸⁵ P-2673 also went to Yaoundé but then returned to

¹⁷⁷⁴ P-1719: T-141, p. 48, lines 14-18.

¹⁷⁷⁵ P-1719: T-143, p. 57, line 15 – p. 58, line 4.

¹⁷⁷⁶ P-1719: T-143, p. 58, lines 5-9. The Chamber notes that it was suggested that CDR relating to numbers associated with the witness and [REDACTED] do not show any contacts (see P-1719: T-143, p. 59, line 3 – p. 61, line 8 *referring to* CDR, CAR-OTP-2101-6428). The Chamber recalls in this regard that the witness spoke of [REDACTED], as well as its general position that the absence of CDR does not, by itself, refute a witness’s testimony as to the existence of contacts (see paragraph 190 above).

¹⁷⁷⁷ P-1719: T-141, p. 44, lines 1-11.

¹⁷⁷⁸ P-1719: T-141, p. 44, lines 12-24, p. 49, lines 14-23.

¹⁷⁷⁹ P-1719: T-141, p. 64, line 25 – p. 65, line 8.

¹⁷⁸⁰ P-1719: T-141, p. 63, lines 10-25, p. 67, line 10 – p. 68, line 14. See [REDACTED].

¹⁷⁸¹ P-1719: T-143, p. 28, line 23 – p. 30, line 16. See Facebook messages, CAR-OTP-2101-6428, at 6434, 6439.

¹⁷⁸² P-1719: T-143, p. 30, line 17 – p. 32, line 5.

¹⁷⁸³ P-1719: T-143, p. 32, line 22 – p. 33, line 19, p. 34, lines 4-25.

¹⁷⁸⁴ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6438, para. 22, at 6439, paras 27-29, at 6439-40, para. 30; P-2673: T-041, p. 7, lines 13-16.

¹⁷⁸⁵ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6440, para. 32.

Douala [REDACTED].¹⁷⁸⁶ [REDACTED].¹⁷⁸⁷ Jean Alesco Bouragoro, a police commissioner of the same ethnicity as Mr Ngaïssona and François Bozizé, was also in Douala at the time.¹⁷⁸⁸

818. P-2673 explained that in October 2013, [REDACTED].¹⁷⁸⁹ [REDACTED].¹⁷⁹⁰ [REDACTED].¹⁷⁹¹ P-2673 [REDACTED].¹⁷⁹² According to P-2673, [REDACTED].¹⁷⁹³ Sometimes Dazoumi was with Aaron Ouilibona.¹⁷⁹⁴ [REDACTED].¹⁷⁹⁵

819. P-2673 testified that [REDACTED] Gbangouma, Fleury Pabandji, Lamkague, Jean Alesco had meetings with Dazoumi and Sani Yalo in Douala, and they called Achille and Ndale to come from Bertoua for the meetings.¹⁷⁹⁶ P-2673 thought the meetings began in June or July 2013, when P-2673 was still in Douala; they also went to Yaoundé to meet Abdoulaye Miskine.¹⁷⁹⁷ Fleury Pabandji remained in Cameroon until Djotodia stepped down, he was initially in Douala and then went to Garam-Boulaï.¹⁷⁹⁸ [REDACTED] Meckassoua was their chief, he financed their work.¹⁷⁹⁹ Ndale had elements in Bouar, and Sani and Dazoumi Yalo wanted to convince him to allow them to finance his group, to ‘defeat D[jotodia]’.¹⁸⁰⁰ [REDACTED].¹⁸⁰¹ According to P-2673, Dazoumi and Sani Yalo sent Gbangouma, Fleury Pabandji and Lamkague to Garam-Boulaï to look after the Anti-Balaka, meaning they were sent to establish contact and see if Meckassoua could finance them, after the Bouar attack –

¹⁷⁸⁶ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6440, paras 33-34.

¹⁷⁸⁷ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6444, para. 58.

¹⁷⁸⁸ P-2673: T-041, p. 43, lines 2-10; T-042, p. 57, line 21 – p. 58, line 7 *referring to* Facebook messages, CAR-OTP-2102-5143, at 5184. P-2673 explained that he wanted to cross-check the information about leaders allegedly being in Douala (*see* P-2673: T-041, p. 43, lines 11-21).

¹⁷⁸⁹ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6457, para. 141. [REDACTED]

¹⁷⁹⁰ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6457, para. 141; P-2673: T-042, p. 48, line 20 – p. 49, line 5.

¹⁷⁹¹ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6457, para. 141.

¹⁷⁹² P-2673 Statement, CAR-OTP-2127-6435-R01, at 6457, paras 142-143; P-2673: T-042, p. 48, line 20 – p. 49, line 11.

¹⁷⁹³ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6457, para. 144.

¹⁷⁹⁴ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6457, para. 144.

¹⁷⁹⁵ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6457, para. 144.

¹⁷⁹⁶ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6458, para. 145.

¹⁷⁹⁷ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6458, para. 146.

¹⁷⁹⁸ P-2673: T-042, p. 67, lines 17-25, p. 68, lines 14-21.

¹⁷⁹⁹ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6458, para. 147; P-2673: T-042, p. 67, lines 17-25.

¹⁸⁰⁰ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6458, para. 147.

¹⁸⁰¹ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6458, para. 147.

Gbangouma and Lamkague were arrested, so they did not finish their ‘mission’.¹⁸⁰² According to P-2673, Gbangouma and Mr Ngaïssona did not get on because Gbangouma was on the side of Dazoumi, Sani Yalo and Meckassoua, and Mr Ngaïssona on the side of François Bozizé – in 2013, Meckassoua was no longer on Bozizé’s side.¹⁸⁰³ P-2673 also heard that Dazoumi and Sani Yalo also did not get on with Mr Ngaïssona.¹⁸⁰⁴ According to P-2673, the goal of Dazoumi and Sani Yalo, Meckassoua and their group was to get power and install Meckassoua as president, they promised Gbangouma he would become general.¹⁸⁰⁵

820. P-1847 went to Douala from time to time, but was based in Yaoundé.¹⁸⁰⁶ According to the witness, Koyagbéle was in South Africa when the events occurred and then went to Douala with Kité, he was gathering compatriots and speaking to them in his hotel in Douala.¹⁸⁰⁷ Koyagbéle also tried to organise the revolution against the Seleka at the time.¹⁸⁰⁸ Danzoumi Yalo also called them so that they could talk about how they could organise themselves to oppose the Seleka; P-1847 was in Yaoundé, but they passed on to Douala.¹⁸⁰⁹

821. The Chamber considers not credible the evidence of D30-4756 who stated that [REDACTED] from September through October 2013, [REDACTED] Mr Ngaïssona would have been there daily, not travelling.¹⁸¹⁰ It is clear from the evidence on record that Mr Ngaïssona travelled extensively during this period, including for official FIFA business,¹⁸¹¹ and did not stay in Douala for prolonged periods of time. Similarly, and bearing in mind the

¹⁸⁰² P-2673 Statement, CAR-OTP-2127-6435-R01, at 6458, para. 149. *See also* P-2027 Statement, CAR-OTP-2078-0059-R03, at 0072-73, paras 80-81; P-2027: T-039, p. 55, lines 2-10. *See further* Facebook messages, CAR-OT-2103-4185, at 4217. In light of this evidence, the Chamber finds not credible, and therefore has not relied on, P-2027’s generalised claims that he would never have participated in any meetings (*see* P-2027: T-040, p. 36, line 3 – p. 39, line 3; *see also* Facebook messages, CAR-OTP-2101-8599, at 8608).

¹⁸⁰³ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6458, para. 150.

¹⁸⁰⁴ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6458, para. 150.

¹⁸⁰⁵ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6458, para. 151.

¹⁸⁰⁶ P-1847: T-022, p. 73, lines 13-17.

¹⁸⁰⁷ P-1847: T-022, p. 76, lines 1-9.

¹⁸⁰⁸ P-1847: T-022, p. 76, lines 10-12.

¹⁸⁰⁹ P-1847: T-022, p. 76, lines 13-20.

¹⁸¹⁰ D30-4756: T-268, p. 49, line 14 – p. 52, line 1; T-269, p. 4, line 11 – p. 6, line 25, p. 33, line 9 – p. 34, line 25.

¹⁸¹¹ *See* P-2843: T-073, p. 83, line 21 – p. 84, line 17, p. 89, lines 6-11; T-074, p. 29, line 11 – p. 31, line , p. 48, line 13 – p. 49, line 5; Emails, CAR-OTP-2124-0985; CAR-OTP-2124-0949; CAR-OTP-2124-0960; CAR-OTP-2127-0993; CAR-OTP-2124-0479; CAR-OTP-2124-0554; CAR-OTP-2124-0555; CAR-OTP-2124-0556; CAR-OTP-2124-0557; CAR-OTP-2124-0558. *See also* Facebook messages, CAR-OTP-2102-3799, at 3858-59.

credibility assessment of Brice Stanislas Mohi,¹⁸¹² the Chamber considers the information provided by this witness inapt to put into doubt the evidence of other witnesses as outlined above.

822. D30-4848 testified that Mr Ngaïssona did not live at his family's residence in Deido when D30-4848 went there after Mr Ngaïssona's sister died.¹⁸¹³ D30-4848 confirmed that Mr Ngaïssona was responsible for 'a large group of people'.¹⁸¹⁴ D30-4848 saw Mr Ngaïssona when CAR was playing against South Africa in Yaoundé; there was a strong presence of Central African people living in Douala, Yaoundé and everywhere else in Cameroon.¹⁸¹⁵ According to D30-4848, he did not see Mr Ngaïssona again until later in Bangui, was not in phone contact with him while in Cameroon, did not receive any request of Mr Ngaïssona to take part in the armed resistance of the Anti-Balaka, and never heard or experienced Mr Ngaïssona giving orders to organise the 5 December 2013 attack, or orders to FACA to organise to destabilise the Seleka.¹⁸¹⁶ D30-4848 also did not see François Bozizé while in Cameroon; he heard talk about him being in Yaoundé, like any other person from the CAR living there; D30-4848 also did not see Francis Bozizé.¹⁸¹⁷ According to D30-4848, the Seleka tried to have the CAR soldiers in Cameroon repatriated, they travelled to Yaoundé, Bertoua, Douala; [REDACTED] the authorities should not agree to release them because back in the country they would be in constant danger, they refused to return.¹⁸¹⁸ The Chamber considers the witness's generalised and blanket denials to be not credible overall and, in any event, besides the point. D30-4848 denying that he would have seen Mr Ngaïssona or François Bozizé while he was in Cameroon is irrelevant insofar as the Chamber has not relied on the press article in question which would have mentioned [REDACTED]. Further, and in light of other evidence as discussed, further blanket denials do not negate, by themselves, that such events took place.

¹⁸¹² See paragraphs 446-456 above.

¹⁸¹³ D30-4848: T-296, p. 33, line 18 – p. 34, line 16 *referring to* Photograph, CAR-D30-0005-0020.

¹⁸¹⁴ D30-4848: T-296, p. 35, lines 1-3.

¹⁸¹⁵ D30-4848: T-296, p. 36, line 14 – p. 37, line 3; T-297, p. 11, lines 18-25. *See also* D30-4848: T-296, p. 37, lines 5-16.

¹⁸¹⁶ D30-4848: T-296, p. 37, line 20 – p. 38, line 2; T-297, p. 26, lines 9-23. *See also* D30-4848: T-297, p. 27, line 7 – p. 28, line 1 *referring to* [REDACTED].

¹⁸¹⁷ D30-4848: T-296, p. 38, lines 17-24.

¹⁸¹⁸ D30-4848: T-296, p. 39, line 9 – p. 40, line 20, p. 41, line 16 – p. 42, line 23.

iii. *Mr Ngaïssona's financing and coordination activities*

823. The Ngaïssona Defence submits that there is no credible evidence that Mr Ngaïssona travelled to the border area to meet, support and encourage elements from Bertoua, 'Garoua-Boulai' and Bouar.¹⁸¹⁹ It also argues that Mr Ngaïssona did not assist youth in Bangui or Anti-Balaka and FACA in Zongo.¹⁸²⁰
824. The Ngaïssona Defence argues that the Prosecution failed to prove that Mr Ngaïssona financed the Anti-Balaka for the commission of the charged crimes since (i) Mr Ngaïssona struggled financially while in Cameroon; (ii) Mr Ngaïssona did not provide equipment and transportation prior to 5 December 2013; and (iii) Mr Ngaïssona did not provide money, weapons, ammunitions or any other material.¹⁸²¹
825. The Ngaïssona Defence submits that the Prosecution failed to prove that Mr Ngaïssona issued military instructions to Anti-Balaka members since there is insufficient evidence to show that (i) Mr Ngaïssona and Bernard Mokom summoned Ngaikosset so he could return to the CAR to carry out attacks; (ii) Mr Ngaïssona instructed the Anti-Balaka to attack Bouar and Beloko in October 2013; (iii) Mr Ngaïssona provided military instructions in November 2013; (iv) Mr Ngaïssona provided instructions to the Anti-Balaka in the CAR regarding attacks, including the Bangui Attack.¹⁸²²
826. The Ngaïssona Defence argues that Mr Ngaïssona did not liaise or coordinate with François Bozizé, Maxime Mokom, Mr Yekatom or Anti-Balaka leaders in Bossangoa before 5 December 2013.¹⁸²³
827. On the basis of the evidence as further discussed below, the Chamber concludes that (i) Mr Ngaïssona provided financial assistance to some individuals that were to assist the efforts to bring François Bozizé back to power; (ii) Mr Ngaïssona liaised with various

¹⁸¹⁹ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/15-2736-AnxA-Corr-Red, para. 442.

¹⁸²⁰ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/15-2736-AnxA-Corr-Red, paras 455-456.

¹⁸²¹ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/15-2736-Conf-AnxA-Corr, paras 458-512.

¹⁸²² [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/15-2736-Conf-AnxA-Corr, paras 513-527.

¹⁸²³ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/15-2736-Conf-AnxA-Corr, paras 528-558.

individuals with a view to organising and coordinating their steps to be taken; and, in this context, (iii) Mr Ngaïssona did travel to the border area between Cameroon and the CAR to liaise with groups which were to assist the efforts to bring François Bozizé back to power. The Chamber will address further below the question of whether Mr Ngaïssona was involved in issuing instructions in the context of attacks carried out by Anti-Balaka groups.¹⁸²⁴

Financial contributions

828. The Chamber has received overwhelming evidence, as further outlined below, on Mr Ngaïssona providing financial assistance to individuals willing or meant to assist the efforts in bringing François Bozizé back to power already while still in Cameroon, both before and after the coordinated attacks of 5 December 2013. The evidence concerning Mr Ngaïssona providing financial means following his return to Bangui in January 2014 is discussed further below.¹⁸²⁵

829. P-1719 described how, once contact was established [REDACTED], they took a vehicle from a fellow citizen to get to Yaoundé.¹⁸²⁶ When P-1719 told Mr Ngaïssona that they were on their way, he told them to get there early because he was intending to travel; [REDACTED] of them went to Yaoundé, they drove to the place where Mr Ngaïssona was living at the *Cité Golf* [REDACTED].¹⁸²⁷ They met with Bernard Mokom who said that there was a group which had come before them and gave them some instructions; then Mr Ngaïssona came out, greeted them from the balcony and went back inside; a bit later, Bernard Mokom came out with money in his hands, saying, ‘My children, each one of you is to get [...] 15,000 CFA, just to pay for the transportation from Yaoundé to Garam Boulaye’.¹⁸²⁸ Bernard Mokom told them that the materiel was already at the border, and gave them telephone numbers [REDACTED].¹⁸²⁹ Bernard Mokom made them understand that some of their brothers had preceded them and would arrive a little later at the border; at the border, P-1719 noticed that other people joined from Yaoundé.¹⁸³⁰ Bernard Mokom did not talk

¹⁸²⁴ See paragraphs 1459-1467, 2305-2316 below.

¹⁸²⁵ See paragraphs 1683-1695 below.

¹⁸²⁶ P-1719: T-141, p. 44, line 25 – p. 45, line 3, p. 49, lines 24-25.

¹⁸²⁷ P-1719: T-141, p. 45, lines 4-11; T-143, p. 55, line 16 – p. 56, line 22.

¹⁸²⁸ P-1719: T-141, p. 45, lines 12-23, p. 49, line 25 – p. 50, line 18.

¹⁸²⁹ P-1719: T-141, p. 45, line 24 – p. 46, line 16, p. 50, lines 18-21.

¹⁸³⁰ P-1719: T-142, p. 14, lines 4-21.

about any compensation at the time, no promise was made, their sole motivation was to return to their country and after his briefing, they wanted to ‘chase the armed mercenaries in their country’ so they could return, he encouraged them to mobilise themselves, to mobilise all their forces to return to their country.¹⁸³¹

830. P-1719 said that he only saw Mr Ngaïssona this once in Yaoundé and not again until in Bangui; they did not speak, Mr Ngaïssona just made a sign with his hand.¹⁸³² He did not see Mr Ngaïssona give money to Bernard Mokom.¹⁸³³ The day they arrived in Yaoundé, after their meeting with Mr Ngaïssona and Bernard Mokom, when they arrived at the border, there were some messages and direct instructions to the men who were trusted [REDACTED].¹⁸³⁴ The men who were in the close circles of these individuals were Rocca Mokom, ‘younger brother’ of Bernard Mokom, Sabe Elysé, Yambété Steve, Ouilibona Aron.¹⁸³⁵ P-1719 [REDACTED].¹⁸³⁶ P-1719 confirmed that he was received by the ‘authority’, Mr Ngaïssona at the end of November 2013.¹⁸³⁷ As regards Bangui, P-1719 said that they had not received the information about the attack on Bangui and stayed at the border; according to P-1719, [REDACTED] received the programme for Bangui, scheduled for 5 in the afternoon to allow the Anti-Balaka who had come from other localities to ‘attack the various Seleka positions in the capital’.¹⁸³⁸ [REDACTED].¹⁸³⁹ P-1719 confirmed that the financial contributions of Mr Ngaïssona concerned the end of November, beginning of December 2013, and that the funding did not stop at Yaoundé, it also extended to Bangui.¹⁸⁴⁰ Bearing in mind this witness’s evidence, as well as the evidence of P-2673 as outlined below, the Chamber concludes that the money given to P-1719 and his group by Bernard Mokom did, in fact, come from Mr Ngaïssona.

¹⁸³¹ P-1719: T-142, p. 14, line 22 – p. 15, line 20.

¹⁸³² P-1719: T-143, p. 11, line 19 – p. 12, line 1.

¹⁸³³ P-1719: T-143, p. 12, lines 2-17.

¹⁸³⁴ P-1719: T-142, p. 15, line 21 – p. 16, line 6; T-143, p. 17, line 23 – p. 18, line 6.

¹⁸³⁵ P-1719: T-142, p. 16, lines 7-13.

¹⁸³⁶ P-1719: T-141, p. 60, lines 2-7.

¹⁸³⁷ P-1719: T-141, p. 58, line 19 – p. 59, line 1, p. 59, lines 7-17, p. 70, line 4 – p. 71, line 10. See [REDACTED].

¹⁸³⁸ P-1719: T-141, p. 71, line 13 – p. 72, line 13.

¹⁸³⁹ P-1719: T-141, p. 72, lines 14-21.

¹⁸⁴⁰ P-1719: T-143, p. 43, lines 2-25.

831. P-2673 testified that if one went to the Golf residence, one could get money from Mokom father, Mr Ngaïssona gave money to Mokom father who was in charge of giving it out, and reported back to Mr Ngaïssona afterwards.¹⁸⁴¹ [REDACTED].¹⁸⁴² [REDACTED].¹⁸⁴³ According to P-2673, Mr Ngaïssona and Mokom gave 50,000 CFA to each military man to go to Garam-Boulaï, saying, ‘Go to G[aram-Boulaï], and then cross the border and continue on to B[ouar], there are Anti-Balaka at B[ouar], join them there to fight the Seleka’.¹⁸⁴⁴ P-2673 stated further that it was not easy to live and find food, and their hope was that Kokaté would give money to Mr Ngaïssona who would then give it to Mokom father to distribute.¹⁸⁴⁵ [REDACTED].¹⁸⁴⁶ [REDACTED] Mr Ngaïssona holding meetings in Yaoundé and distributing money, [REDACTED] he encouraged them to keep faith and to be determined, that they should not be discouraged, they should be mobilised.¹⁸⁴⁷ P-2673 said that many wealthy Gbaya such as Marius Feiganazoui provided Mr Ngaïssona with the money to provide to the military men, [REDACTED] Feiganazoui had provided his share of the money.¹⁸⁴⁸ Mr Ngaïssona got money from other wealthy Gbaya, but P-2673 did not know their names.¹⁸⁴⁹ [REDACTED] important people like Nbyon, Baronte, Feiganazoui contributed financially to aid Mr Ngaïssona.¹⁸⁵⁰ Mr Ngaïssona was the ‘*patron*’, the boss as he was financing.¹⁸⁵¹
832. Further in relation to P-2673’s evidence on Mr Ngaïssona sending money and hunting ammunition in Maggi stock cube boxes, the Chamber refers to its discussion in the context of the attack on Bangui on 5 December 2013.¹⁸⁵²

¹⁸⁴¹ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6443, para. 53; P-2673: T-041, p. 18, line 20 – p. 19, line 6, p. 20, lines 8-12. *See also* P-2027 Statement, CAR-OTP-2078-0059-R03, at 0069-70, paras 61-62; P-2027: T-040, p. 17, line 16 – p. 19, line 4.

¹⁸⁴² P-2673 Statement, CAR-OTP-2127-6435-R01, at 6443, para. 53; P-2673: T-041, p. 18, line 20 – p. 19, line 6.

¹⁸⁴³ P-2673: T-041, p. 19, lines 2-4.

¹⁸⁴⁴ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6443, paras 53-54, at 6444, para. 56; P-2673: T-041, p. 18, line 20 – p. 19, line 6.

¹⁸⁴⁵ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6449, paras 88-89. *See* Facebook messages, CAR-OTP-2101-6897, at 6899-6900.

¹⁸⁴⁶ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6449, para. 90.

¹⁸⁴⁷ P-2673: T-042, p. 6, line 18 – p. 7, line 22, p. 8, line 23 – p. 9, line 10.

¹⁸⁴⁸ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6444, para. 55; P-2673: T-042, p. 38, line 14 – p. 40, line 7.

¹⁸⁴⁹ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6444, para. 55.

¹⁸⁵⁰ P-2673: T-041, p. 19, lines 7-16.

¹⁸⁵¹ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6444, para. 56; P-2673: T-041, p. 19, lines 7-16.

¹⁸⁵² *See* paragraphs 2273-2278 below.

833. P-2673 stated that Thurayas were sent to Bossangoa, Gobere and Bouca (to Andjilo) by Mokom and Mr Ngaïssona, having been obtained by Armel Lingatouloum Sayo through ‘some white people’ who had sourced them in France or Belgium.¹⁸⁵³ [REDACTED].¹⁸⁵⁴ P-2673 [REDACTED].¹⁸⁵⁵ Grimari then took four Thurayas and all of the money to Mokom father who [REDACTED] gave all to Mr Ngaïssona, with Mr Ngaïssona in turn giving the order to Mokom father to distribute the Thurayas and the money.¹⁸⁵⁶ [REDACTED].¹⁸⁵⁷ Mokom father distributed the rest of the money to FACA elements, 10,000 or 20,000 CFA each, saying it came from Mr Ngaïssona although it came from Sayo.¹⁸⁵⁸ [REDACTED].¹⁸⁵⁹ According to P-2673, the four Thurayas were sent to the field, one to Bouar, to Didier Danboy.¹⁸⁶⁰ One of the other Thurayas was sent to Andjilo, one to Bossangoa, one to Gobere.¹⁸⁶¹ [REDACTED].¹⁸⁶² A civilian Gbaya helped to transport the Thurayas to the field, as did the taxi-moto driver who took soldiers to Bouar.¹⁸⁶³ According to P-2673, the Thurayas were sent after the attack on Bouar.¹⁸⁶⁴

834. P-2673 testified that ‘Kambasseo’ [REDACTED], Hector Emtenu, Didier Danboy and Pessere had received money to go from Yaoundé to Garam Boulaï from Mr Ngaïssona through Mokom father.¹⁸⁶⁵ Everybody in Bouar had their own phones; the chiefs let everyone know what Mokom father and Mr Ngaïssona said; when the FACA arrived in Bouar [REDACTED].¹⁸⁶⁶ [REDACTED].¹⁸⁶⁷

¹⁸⁵³ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6453, para. 118, at 6461, para. 175, at 6462, para. 176; P-2673: T-042, p. 35, lines 8-9.

¹⁸⁵⁴ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6462, para. 178.

¹⁸⁵⁵ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6462, paras 178-180; P-2673: T-042, p. 74, lines 1-11.

¹⁸⁵⁶ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6462, para. 181; P-2673: T-042, p. 36, lines 1-4.

¹⁸⁵⁷ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6462-63, para. 181; P-2673: T-042, p. 36, line 7.

¹⁸⁵⁸ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6463, para. 181.

¹⁸⁵⁹ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6463, para. 182.

¹⁸⁶⁰ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6463, paras 185-186.

¹⁸⁶¹ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6464, para. 188.

¹⁸⁶² P-2673 Statement, CAR-OTP-2127-6435-R01, at 6464, para. 189.

¹⁸⁶³ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6464, para. 190.

¹⁸⁶⁴ P-2673: T-041, p. 25, lines 6-24.

¹⁸⁶⁵ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6460-61, para. 168.

¹⁸⁶⁶ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6461, para. 169.

¹⁸⁶⁷ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6461, para. 169.

835. P-2673 also heard, he did not recall from who, that Mr Ngaïssona sent ammunition and a Thuraya to Andjilo in Bouca;¹⁸⁶⁸ it was indeed around the time of the attack.¹⁸⁶⁹ [REDACTED] said that Mokom and Mr Ngaïssona promised to send [REDACTED] some Thurayas.¹⁸⁷⁰ P-2673 did not know if the ammunition problem was solved at the time.¹⁸⁷¹ Achille, a Gbaya from Bossangoa who fled to Bertoua and was ‘part of Mr Ngaïssona’s team’,¹⁸⁷² [REDACTED] had ammunition and arms hidden in the bush on their side.¹⁸⁷³
836. P-2269, who was in Gobere,¹⁸⁷⁴ used the money he had from his merchandise to feed his group.¹⁸⁷⁵ When they were in Gobere and Mr Ngaïssona was in Cameroon, they received three times 1 million CAF from Mr Ngaïssona who transferred it from Cameroon and someone would collect it in Bangui using Money Gram, and [REDACTED] would bring the money to them in Gobere.¹⁸⁷⁶ [REDACTED] would call the chiefs when he brought the money and they would divide the money in equal parts amongst all of the chiefs to buy food and things; they never reported back to [REDACTED] or Mr Ngaïssona what they used the money for.¹⁸⁷⁷ They would call [REDACTED] when they needed money and he called Mr Ngaïssona; they could call Mr Ngaïssona themselves, but [REDACTED] was the one who asked for the money.¹⁸⁷⁸ They received the 1 million CAF about once a month while they were in Gobere; they were a long time there, P-2269 believes for three months waiting for other groups and he believes Mr Ngaïssona sent the money once every month; they would know that money was coming because [REDACTED] would tell them after asking and Mr Ngaïssona would tell him when he sent out the money to pick it up.¹⁸⁷⁹ Mr Ngaïssona helped

¹⁸⁶⁸ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6453, para. 119.

¹⁸⁶⁹ P-2673: T-041, p. 40, lines 4-14.

¹⁸⁷⁰ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6453, para. 119.

¹⁸⁷¹ P-2673: T-041, p. 11, lines 20-22. See P-2673: T-041, p. 10, line 5 – p. 11, line 6; Facebook messages, CAR-OTP-2102-5143, at 5146-47.

¹⁸⁷² P-2269 Statement, CAR-OTP-2127-6435-R01, at 6442, para. 46; P-2673: T-041, p. 11, lines 7-13.

¹⁸⁷³ P-2673: T-041, p. 11, line 23 – p. 12, line 9; T-042, p. 42, lines 7-20.

¹⁸⁷⁴ See paragraphs 1101-1143 below.

¹⁸⁷⁵ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0341, para. 37.

¹⁸⁷⁶ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0350, paras 108-109.

¹⁸⁷⁷ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0351, para. 110.

¹⁸⁷⁸ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0351, para. 111.

¹⁸⁷⁹ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0351, para. 112.

them only with money while they were in the bush; nobody from the group in Zongo helped them.¹⁸⁸⁰

837. Alfred Legrand Ngaya tried to dissuade the Anti-Balaka from behaving like the Seleka and towards the end of December 2013 or beginning of January 2014, began collecting money to stop them, as did other notables such as Feikere Seraphin Persone.¹⁸⁸¹ Alfred Legrand Ngaya once called Mr Ngaïssona to ask for a donation and he sent about 80,000 or 100,000 CFA, the witness told Mr Ngaïssona that he was giving the money to the Anti-Balaka and then gave it to Andjilo because he was a chief and could influence the other Anti-Balaka and hoped he would stop them from terrorising people, Alfred Legrand Ngaya did this about three times.¹⁸⁸² The witness explained to Andjilo that the money came from Mr Ngaïssona; Mr Ngaïssona was sufficiently well known in the country, just about everyone knew him; this was before Mr Ngaïssona's return to Bangui, but after the Anti-Balaka had entered Bangui, so around the end of December, early January.¹⁸⁸³

838. Jacob Mokpem-Bionli testified similarly that from time to time to help the young people from the provinces, Mr Ngaïssona sent money to Ngaya from Cameroon [REDACTED].¹⁸⁸⁴ Sometimes it was 200,000 or 300,000 CFA, the money was sent by Western Union or Express Union.¹⁸⁸⁵ The group in Cameroon decided that these people from the provinces should not be left alone; Ngaya distributed the money and called Andjilo, who had come from the provinces, giving him the money and telling him that it was from Mr Ngaïssona to assist them.¹⁸⁸⁶ Jacob Mokpem-Bionli was not aware of Mr Ngaïssona sending money to anyone else than Ngaya.¹⁸⁸⁷ To the witness's knowledge, this happened after 5 December 2013.¹⁸⁸⁸ Andjilo's Anti-Balaka elements were very aggressive and needed to be managed and taken care of, helped to be fed for them not to commit aggressions against the

¹⁸⁸⁰ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0351, para. 113.

¹⁸⁸¹ P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0018, para. 42; P-0808: T-069, p. 38, line 1 – p. 39, line 2; T-071, p. 44, line 25 – p. 45, line 15.

¹⁸⁸² P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0018, para. 43; P-0808: T-069, p. 37, line 11 – p. 39, line 2.

¹⁸⁸³ P-0808: T-069, p. 39, line 13 – p. 40, line 3.

¹⁸⁸⁴ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0056, para. 39.

¹⁸⁸⁵ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0056, para. 39; P-0992: T-092, p. 31, lines 1-6.

¹⁸⁸⁶ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0056, para. 39.

¹⁸⁸⁷ P-0992: T-092, p. 32, lines 7-15.

¹⁸⁸⁸ P-0992: T-093, p. 29, line 12 – p. 30, line 3.

population,¹⁸⁸⁹ it was not designed to buy arms, but for food.¹⁸⁹⁰ Jacob Mokpem-Bionli put this provision of money to Andjilo, similarly to Alfred Legrand Ngaya, after the attack of 5 December 2013.¹⁸⁹¹

839. Jacob Mokpem-Bionli further stated that Mr Ngaïssona spent enormous amounts of money to manage the Anti-Balaka youth.¹⁸⁹² There was unqualifiable disorder within the Anti-Balaka and they (meaning Ngaya, Emotion, Dieudonné Ndomate and the witness) met to call on Mr Ngaïssona because he had financial assets and could help manage the youth; this was long before Mr Ngaïssona's return.¹⁸⁹³ Mr Ngaïssona sent money before the offensive of 5 December 2013.¹⁸⁹⁴ Emotion and quite a few others had crossed when the Seleka arrived and crossed back into the CAR, and when they were behind the hill they said there were problems, not much to eat, they had to have support, and the person in the best position to do that was Mr Ngaïssona, who was in Cameroon – he sent money to get food for the children, and they were kept from committing many stupid things.¹⁸⁹⁵ This was before the offensive on Bangui, and Jacob Mokpem-Bionli mentioned his visit to the Anti-Balaka behind the hill with the two French journalists.¹⁸⁹⁶ Mr Ngaïssona accepted to be the leader of the Anti-Balaka, therefore he accepted to put financial means at their disposal to manage them, meaning organising them to face the mercenaries.¹⁸⁹⁷ The Anti-Balaka had come in passes from the provinces in direction of Bangui, they were about 4000, and Jacob Mokpem-Bionli told them that they had a saviour in the person of Mr Ngaïssona who would organise them.¹⁸⁹⁸

¹⁸⁸⁹ P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0307-08, paras 121-122.

¹⁸⁹⁰ P-0992: T-092, p. 30, line 10 – p. 31, line 25, p. 84, line 11 – p. 85, line 9.

¹⁸⁹¹ P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0307-08, paras 121-122.

¹⁸⁹² P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0306, para. 111.

¹⁸⁹³ P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0306, para. 112; P-0992: T-092, p. 37, lines 2-11, p. 37, line 18 – p. 38, line 1.

¹⁸⁹⁴ P-0992: T-092, p. 36, line 23 – p. 37, line 1.

¹⁸⁹⁵ P-0992: T-092, p. 35, line 21 – p. 36, line 10.

¹⁸⁹⁶ P-0992: T-092, p. 36, lines 11-22, p. 48, lines 13-19. In light of the witness's clear initial testimony that Mr Ngaïssona sent money before 5 December 2013, the Chamber does not rely on the witness's later qualification attempting to draw a distinction between asking Mr Ngaïssona for money, which would have been before, and actually receiving money, which would have been after (*see* P-0992: T-093, p. 30, lines 4-20).

¹⁸⁹⁷ P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0306, para. 112.

¹⁸⁹⁸ P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0306, para. 112.

840. P-2232 testified that Maxime Mokom received money from Cameroon, in the name of ‘Mr Camerounais’, so P-2232 did not know who was sending the money; it was used to buy hunting ammunitions and medication as supplies for the men who were on the ground.¹⁸⁹⁹ P-2232 stated that the money received from Cameroon would enter [REDACTED] hands and he was responsible for distributing it; he also used some of that money to procure ammunition and medicines to send to the front; he also bought food for the combatants.¹⁹⁰⁰ [REDACTED] told [REDACTED] that he had mortgaged his house and the individual who was in charge of the armoury was the one who provided the supplies.¹⁹⁰¹ It is with the money that was received from Cameroon that the attack of 5 December was prepared.¹⁹⁰² The money was transferred via Western Union.¹⁹⁰³ P-2232 explained that it was not possible to send large amounts of money; sometimes it was one million CFA, sometimes 1.5 million; sometimes the money came through Western Union and sometimes it was individuals who brought the money; they used all possible means to send money.¹⁹⁰⁴ The greatest amount they received was 2 million, later they received 500,000 or 1 million; when a huge amount was sent, even the Western Union office would not be able to have up to 5 million to pay out.¹⁹⁰⁵ [REDACTED] collected the money, it was sent in his name, and sometimes [REDACTED].¹⁹⁰⁶ Sometimes [REDACTED].¹⁹⁰⁷ To P-2232’s knowledge, [REDACTED].¹⁹⁰⁸

841. P-2841 stated that [REDACTED] was in contact with Maxime Mokom before this contact with ‘Vieux M[okom]’; he once received 300,000-400,000 CFA via Maxime Mokom in DRC, some time between April and June 2013, for purposes of mobilising the youth and organising a demonstration of attack in Bangui on the day Michel Djotodia was sworn in; it was sent via Maxime Mokom to a young man working at Ecobank.¹⁹⁰⁹ P-2841 did not know

¹⁸⁹⁹ P-2232: T-075, p. 51, lines 3-7.

¹⁹⁰⁰ P-2232: T-075, p. 64, lines 3-9.

¹⁹⁰¹ P-2232: T-075, p. 51, lines 8-9.

¹⁹⁰² P-2232: T-075, p. 51, lines 10-12.

¹⁹⁰³ P-2232: T-075, p. 66, lines 1-6.

¹⁹⁰⁴ P-2232: T-075, p. 66, lines 7-15.

¹⁹⁰⁵ P-2232: T-075, p. 66, lines 16-22.

¹⁹⁰⁶ P-2232: T-075, p. 66, line 23 – p. 67, line 3.

¹⁹⁰⁷ P-2232: T-075, p. 67, lines 6-10.

¹⁹⁰⁸ P-2232: T-075, p. 67, lines 11-14.

¹⁹⁰⁹ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4259, para. 119.

who gave the money to Maxime Mokom.¹⁹¹⁰ [REDACTED].¹⁹¹¹ P-2841 did not know what [REDACTED] did with this money, but he was supposed to mobilise people, provide transport, motorbikes, water, organise a demonstration at the airport and assembly.¹⁹¹² Once these people were mobilised, the civilians were supposed to stage a sit-in and the military, organised by Ngremangou, were meant to meet at the 100 Logements at PK15, towards the northern exit of Bangui, with their weapons, with the plan that they would be given ammunition by Ngremangou to disrupt the ceremony and shoot near the National Assembly; in the end, this did not take place as the Seleka got wind of the plan and organised a large-scale looting in Boy-Rabe at the same time.¹⁹¹³ After this, [REDACTED] dealt directly [REDACTED] more than with Maxime Mokom; Joel Yangongo was in contact with Maxime Mokom, Claude Ngaikosset and others in DRC, maybe even Kokaté; [REDACTED] was in charge [REDACTED] of designing and distributing leaflets in Bangui; [REDACTED] previously, such leaflets had been coming from the DRC.¹⁹¹⁴ P-2841 did not know if Prince received money directly from Mr Ngaïssona; he was more in direct contact with Maxime Mokom.¹⁹¹⁵

842. P-1847 testified that Mokom was transferring funds, ‘Mokom son’ on the other side bought hunting ammunition which he would send to a woman who would take it to Bossangoa for preparations to take place.¹⁹¹⁶ P-1847 heard from [REDACTED] that Maxime Mokom bought artisanal cartridges to supply the Anti-Balaka that came from Bossangoa and went towards the outskirts of Bangui.¹⁹¹⁷ P-1847 did not see Mr Ngaïssona ‘do any actions’ in Yaoundé, he saw him once or twice with [REDACTED].¹⁹¹⁸ [REDACTED] Mr Ngaïssona had gone to Bertoua while he was in Douala; he talked about Bernard Mokom who provided money and ammunition in Garam-Boulai so actions could be taken on the ground.¹⁹¹⁹

¹⁹¹⁰ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4259, para. 119.

¹⁹¹¹ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4259, para. 120.

¹⁹¹² P-2841 Statement, CAR-OTP-2127-4238-R01, at 4259, para. 120.

¹⁹¹³ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4259, para. 121.

¹⁹¹⁴ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4259-60, para. 122.

¹⁹¹⁵ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4260, para. 124.

¹⁹¹⁶ P-1847: T-023, p. 33, lines 18-22.

¹⁹¹⁷ P-1847 First Statement, CAR-OTP-2061-1534, at 1558, para. 150.

¹⁹¹⁸ P-1847: T-023, p. 37, line 11 – p. 38, line 1.

¹⁹¹⁹ P-1847: T-023, p. 38, line 23 – p. 39, line 12.

843. The Chamber notes in this regard that the question of financial assistance to armed groups by Mr Ngaïssona was one of the topics regarding which P-1847 reverted from his prior recorded testimony during his live testimony. The Chamber recalls its decision to introduce this witness's evidence pursuant to Rule 68(2)(d) of the Rules in this regard, finding that the witness failed to give evidence with respect to material aspects included in his prior recorded testimony, this topic being one, and in this was materially influenced by improper interference.¹⁹²⁰ The Chamber also specifically recalls its observation of an obvious change in the attitude of the witness when comparing his appearance on the first and second day of testimony, with the second day being the day on which he was asked more detailed questions in particular about Mr Ngaïssona.¹⁹²¹
844. P-1847 stated, in his prior recorded testimony, that Achille Godonam was in charge of taking money from Mr Ngaïssona for the preparation of attacks [REDACTED].¹⁹²² Further in his prior recorded testimony, P-1847 stated that Mr Ngaïssona and Bernard Mokom sometimes executed money transfers to the Anti-Balaka in the CAR through Express Unions and intermediaries,¹⁹²³ and that it was in the context of these money transfers that Olivier Koudemon and Lieutenant Lamkague were arrested at the border towards Bertoua.¹⁹²⁴
845. P-1847 further explained that Bernard Mokom used a woman, while Mr Ngaïssona used his younger brother Frédéric Ngaïssona a lot to make transfers to Garam-Boulaï and also Bangui, received by the Anti-Balaka and FACA.¹⁹²⁵ In addition, P-1847 heard from [REDACTED] that he received fund transfers from Maxime Mokom in DRC or Bernard Mokom in Cameroon¹⁹²⁶ and that he also talked about money received from Mr Ngaïssona when the latter travelled from Douala through Bertoua, before Mr Ngaïssona went to the Golf residence.¹⁹²⁷ P-1847 stated that Pacom Azounou [REDACTED] received money from

¹⁹²⁰ See [P-1847 Rule 68\(2\)\(d\) Decision](#), ICC-01/14-01/18-2126-Red, paras 45-72.

¹⁹²¹ See [P-1847 Rule 68\(2\)\(d\) Decision](#), ICC-01/14-01/18-2126-Red, para. 68.

¹⁹²² P-1847 First Statement, CAR-OTP-2061-1534, at 1552, para. 115.

¹⁹²³ P-1847 First Statement, CAR-OTP-2061-1534, at 1552, para. 116.

¹⁹²⁴ P-1847 Second Statement, CAR-OTP-2122-8251-R01, at 8263, paras 115-116, at 8264, para. 121.

¹⁹²⁵ P-1847 First Statement, CAR-OTP-2061-1534, at 1552, paras 116-117.

¹⁹²⁶ P-1847 First Statement, CAR-OTP-2061-1534, at 1555, para. 134.

¹⁹²⁷ P-1847: T-023, p. 55, line 7 – p. 56, line 4.

Mr Ngaïssona and Bernard Mokom for purposes of perpetrating attacks through different means, either intermediaries who physically transported the money or Express Union.¹⁹²⁸

846. Bearing in mind the above, the Chamber does not consider credible, and therefore discards, the witness's insistence in court that he would have corrected parts of his statement in relation to Mr Ngaïssona or that any mention of him in relation to the transfer of money would have been a 'mistake' as he would not have seen Mr Ngaïssona giving money to Achille Godonom or making transfers, and that only Bernard Mokom and Fred Serefio would have done transfers, with Maxime Mokom sourcing ammunition.¹⁹²⁹ The Chamber considers of further note in this context that the witness did not deny that Mr Ngaïssona travelled between Douala and Bertoua, also going to the base in the latter location.¹⁹³⁰ Therefore, the Chamber has relied on P-1847's prior recorded testimony as outlined above, and in the context of other evidence before it.

847. Joachim Kokaté testified that Mr Ngaïssona told him during some telephone conversations that he was financing the movement, giving a concrete example of what various Anti-Balaka leaders were saying to the transitional head of state when they met at the presidency.¹⁹³¹ Joachim Kokaté and Mr Ngaïssona did not talk about finance; Mr Ngaïssona organised Anti-Balaka in the field, met them and they reported to him; in the statements in Bangui, Mr Ngaïssona said himself that he had spent a lot for the Anti-Balaka, which he had helped finance.¹⁹³² During a meeting in Bangui at the residence of the president, the Anti-Balaka who were present said that they were funded by Mr Ngaïssona, that he gave them funds to organise for the events which took place on 5 December 2013.¹⁹³³ The participants unanimously all said that their leader was Mr Ngaïssona, that he was the one who took care of them, who gave them food, who financed, organised them – asked by the president whether she should deal with him exclusively, they unanimously said yes.¹⁹³⁴ According to Joachim Kokaté, the participants also said that Kokaté was not an Anti-Balaka leader, but a

¹⁹²⁸ P-1847 First Statement, CAR-OTP-2061-1534, at 1555, para. 135.

¹⁹²⁹ P-1847: T-023, p. 39, line 25 – p. 42, line 24, p. 56, lines 5-12, p. 67, line 3 – p. 68, line 24. *See also* P-1847: T-023, p. 54, lines 13-20.

¹⁹³⁰ P-1847: T-023, p. 55, lines 3-6, p. 56, lines 5-12. *See also* paragraphs 914-923 below.

¹⁹³¹ P-0801: T-037, p. 79, line 17 – p. 82, line 16.

¹⁹³² P-0801: T-034, p. 51, line 22 – p. 52, line 6.

¹⁹³³ P-0801: T-034, p. 52, line 10 – p. 53, line 9; T-035, p. 29, line 22 – p. 30, line 19.

¹⁹³⁴ P-0801: T-035, p. 30, lines 14-19, p. 31, line 24 – p. 32, line 4; T-036, p. 14, lines 8-14.

member like everyone else.¹⁹³⁵ The meeting was attended by Mr Yekatom, Yakouzou, Konaté, Ngremangou, Léopold Bara.¹⁹³⁶ Joachim Kokaté thought Caroline Deboulet was also there,¹⁹³⁷ but he did not remember clearly if Gilbert Kamezolari was at that particular meeting.¹⁹³⁸

848. In addition to the above, and as further outlined below, other witnesses received more indirect information on the financial contributions made by Mr Ngaïssona and others.

849. Nicolas Tiangaye received information according to which Bozizé sent money to Mr Ngaïssona to distribute to the Anti-Balaka.¹⁹³⁹ According to Nicolas Tiangaye, going by the Anti-Balaka offensive of 5 December 2013 and from the information he received, they did not have modern weapons, they had a few traditional weapons which they manufactured themselves, hunting guns, bows and arrows; they did not have the military logistic support in the face of the Seleka war machine.¹⁹⁴⁰

850. P-0876 stated that ‘the sun’ was François Bozizé and his sons as well as the entire Bozizé family were only intermediaries, that intervened financially, sending money through Western Union to Zongo, to Maxime Mokom who supported the elements on the ground [REDACTED].¹⁹⁴¹ P-0876 heard through intermediaries that they received money to buy weapons, and that the money came from Zongo, and P-0876 knew this was Maxime Mokom.¹⁹⁴² P-0876 stated Mr Ngaïssona was one of the ‘financiers’ of the Anti-Balaka because throughout his efforts up to N’Djamena, P-0876 had not heard of him, but once Djotodia left [REDACTED], he saw Mr Ngaïssona holding a meeting at Bozizé’s church

¹⁹³⁵ P-0801: T-035, p. 30, lines 19-23.

¹⁹³⁶ P-0801: T-035, p. 30, line 24 – p. 31, line 13.

¹⁹³⁷ P-0801: T-035, p. 32, lines 13-21.

¹⁹³⁸ P-0801: T-035, p. 32, line 22 – p. 33, line 3; T-037, p. 8, line 24 – p. 9, line 1. With regard to Gilbert Kamezolari, the Chamber notes that this individual is also referred to as Gilbert Kamezolaï, Captain Kamezolaï, Kamezoulaï and Kamezolaï (see e.g. P-0801: T-037, p. 32, line 25 – p. 33, line 3; P-1839: T-172, p. 83, line 4 – p. 87, line 1; P-1139: T-126, p. 36, line 5 – p. 39, line 3).

¹⁹³⁹ P-0291 Statement, CAR-OTP-2024-0036-R05, at 0055, para. 120; P-0291: T-051, p. 37, line 1 – p. 38, line 25.

¹⁹⁴⁰ P-0291: T-053, p. 9, line 21 – p. 10, line 19.

¹⁹⁴¹ P-0876 Interview Transcripts, CAR-OTP-2046-0267-R01, at 0276-77, lines 333-356; CAR-OTP-2046-0295-R01, at 0301, lines 185-208.

¹⁹⁴² P-0876 Interview Transcript, CAR-OTP-2046-0295-R01, at 0302, lines 219-225; CAR-OTP-2046-0530-R02, at 0550, lines 695-699.

and from his arrival, things changed radically.¹⁹⁴³ P-0876 could not say through whom Mr Ngaïssona financed.¹⁹⁴⁴ P-0876 stated that the Anti-Balaka told him weapons were supposed to come from somewhere, Dazoumi Yalo gave money to Jean-Marie Kengoa for them to buy ammunition and weapons, but there were problems because Kengoa was accused of not having given all the money, so there were problems between Kamezolaï, Rombho and Kengoa and Rombho said he would kill him if he returned to the base.¹⁹⁴⁵ [REDACTED].¹⁹⁴⁶

851. Kasper Agger testified that from speaking to diamond traders for example in Boda, he heard that it was not Anti-Balaka as such that were digging for the diamonds, but they would be in control of the diamond area; another important revenue stream for both Anti-Balaka and Seleka was also road taxation, roadblocks.¹⁹⁴⁷ Mr Ngaïssona mentioned several times during his interview with Kasper Agger¹⁹⁴⁸ that he was not receiving any support from Bozizé.¹⁹⁴⁹ In 2015, Maxime Mokom told the witness that Bozizé was sending money to ComZones, ‘so to the FACA cluster’.¹⁹⁵⁰ A local journalist whom the witness interviewed in 2015¹⁹⁵¹ said that Anti-Balaka were afraid of registering their names with Mr Ngaïssona for badges and formal membership in the Anti-Balaka because they feared being accused of crimes by the ICC, that Bozizé used to send money to Mr Ngaïssona through Gaya Alfred and that he was in possession of recordings of the French giving money to Wenezoui; he also mentioned Basil Dika and Rambo, but Kasper Agger did not recall further details.¹⁹⁵² Financing by Bozizé was then also only mentioned as ‘alleged’ funding source in the witness’s report.¹⁹⁵³ As for the other points, he had multiple sources.¹⁹⁵⁴

¹⁹⁴³ P-0876 Interview Transcript, CAR-OTP-2046-0455-R01, at 0465-66, lines 367-386, at 0466-67, lines 409-441; P-0876: T-085, p. 14, line 20 – p. 15, line 11, p. 57, line 11 – p. 58, line 8; T-088, p. 30, lines 6-24, p. 48, line 14 – p. 49, line 22.

¹⁹⁴⁴ P-0876 Interview Transcript, CAR-OTP-2046-0455-R01, at 0466, lines 410-411.

¹⁹⁴⁵ P-0876 Interview Transcript, CAR-OTP-2046-0267-R01, at 0292-93, lines 909-953; P-0876 Corrections, CAR-OTP-2135-1449, at 1453.

¹⁹⁴⁶ P-0876 Interview Transcript, CAR-OTP-2046-0473-R02, at 0479, lines 214-231.

¹⁹⁴⁷ P-2012: T-025, p. 8, line 19 – p. 9, line 12. *See also* Report ‘Behind the Headlines’, CAR-OTP-2001-2564, at 2566.

¹⁹⁴⁸ P-2012 Interview notes, CAR-OTP-2091-0264-R01, at 0286.

¹⁹⁴⁹ P-2012: T-025, p. 69, line 14 – p. 70, line 8.

¹⁹⁵⁰ P-2012: T-025, p. 69, lines 21-23.

¹⁹⁵¹ P-2012 Interview notes, CAR-OTP-2091-0237-R01, at 0249.

¹⁹⁵² P-2012 Statement, CAR-OTP-2091-0127-R01, at 0140, para. 64.

¹⁹⁵³ P-2012: T-025, p. 71, line 23 – p. 72, line 10. *See* Report ‘Behind the Headlines’, CAR-OTP-2091-0202, at 0216.

¹⁹⁵⁴ P-2012: T-025, p. 72, lines 12-21, p. 73, lines 3-16.

852. The Chamber now turns to the provision of weapons.

853. P-2269 stated that they got some weapons from the fights with the Seleka.¹⁹⁵⁵ P-2269 confirmed he transported weapons from Bangui to Dedane in Bossangoa [REDACTED].¹⁹⁵⁶ P-2269 was in Gobre at the time and had to go to Bangui to get the weapons, nine AK-47s, one DKM and two boxes of AK-47 ammunition.¹⁹⁵⁷ Some men hid their weapons when the Seleka took power; they were hidden [REDACTED], who [REDACTED] took the weapons.¹⁹⁵⁸ P-2269 took the weapons back to Dedane and they divided the weapons and ammunition.¹⁹⁵⁹ After dropping the weapons in Bossangoa, P-2269 went back to Gobre.¹⁹⁶⁰ This was before the attack in Bangui.¹⁹⁶¹

854. P-0306 testified that they recuperated weapons from Seleka elements, they did not have any ammunition except for what they recovered from the Seleka they killed, only once they got to Bangui, they received ammunitions and weapons from soldiers, and their ‘authority’ provided help by way of ammunitions for the work.¹⁹⁶² They did not have funding or provision of weapons at PK110.¹⁹⁶³ The authority promised that once they arrived in Bangui [REDACTED] would provide them with ammunition, but once there, they did not see the cargo with the ammunition which had been promised; only afterwards he gave them small items like ammunition, but no [REDACTED] with equipment came to Bangui.¹⁹⁶⁴

855. Alfred Legrand Ngaya was not aware that anyone provided weapons or money to the Anti-Balaka.¹⁹⁶⁵ The witness did not know if any weapons were issued to new recruits joining the Anti-Balaka.¹⁹⁶⁶ The FACA elements in the Anti-Balaka had their own firearms.¹⁹⁶⁷ According to Alfred Legrand Ngaya, Mr Ngaïssona supported the Anti-Balaka on his return

¹⁹⁵⁵ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0345, para. 67.

¹⁹⁵⁶ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0345, para. 68.

¹⁹⁵⁷ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0345, para. 68.

¹⁹⁵⁸ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0345, para. 68.

¹⁹⁵⁹ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0345, para. 68.

¹⁹⁶⁰ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0345, para. 69.

¹⁹⁶¹ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0345, para. 69.

¹⁹⁶² P-0306: T-064, p. 72, lines 11-21, p. 73, lines 9-24; T-065, p. 16, line 14 – p. 17, line 2; T-068, p. 16, line 2 – p. 17, line 2.

¹⁹⁶³ P-0306: T-064, p. 74, line 11.

¹⁹⁶⁴ P-0306: T-068, p. 17, lines 3-16.

¹⁹⁶⁵ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0332, para. 55, at 0341, para. 110.

¹⁹⁶⁶ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0341, para. 110.

¹⁹⁶⁷ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0341, para. 111.

with his own money to dissuade them, in the context of working towards creating conditions for peace, that was how he became their representative.¹⁹⁶⁸ Asked whether he knew of Mr Ngaïssona provided money for fighting, weapons or ammunition, for the purpose of attacking the Muslim population, Alfred Legrand Ngaya stated ‘this does not resemble Mr Ngaïssona’.¹⁹⁶⁹

856. Jacob Mokpem-Bionli further stated that about 80% of the weapons the Anti-Balaka had were handmade, they took hunting ammunition and formed them into new bullets, while modern weapons were taken from the Seleka during attacks.¹⁹⁷⁰ The ‘resistance’ had a strategy to acquire weapons, by attacking and neutralising the Seleka, for example in Boy-Rabe, there was an ambush by the youth against the Seleka, and the same strategy was applied in other areas.¹⁹⁷¹ The Anti-Balaka from the provinces set up checkpoints in all villages which they used to attack the Seleka and take their weapons.¹⁹⁷² Andjilo was the pioneer of this strategy and it started in Bouca; Andjilo went as far as acquiring weapons which had been brought by the Seleka from Chad, he got a heavy weapon which was transported on a 4x4 vehicle.¹⁹⁷³ These weapons were in the hands of the fighters, they were not kept in a specific location; Lt Herve was a specialist in heavy weapons and had some weapons.¹⁹⁷⁴ The more than 4,000 fighters that Jacob Mokpem-Bionli saw on the hill behind Boy-Rabe were armed with sticks, machetes and guns, but not all of them had weapons.¹⁹⁷⁵ Part of the ammunition, calibre 12 rifle ammunition, came from Zongo where it was easy to buy.¹⁹⁷⁶ Everyone at their level organised with their means to acquire ammunition.¹⁹⁷⁷ The witness himself bought some ammunition; all one needed to do was go to the banks of the river and people would come over with the ammunition.¹⁹⁷⁸ Jacob Mokpem-Bionli stated that when Mr Ngaïssona sent money through Ngaya, it was to provide food for ‘the children’

¹⁹⁶⁸ P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0023, para. 71; P-0808: T-071, p. 45, lines 16-25.

¹⁹⁶⁹ P-0808: T-071, p. 48, lines 18-24.

¹⁹⁷⁰ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0064, para. 90; P-0992: T-092, p. 29, lines 3-10.

¹⁹⁷¹ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0058, para. 50.

¹⁹⁷² P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0058, para. 50.

¹⁹⁷³ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0058, para. 50.

¹⁹⁷⁴ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0058, para. 50.

¹⁹⁷⁵ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0058, para. 51.

¹⁹⁷⁶ P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0304, para. 102.

¹⁹⁷⁷ P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0304, para. 102; P-0992: T-092, p. 22, lines 1-12; T-093, p. 13, line 17 – p. 15, line 23.

¹⁹⁷⁸ P-0992: T-093, p. 13, line 17 – p. 15, line 23.

who did not have anything to eat and because of hunger ‘made these types of mistakes’.¹⁹⁷⁹ Mr Ngaïssona never asked Jacob Mokpem-Bionli to buy ammunition on behalf of the national coordination.¹⁹⁸⁰

857. P-2232 testified about the period before 5 December 2013 that they did not have any real military equipment in the beginning, only hunting weapons, while [REDACTED] provided ammunition, and they recovered war weapons when winning¹⁹⁸¹ or from searches in Seleka-owned houses.¹⁹⁸² In Bangui, people could purchase ammunition, there was a woman who provided ammunition, and they sent an emissary who then took it to the front.¹⁹⁸³ P-2232 also gave the example of sending ammunition to someone in Bozoum who would send the ammunition to Yaloké in a parcel, which would be taken to Bossangoa, and the person in Yaloké could deliver the parcel by motorbike.¹⁹⁸⁴ ComZones on the ground also used the proceeds from cows and other war benefits to buy ammunition, which they later in Bangui claimed to be reimbursed for.¹⁹⁸⁵

858. P-2841 stated that he knew that Bernard Mokom and Mr Ngaïssona were starting to organise the Anti-Balaka and also the military but at that point, it was a matter of wait and see.¹⁹⁸⁶ [REDACTED] told P-2841 that ‘Vieux M[okom]’ had been in contact with him regarding provision of supplies; P-2841 was doubtful this would happen since Mr Ngaïssona had previously promised to supply items to Maxime Mokom and in the end it did not happen.¹⁹⁸⁷ P-2841 did not know what happened in the end.¹⁹⁸⁸ He did not know if these supplies were what were talked about in the email sent from [REDACTED] to Mr Ngaïssona.¹⁹⁸⁹

859. The CAR Panel concluded, from meetings with militiamen and inspections of arms and ammunition seized from Anti-Balaka groups, that Anti-Balaka combatants used mainly

¹⁹⁷⁹ P-0992: T-092, p. 29, line 20 – p. 30, line 7.

¹⁹⁸⁰ P-0992: T-093, p. 16, line 20 – p. 17, line 12.

¹⁹⁸¹ P-2232: T-075, p. 63, lines 12-23.

¹⁹⁸² P-2232: T-077, p. 10, lines 13-22, p. 18, lines 13-22.

¹⁹⁸³ P-2232: T-075, p. 63, line 24 – p. 64, line 2, p. 67, line 22 – p. 68, line 8.

¹⁹⁸⁴ P-2232: T-075, p. 69, lines 3-14, 23-25; T-076, p. 12, lines 17-21.

¹⁹⁸⁵ P-2232: T-075, p. 69, lines 15-22.

¹⁹⁸⁶ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4258, para. 117 *referring to* [REDACTED].

¹⁹⁸⁷ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4258-59, para. 118; P-2841: T-029, p. 54, lines 15-25.

¹⁹⁸⁸ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4259, para. 118.

¹⁹⁸⁹ P-2841: T-029, p. 55, lines 1-11.

small arms already in circulation in the CAR.¹⁹⁹⁰ According to the panel's 2014 final report, official vendors of arms and ammunition ceased to operate in Bangui and other towns visited by the panel; hunting ammunition was smuggled into the CAR from Cameroon, DRC and Congo, in particular through Gamboula and Cantonnier (near Garoua Boulai).¹⁹⁹¹ Aurélien Llorca agreed with the suggestion that there was no centralised distribution of ammunition; however, as is also in the report, an effort was made to enable ammunition to be supplied locally.¹⁹⁹² The witness reiterated that the panel conducted in-depth analysis on the various groups supplying munitions for hunting guns, used by the various groups, and provided the details in its reports.¹⁹⁹³

860. In particular, the panel's 2014 interim report noted that the panel observed, 'on occasion', small groups of Anti-Balaka fighters with assault rifles, light machine guns and RPGs, moving in convoys of two pick-up trucks.¹⁹⁹⁴ In its 2014 final report, the panel concluded that the Anti-Balaka and 'the armed group *'Révolution et justice'* continued to rely on small arms, with motorbikes and stolen or commandeered light vehicles being used solely for transporting and protecting zone commanders, and the Anti-Balaka estimated at holding no more than a dozen vehicles.¹⁹⁹⁵ It also noted that since 5 December 2013, international forces collected approximately 1,200 military small arms, 1,150 hunting rifles and 180 light weapons; of the total seized between 5 December 2013 and 28 February 2014, 84% were confiscated from former Seleka fighters during their cantonment; from 1 March to around mid-August 2014, international forces seized fewer than 200 small arms and a similar quantity of artisanal rifles, and no light weapons.¹⁹⁹⁶ On 2 September 2014, the panel was informed that Anti-Balaka fighters in Bambari were seen for the first time in late August 2014 carrying machine guns and RPGs, representing a significant development in the operational capability.¹⁹⁹⁷

¹⁹⁹⁰ CAR Panel Final Report 2014, CAR-OTP-2001-5386, at 5426, para. 165.

¹⁹⁹¹ CAR Panel Final Report 2014, CAR-OTP-2001-5386, at 5427, para. 166.

¹⁹⁹² P-0287: T-021, p. 90, line 24 – p. 91, line 3.

¹⁹⁹³ P-0287: T-021, p. 91, lines 4-14.

¹⁹⁹⁴ CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0856, para. 88.

¹⁹⁹⁵ CAR Panel Final Report 2014, CAR-OTP-2001-5386, at 5428, para. 173.

¹⁹⁹⁶ CAR Panel Final Report 2014, CAR-OTP-2001-5386, at 5428-29, para. 175.

¹⁹⁹⁷ CAR Panel Final Report 2014, CAR-OTP-2001-5386, at 5428.

861. P-0884 testified that there were two types of weapons, hunting weapons; according to the information P-0884 had, Maxime Mokom supplied the ammunition – but the war weapons were lethal weapons, there were soldiers who had fled together with their weapons and in some incidents they took weapons from the Seleka.¹⁹⁹⁸ Maxime Mokom told P-0884 that he bought ammunition from Zongo and gave them to the women to take them to the field.¹⁹⁹⁹ P-0884 did not know if Mr Ngaïssona gave money to the Anti-Balaka before that.²⁰⁰⁰ P-0884 stated he sent money before 5 December 2013, [REDACTED] but P-0884 did not know precisely who he sent the money to.²⁰⁰¹
862. Adrien Poussou testified that he did not recall clearly if Mr Ngaïssona ever told him that he was involved in financing the Anti-Balaka to purchase arms, but he did tell Adrien Poussou and Yvon Songuet that he had spent a great deal of money on the ‘upkeep of the men’.²⁰⁰² When confronted with his prior statement which suggests that Mr Ngaïssona did confirm to him that he financed the purchase of arms, Adrien Poussou stated that two or three months before Mr Ngaïssona was arrested, at the end of 2018, they had a discussion in his office at the Central African football association in the context of which he said that he had contributed to the purchase of weapons for the Anti-Balaka and acted with the Anti-Balaka during the election for Touadéra to be where he was.²⁰⁰³ Adrien Poussou thought this was not the first time he heard this from Mr Ngaïssona, but he did not recall the other times.²⁰⁰⁴
863. On the basis of the above, the Chamber concludes that Mr Ngaïssona provided financial assistance to individuals and groups already before 5 December 2013, and with a view to assisting the efforts in removing Michel Djotodia and the Seleka, and bringing François Bozizé back to power. In the Chamber’s view this is not negated by the evidence of some witnesses who said that Mr Ngaïssona, while in Cameroon, may have had less money than

¹⁹⁹⁸ P-0884: T-055, p. 69, lines 15-25.

¹⁹⁹⁹ P-0884: T-055, p. 70, lines 1-10.

²⁰⁰⁰ P-0884: T-058, p. 66, lines 19-20.

²⁰⁰¹ P-0884: T-058, p. 66, line 21 – p. 67, line 2, p. 97, line 18 – p. 99, line 23, p. 101, lines 3-18.

²⁰⁰² P-2625: T-190, p. 35, line 22 – p. 36, line 1.

²⁰⁰³ P-2625: T-190, p. 36, line 2 – p. 37, line 8; T-193, p. 70, line 22 – p. 73, line 4.

²⁰⁰⁴ P-2625: T-193, p. 70, lines 5-20.

before or required financial assistance for private matters,²⁰⁰⁵ as other witnesses were clear in stating that financial assistance was given by Mr Ngaïssona. Similarly, D30-4914's blanket statement that Mr Ngaïssona never gave money [REDACTED] to buy weapons,²⁰⁰⁶ or that D30-4914 did not hear of any ammunition sent from Cameroon,²⁰⁰⁷ of Mr Ngaïssona or Bernard Mokom sending weapons or ammunition to the border,²⁰⁰⁸ of promises that materiel would be delivered,²⁰⁰⁹ or of money transfers via Western Union,²⁰¹⁰ is, by itself, insufficient to raise doubts as to the evidence of other witnesses as outlined above.

864. The Chamber similarly considers not credible or relevant Didier Ouebio's blanket claims of not hearing or knowing about (i) Mr Ngaïssona bringing together groups of youth or FACA in Yaoundé or Mr Ngaïssona communicating with elements in Garam-Boulai or at the border;²⁰¹¹ (ii) a group of 17 from Douala coming to the Golf and receiving money;²⁰¹² (iii) Mr Ngaïssona organising military reinforcements for elements in the fields;²⁰¹³ Mr Ngaïssona and Bernard Mokom financially supporting from Yaoundé elements in the field through Express Union and intermediaries;²⁰¹⁴ (iv) Mr Ngaïssona or Bernard Mokom meeting archers to provide them with Thurayas;²⁰¹⁵ (v) seeing Mr Ngaïssona distributing Thurayas in the field;²⁰¹⁶ (vi) Mr Ngaïssona initiating contacts with Anti-Balaka to prepare them to fight at the border or in the CAR in 2013;²⁰¹⁷ (vii) Mr Ngaïssona being involved in military deployment of FACA or Anti-Balaka on the ground.²⁰¹⁸ That the witness did not hear or know about such matters does not mean, by itself, such events did not take place. Importantly in this regard, Didier Ouebio did state that Mr Ngaïssona transferred money

²⁰⁰⁵ D30-4756: T-269, p. 9, lines 13-19, p. 10, lines 4-11; D30-4777 Statement, CAR-D30-0019-0001, at 0004, paras 20-23. *See* Contracts, CAR-D30-0003-0012; CAR-D30-0003-0013; Transfer statement, CAR-D30-0003-0017. *See also* Email, CAR-OTP-2124-1029.

²⁰⁰⁶ D30-4914 Statement, CAR-D30-0024-0001-R01, at 0012, lines 460-462.

²⁰⁰⁷ D30-4914 Statement, CAR-D30-0024-0001-R01, at 0013, lines 474-476; D30-4914: T-302, p. 48, line 21 – p. 49, line 14.

²⁰⁰⁸ D30-4914: T-302, p. 48, lines 11-19.

²⁰⁰⁹ D30-4914: T-303, p. 31, lines 9-25.

²⁰¹⁰ D30-4914: T-302, p. 41, lines 18-24.

²⁰¹¹ D30-4679: T-299, p. 73, lines 1-10, p. 74, lines 20-24.

²⁰¹² D30-4679: T-299, p. 73, lines 11-22.

²⁰¹³ D30-4679: T-299, p. 73, line 23 – p. 74, line 19.

²⁰¹⁴ D30-4679: T-299, p. 75, lines 9-16.

²⁰¹⁵ D30-4679: T-299, p. 78, line 11 – p. 79, line 7.

²⁰¹⁶ D30-4679: T-299, p. 79, line 24 – p. 80, line 12.

²⁰¹⁷ D30-4679: T-299, p. 80, line 24 – p. 81, line 3.

²⁰¹⁸ D30-4679: T-299, p. 81, line 4 – p. 82, line 12. *See* Facebook messages, CAR-OTP-2100-2994, at 3027.

twice through him, giving the amount to the witness with the account number and name of the bank, and the witness making the deposit.²⁰¹⁹

Requests for materiel

865. In addition to the above clear evidence on Mr Ngaïssona providing financial assistance to the efforts of removing Michel Djotodia and the Seleka from power, and restoring François Bozizé to power, the Chamber has before it a number of emails which were exchanged between P-2843 and the email account associated with Mr Ngaïssona during the time at which Mr Ngaïssona was not in the CAR following the Seleka coup. These emails show, as further discussed below, that Mr Ngaïssona was directly involved in liaising with individuals on the ground that required material and financial means with a view to, in the initial instance, organising a response to the Seleka violence.
866. Before discussing the content of the emails, the Chamber turns to the submissions concerning the emails' reliability and probative value.
867. The Ngaïssona Defence, while not disputing the regularity of the procedure used to obtain the Yahoo email collection,²⁰²⁰ contests its authenticity and reliability.²⁰²¹ It asserts that the process used by the Prosecution to disclose the material did not preserve the integrity of the content of the Yahoo material and that the material has been altered,²⁰²² with authenticity in some items being so pervasive that the emails concerned should not be attributed any evidentiary weight.²⁰²³ The Ngaïssona Defence submits that especially formatting issues and incorrect time stamps of email exchanges raise doubts as to the authenticity of the Yahoo collection which also affect its reliability.²⁰²⁴ The Ngaïssona Defence also asserts that while

²⁰¹⁹ D30-4679: T-299, p. 88, line 19 – p. 91, line 23, p. 92, lines 10-18; T-300, p. 3, line 22 – p. 4, line 5. See Bank statement, CAR-OTP-2098-0066; Bank statement, CAR-OTP-2098-0067.

²⁰²⁰ Defence Response to the "Prosecution's Application for Submission of Yahoo Email Evidence from the Bar Table Pursuant to Article 64(9)" ICC-01/14-01/18-1450-Conf, 15 August 2022, ICC-01/14-01/18-1546-Conf (the 'Ngaïssona Defence Yahoo BT Response'), para. 6. See also Ngaïssona Defence Second Application for the Submission of Evidence from the Bar Table (Yahoo Email Evidence), 28 June 2024, ICC-01/14-01/18-2559-Conf, paras 6, 19.

²⁰²¹ Ngaïssona Defence Yahoo BT Response, ICC-01/14-01/18-1546-Conf, para. 5.

²⁰²² Defence Response, ICC-01/14-01/18-1546-Conf, paras 7, 9 *et seq.* See also Defence response to "Prosecution's Request for leave to add six Yahoo email threads to the List of Evidence", 29 April 2021, ICC-01/14-01/18-973-Conf, para. 12.

²⁰²³ Defence Second Application for Submission of Yahoo Email Evidence, ICC-01/14-01/18-2559-Conf, para. 7.

²⁰²⁴ Ngaïssona Defence Yahoo BT Response, ICC-01/14-01/18-1546-Conf, paras 16 *et seq.*

some of the emails in question have been authenticated by witnesses, most of them have not,²⁰²⁵ diminishing the probative value of the evidence.²⁰²⁶

868. The Ngaïssona Defence further submits that the Prosecution has insufficiently substantiated the probative value of six Yahoo email accounts to the core issues of the case.²⁰²⁷ It challenges the Prosecution's interpretation of conversations retrieved from, *inter alia*, Mr Ngaïssona's email account, which allegedly show his involvement in the charged crimes.²⁰²⁸ In particular, the Ngaïssona Defence argues that the Prosecution failed to establish the relevance to: the charges related to the alleged May planning meeting in Cameroon,²⁰²⁹ the alleged June 2013 plan to rally the Youth in Bangui,²⁰³⁰ the alleged July-September 2013 strategy to return Bozizé to power (including contacting Bozizé to obtain money and resources for mobilising supporters),²⁰³¹ the alleged August-October 2013 financial transfers to Mr Ngaïssona in Cameroon,²⁰³² the alleged involvement of Mr Ngaïssona in FROCCA from July 2013 to September 2013,²⁰³³ and the alleged Anti-Balaka military operations and the armed conflict between the Seleka and the Anti-Balaka from October 2013 to July 2014.²⁰³⁴

869. The Chamber takes note that the Ngaïssona Defence, when questioning the authenticity and reliability of some of the items in the Yahoo email collection, neither challenges that the email accounts belonged to the respective individuals, nor that these individuals sent the emails in question. The issues raised are limited to alleged processing errors by the Prosecution, especially regarding inconsistent formatting and incoherent time stamps. In addition, the allegations made by the Ngaïssona Defence only concern certain items contained in the email collection, some of which were put to witnesses heard before the

²⁰²⁵ Ngaïssona Defence Yahoo BT Response, ICC-01/14-01/18-1546-Conf, para. 21.

²⁰²⁶ Ngaïssona Defence Yahoo BT Response, ICC-01/14-01/18-1546-Conf, para. 24.

²⁰²⁷ Ngaïssona Defence Yahoo BT Response, ICC-01/14-01/18-1546-Conf, paras 5, 23-25.

²⁰²⁸ The other challenged Yahoo email items are connected to accounts allegedly belonging [REDACTED]. See Ngaïssona Defence Yahoo BT Response, ICC-01/14-01/18-1546-Conf, para. 25.

²⁰²⁹ Ngaïssona Defence Yahoo BT Response, ICC-01/14-01/18-1546-Conf, paras 27-28.

²⁰³⁰ Ngaïssona Defence Yahoo BT Response, ICC-01/14-01/18-1546-Conf, paras 29-30.

²⁰³¹ Ngaïssona Defence Yahoo BT Response, ICC-01/14-01/18-1546-Conf, paras 31-33; *see also* Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, para. 186.

²⁰³² Ngaïssona Defence Yahoo BT Response, ICC-01/14-01/18-1546-Conf, para. 34.

²⁰³³ Ngaïssona Defence Yahoo BT Response, ICC-01/14-01/18-1546-Conf, paras 35-39.

²⁰³⁴ Ngaïssona Defence Yahoo BT Response, ICC-01/14-01/18-1546-Conf, paras 40-47.

Court.²⁰³⁵ The Chamber does not find the alleged processing errors or anomalies to be of such a degree that they show a pattern which affects the overall reliability of the collection.

870. Furthermore, the Chamber notes that it has received the evidence of witnesses on certain email exchanges, which it has considered in the context of the clear and unequivocal content of the emails in question, as further outlined below. In light of witnesses providing specific context to the emails in question, mostly importantly by confirming their exchanges with Mr Ngaïssona at the relevant time, the Chamber finds that differences in time stamps or discrepant ways in which responses to various emails were sent²⁰³⁶ do not render the emails unreliable.²⁰³⁷

871. Turning to the emails before the Chamber, in one exchange on 24 and 25 June 2013, P-2843 asked whether Mr Ngaïssona would still be in Douala or Yaoundé until 8 July, as P-2843 wanted to discuss the situation of the country, especially certain details that they could not talk about on the telephone (*'la situation du pays surtout sur certaines pistes qu'on ne pouvait pas en parler au téléphone'*).²⁰³⁸

872. P-2843 testified that at the time, Mr Ngaïssona was in Douala and P-2843 asked to discuss the situation in the country with him because it was very difficult, and he was afraid to discuss even the situation [REDACTED] over the telephone.²⁰³⁹ The attachment did not refer to matters which could not be discussed over the phone [REDACTED].²⁰⁴⁰

²⁰³⁵ See e.g. P-2843: T-073, p. 58, lines 12-17.

²⁰³⁶ See Ngaïssona Defence Yahoo BT Response, ICC-01/14-01/18-1546-Conf, paras 14-16.

²⁰³⁷ The Chamber notes in this regard the following: (i) the argument that all versions of all email threads would necessarily have to contain all related emails presupposes that an individual would necessarily always respond to the latest email received; (ii) differing time stamps can be explained by a number of factors, yet what matters in the view of the Chamber is that the sequence of emails is clear based on their content; (iii) one example pointed to by the Ngaïssona Defence with a view to illustrating that its sequence is an 'impossibility' since the response to one email would have come before the initial email (see CAR-OTP-2124-0892) can be explained by looking at a different iteration of the exchange, which places the emails with their time stamp in the relevant chronology (see CAR-OTP-2130-3377); and (iv) the reports on the extraction and processing of the emails from the account associated with Mr Ngaïssona do not seem to suggest any abnormalities in this process, except for not respecting the 'parent/child relationship' between messages and attachments (see Reports, CAR-OTP-2118-6255; CAR-OTP-2130-4492). Accordingly, the Chamber has relied on the emails and assessed their content within the context of all the evidence before it, including that of witnesses who testified about exchanging with Mr Ngaïssona.

²⁰³⁸ Email, CAR-OTP-2130-3372, at 3372. See also Email, CAR-OTP-2130-3369.

²⁰³⁹ P-2843: T-073, p. 28, line 5 – p. 30, line 9.

²⁰⁴⁰ P-2843: T-074, p. 33, line 22 – p. 35, line 4.

873. In July and August 2013, Mr Ngaïssona received information through Alfred Legrand Ngaya in the form of emails. On 16 July 2013, Alfred Legrand Ngaya appeared to send a document detailing a meeting at his house in April 2013 at which participants set up a structure for the coordination of actions in support of the return to power of François Bozizé.²⁰⁴¹ In the text of the email, Alfred Legrand Ngaya explains that he is communicating the composition of the coordination they set up to mobilise the population for protest action, with the ultimate goal to demand the withdrawal of Djotodia and return Bozizé to power, while stating that the means are limited and asking whether it is possible to expect means for action, and stating that he knows the addressee to be capable of presenting the situation to the president.²⁰⁴² Mr Ngaïssona responded confirming receipt of the documents, and stating having transferred them to the ‘BOSS’ *‘pour toute fin utile’*.²⁰⁴³ Mr Ngaïssona forwarded this email to ‘[REDACTED]’.²⁰⁴⁴
874. In an email of 31 July 2013, Alfred Legrand Ngaya asks Mr Ngaïssona for a suggestion of a date to plan *‘les actions d’insurrection populataire [sic]’*, taking into account the *‘début des opérations militaires que vous allez engager’*, and further states that if operations should start in the province, it would not be useful to push ‘Bangui’ to the streets too soon since the *‘insurrection populaire’* will be effective if *‘opérations militaires’* start in Bangui – in response to the message on the same day, Mr Ngaïssona thanks for the message and suggestions and states following up soon.²⁰⁴⁵ In another response to this a few days later, Mr Ngaïssona says that he would have information very soon and for their operation to keep in touch during the day.²⁰⁴⁶ In yet another response of 3 August 2013, Mr Ngaïssona informs that they (‘we’) just set up the FROCCA and took dispositions *‘pour une action rapide’*, further asks to get in touch with association leaders with whom they can work, which is urgent.²⁰⁴⁷ In response, Alfred Legrand Ngaya agrees with the name of the movement because it is close to his initial proposal, states that he will present this to the *‘co-équipiers’*, who will have to do the same, and further says he will get in touch with the association

²⁰⁴¹ See Email, CAR-OTP-2130-3288, at 3289-90.

²⁰⁴² Email, CAR-OTP-2130-3288, at 3288. See also P-0808: T-069, p. 10, line 25 – p. 11, line 12.

²⁰⁴³ Email, CAR-OTP-2130-3294. See also P-0808: T-069, p. 11, line 22 – p. 12, line 12.

²⁰⁴⁴ Email, CAR-OTP-2130-3291. See also P-0808: T-069, p. 11, line 22 – p. 12, line 12.

²⁰⁴⁵ Email, CAR-OTP-2130-3296. See also P-0808: T-069, p. 13, lines 1-9, p. 13, line 16 – p. 14, line 13.

²⁰⁴⁶ Email, CAR-OTP-2130-3297. See also P-0808: T-069, p. 15, lines 9-23; T-070, p. 21, line 24 – p. 23, line 15.

²⁰⁴⁷ Email, CAR-OTP-2130-3298. See also P-0808: T-069, p. 15, line 24 – p. 16, line 21.

leaders, asking whether he can be helped financially, *‘puis que vous connaissez mieux que moi le tempérament de nos compatriotes’*, and if they have some means, it will be easy, while concluding that he will keep addressee informed of outcome of next ‘concertation’.²⁰⁴⁸ Shortly after, Alfred Legrand Ngaya also asks Mr Ngaïssona whether the latter can suggest some names of association leaders because he is in the process of making contact, *‘et c’est délicat tel que vous le savez’*.²⁰⁴⁹

875. Alfred Legrand Ngaya explained in relation to the emails he exchanged with Mr Ngaïssona that they had spoken on the phone two or three times while Mr Ngaïssona was in exile in Cameroon, he would ask for news about the neighbourhood.²⁰⁵⁰ FROCCA was in Paris, organised by a lawyer, so there was a possibility for the international community to act.²⁰⁵¹ The witness heard about FROCCA through the email from Mr Ngaïssona.²⁰⁵² He did not recall if Mr Ngaïssona provided financial resources as requested; at some point he sent money to Alfred Legrand Ngaya to help the Anti-Balaka in their neighbourhood and dissuade them from bothering the population.²⁰⁵³ Alfred Legrand Ngaya did communicate with Mr Ngaïssona on what was happening in Bangui because they used to live in the same neighbourhood.²⁰⁵⁴ The witness did not recall discussing the Anti-Balaka with him.²⁰⁵⁵ Alfred Legrand Ngaya did not recall exchanging with Levy Yakété about passing information to youth on the ground and Anti-Balaka through Mr Ngaïssona.²⁰⁵⁶

876. Further exchanges from the beginning of October 2013 suggest that individuals were trying to contact Mr Ngaïssona [REDACTED] with a view to receiving support. In an email of 5 October 2013, P-2843 wrote in relation to the situation of the country that *‘[REDACTED] cellule d’information a été informé de la dotation en moyen financier et matériel au éléments qui sont de l’autre coté du fleuve pour une coordination avec ceux de Bangui et la ligne Boali, Bogangolo, Bozoum [sic]’*, while the individual responsible for the elements in Bangui

²⁰⁴⁸ Email, CAR-OTP-2130-3298.

²⁰⁴⁹ Email, CAR-OTP-2130-3300. See also P-0808: T-069, p. 16, line 22 – p. 18, line 21; T-070, p. 21, lines 7-23.

²⁰⁵⁰ P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0015-16, para. 30.

²⁰⁵¹ P-0808: T-069, p. 15, lines 1-8.

²⁰⁵² P-0808: T-069, p. 15, line 24 – p. 16, line 21.

²⁰⁵³ P-0808: T-069, p. 19, lines 1-12.

²⁰⁵⁴ P-0808: T-069, p. 36, line 19 – p. 37, line 1.

²⁰⁵⁵ P-0808: T-069, p. 37, lines 2-7.

²⁰⁵⁶ P-0808: T-069, p. 34, line 12 – p. 36, line 13. See Facebook messages, CAR-OTP-2100-7317, at 7319, 7322.

and PK12 [REDACTED], and the person coordinating the line Boali, Bogangolo, Bozoum, [REDACTED], ‘*n’ont reçu aucun moyen comme d’habitude*’.²⁰⁵⁷ The message continues that [REDACTED] was asked to get in touch with Mr Ngaïssona for further information as this situation created dissatisfaction.²⁰⁵⁸ In a response [REDACTED], Mr Ngaïssona asked to be provided with the phone numbers of the persons concerned, which he received, and then further asked to be given only ‘72’ numbers,²⁰⁵⁹ [REDACTED].²⁰⁶⁰

877. P-2841 was not aware of the email of 5 October 2013; at that time, [REDACTED] had organised with their groups and the situation was getting more and more complicated, so the idea was to pool efforts to get rid of the Seleka, they discussed issues of resources for battle on the ground, but P-2841 was not familiar with sending these types of emails.²⁰⁶¹ According to P-2841, [REDACTED] *cellule d’information*’ was simply referring to [REDACTED].²⁰⁶² P-2841 confirmed the message of 6 October 2013 [REDACTED] concerned a similar scenario [REDACTED].²⁰⁶³ ‘Field’ referred specifically to the Anti-Balaka combatants across the territory; at the time they were already taking a significant number of towns and getting closer to Bangui.²⁰⁶⁴

878. On 7 October 2013, Mr Ngaïssona received an email [REDACTED] which listed the following ‘needs’ of the officers: (1) [REDACTED] (sites Kouzoundoro, Bogoura, Lambi, Lac Caimon, Ndjo, Bossemtélé, Bozoum and Baoro), needs ammunition, cigarettes, tarpaulins, telephone credit, rations, unforeseen – total of 5954000 FCFA; (2) [REDACTED] (sites Bangui, Bimbo, Begoua, Landja) with estimated 500 men (10 officers, 40 sous officiers, 450 rank and file) needs topographical maps, compasses, Orange telephones, telephone credit, unforeseen – total of 5750000 FCFA.²⁰⁶⁵ The message further indicated a ‘besoin en armement’, specifying that each element has an individual ‘AK’, but collective

²⁰⁵⁷ Email, CAR-OTP-2130-3379, at 3379-80. *See also* Email, CAR-OTP-2124-0890.

²⁰⁵⁸ Email, CAR-OTP-2130-3379, at 3380.

²⁰⁵⁹ Email, CAR-OTP-2130-3379, at 3379. *See also* Email, CAR-OTP-2124-0896.

²⁰⁶⁰ Email, CAR-OTP-2130-3382; Email, CAR-OTP-2124-0895. *See also* P-2843: T-073, p. 66, lines 4-20, p. 68, lines 8-11.

²⁰⁶¹ P-2841: T-029, p. 43, line 9 – p. 46, line 20.

²⁰⁶² P-2841: T-029, p. 47, line 16 – p. 48, line 6.

²⁰⁶³ P-2841: T-029, p. 41, lines 12-24.

²⁰⁶⁴ P-2841: T-029, p. 41, line 25 – p. 42, line 10.

²⁰⁶⁵ Email, CAR-OTP-2124-0899, at 0899. *See also* P-2843: T-073, p. 68, line 18 – p. 69, line 15, p. 71, lines 9-17 [REDACTED].

weapons are needed, namely 50 ‘RPG7’ with 50 rocket boxes, 20 DKM with five 7.62 cartridge boxes, grenades, and ‘chargeurs AK’.²⁰⁶⁶

879. P-2843 explained that [REDACTED].²⁰⁶⁷ [REDACTED].²⁰⁶⁸ [REDACTED].²⁰⁶⁹ [REDACTED].²⁰⁷⁰ The ‘other side of the river’ referred to Zongo, while ‘elements’ concerned information from [REDACTED].²⁰⁷¹ P-2843 called Mr Ngaïssona [REDACTED].²⁰⁷² P-2843 informed Mr Ngaïssona [REDACTED].²⁰⁷³ P-2843 did not recall when during the year he was in contact with Mr Ngaïssona, but it was when the latter was in exile.²⁰⁷⁴ According to P-2843, when he sent to Mr Ngaïssona [REDACTED].²⁰⁷⁵ [REDACTED].²⁰⁷⁶ [REDACTED], but he agreed that it was ‘virtually impossible’ to contact individuals on those sites in those days by phone, there was no connectivity.²⁰⁷⁷ [REDACTED].²⁰⁷⁸

880. P-2843 told [REDACTED] to Mr Ngaïssona.²⁰⁷⁹ [REDACTED].²⁰⁸⁰

881. Around the same time, [REDACTED] sounded as if Maxime Mokom had misappropriated or taken goods, because people were complaining they did not have any means.²⁰⁸¹ [REDACTED] Mr Ngaïssona was sending food and money to these people, [REDACTED] was in regular contact with Maxime Mokom and at some point also Bernard Mokom, who

²⁰⁶⁶ Email, CAR-OTP-2124-0899, at 0899.

²⁰⁶⁷ P-2843: T-073, p. 53, lines 9-23, p. 54, lines 12-21.

²⁰⁶⁸ P-2843: T-073, p. 61, line 22 – p. 62, line 23.

²⁰⁶⁹ P-2843: T-073, p. 63, lines 5-13.

²⁰⁷⁰ P-2843: T-073, p. 58, line 12 – p. 59, line 4 *referring to* Email, CAR-OTP-2130-3379.

²⁰⁷¹ P-2843: T-073, p. 59, line 5 – p. 60, line 13, p. 65, lines 12-19.

²⁰⁷² P-2843: T-074, p. 36, lines 1-12. The Chamber considers misplaced the argument of the Ngaïssona Defence that the timestamps in the relevant email exchanges do not reflect the sequence described by P-2843 and therefore are a further sign for challenges to the probative value and reliability of the email collection in general (*see* Ngaïssona Defence Yahoo BT Response, ICC-01/14-01/18-1546-Conf, paras 17-18). In fact, the email with the actual needs communicated to Mr Ngaïssona was sent on 7 October 2013, as outlined above, which shows that the sequence of the email exchanges accords precisely with the information thereon provided by P-2843.

²⁰⁷³ P-2843: T-073, p. 63, line 22 – p. 64, line 24.

²⁰⁷⁴ P-2843: T-073, p. 57, lines 15-19.

²⁰⁷⁵ P-2843: T-073, p. 65, line 25 – p. 66, line 3.

²⁰⁷⁶ P-2843: T-074, p. 44, line 24 – p. 46, line 7, p. 47, lines 10-19. *See also* P-2843: T-073, p. 88, lines 7-23; T-074, p. 41, line 16 – p. 42, line 3, p. 43, line 20 – p. 44, line 3.

²⁰⁷⁷ P-2843: T-074, p. 46, lines 8-22.

²⁰⁷⁸ P-2843: T-074, p. 63, line 20 – p. 64, line 18.

²⁰⁷⁹ P-2843: T-073, p. 72, line 5 – p. 73, line 4. *See* Facebook Messages, CAR-OTP-2102-3799, at 3856-57.

²⁰⁸⁰ P-2843: T-073, p. 72, line 5 – p. 73, line 4.

²⁰⁸¹ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4253, para. 87. *See* Facebook messages, CAR-OTP-2101-9735, at 9805.

was in Cameroon with Mr Ngaïssona.²⁰⁸² P-2841 spoke to [REDACTED] about this who said [REDACTED] that Mr Ngaïssona had not sent money and goods [REDACTED] for Zongo.²⁰⁸³ P-2841 did not have direct contact with Mr Ngaïssona at this time.²⁰⁸⁴

882. P-2841 explained further that [REDACTED] knew the villages mentioned in the email of 12 October well, he had been there on detachments with his elements, but during the crisis he was not able to deploy there.²⁰⁸⁵ The weapons were the ones that they indicated as soldiers for the purposes of the operation, the final assault on Bangui.²⁰⁸⁶ [REDACTED] met to talk about these requirements, sometimes they met with a whole group of people, sometimes other military friends joined, [REDACTED] the most senior of the military in these discussions.²⁰⁸⁷ It was [REDACTED] idea to ask Mr Ngaïssona for supplies and he convinced [REDACTED] to do the same; the contact with Mr Ngaïssona went through [REDACTED] because he knew him through [REDACTED].²⁰⁸⁸ P-2841 knew through [REDACTED] that Mr Ngaïssona was on the ground, in Yaoundé, Bertoua, ‘G[aroua Boulaye]’.²⁰⁸⁹ Bangui, Bimbo, Begoua, Landja, as referenced for [REDACTED], essentially comprise all of Bangui; [REDACTED] was, like [REDACTED], committed to the ‘final assault’ or the upcoming attack on Bangui, they both had elements but needed the means to deploy and occupy the territory; in the end, neither of them was able to deploy their elements.²⁰⁹⁰ These requests were sent to Mr Ngaïssona because they knew that he had the money to finance these things; Mr Ngaïssona already financed a lot of youth movements and political movements, such as the KNK, the National Youth Council and ‘COSCIPAC’; this was not just out of the goodness of his heart, behind it lay the desire to stay on good terms with those who held power as they would use his businesses for services and supplies; when the Seleka came to power, he lost a lot of money.²⁰⁹¹ P-2841 did not know if [REDACTED] were in phone contact with Mr Ngaïssona right before these emails were sent; at the time,

²⁰⁸² P-2841 Statement, CAR-OTP-2127-4238-R01, at 4253, para. 87; P-2841: T-029, p. 42, line 11 – p. 43, line 2.

²⁰⁸³ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4253, para. 88; P-2841: T-030, p. 15, lines 9-13.

²⁰⁸⁴ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4254, para. 90.

²⁰⁸⁵ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4260, para. 125.

²⁰⁸⁶ P-2841: T-029, p. 48, line 20 – p. 49, line 3.

²⁰⁸⁷ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4260-61, para. 127; P-2841: T-029, p. 48, line 7 – p. 49, line 3.

²⁰⁸⁸ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4261, para. 128.

²⁰⁸⁹ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4261, para. 128.

²⁰⁹⁰ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4261, para. 129.

²⁰⁹¹ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4261, para. 130.

[REDACTED] was in contact with the Seleka, weapons were being trafficked across the river and were relatively easy to obtain; in addition, the arms depot had been looted by the Seleka and weapons could be bought from them – P-2481 did not know if [REDACTED] bought any of these weapons, but in general, he knew [REDACTED] was involved in this kind of thing.²⁰⁹² [REDACTED] engaged in a ‘virtual rebellion’ at the time and tried to show his power to people on the internet; as he was not so good with computers, [REDACTED] a young guy to help him publish on the web; [REDACTED] used the name [REDACTED], when he became Muslim, he called himself [REDACTED].²⁰⁹³ P-2841 confirmed the suggestion that [REDACTED] willingly published incorrect information which then circulated.²⁰⁹⁴

883. In light of the unequivocal text of the emails sent to Mr Ngaïssona, as well as the further context provided by both P-2843 and P-2841 regarding why such requests for materiel and financial assistance would have been sent to Mr Ngaïssona, the Chamber considers immaterial that both P-2843 and P-2841 suggested that [REDACTED] was a liar. The fact remains that these requests were sent to Mr Ngaïssona in the belief that he could, and would, provide the relevant assistance, as well as that Mr Ngaïssona clearly did intend to establish contact with the individuals requesting such assistance.

884. Not long after, on 12 October 2013, another request for materiel reached Mr Ngaïssona, stating that the south (Fatima-Bimbo-Moungoumba), with focal point [REDACTED], needs Orange telephones, pharmaceutical products, telephone credit, rations, unforeseen at a total amount of 9860000 FCFA, as well as AK chargers, ‘RPG7’ and rockets.²⁰⁹⁵ The message further informed that the ‘*message de casserole*’ went well and gave additional information in this regard.²⁰⁹⁶ This email was then forwarded by Mr Ngaïssona on 12 October 2013 to the account of ‘[REDACTED]’ which replied on 17 October 2013 that the message was well

²⁰⁹² P-2841 Statement, CAR-OTP-2127-4238-R01, at 4261, para. 132.

²⁰⁹³ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4261-62, para. 132.

²⁰⁹⁴ P-2841: T-030, p. 10, line 24 – p. 11, line 6.

²⁰⁹⁵ Email, CAR-OTP-2124-0900, at 0900.

²⁰⁹⁶ Email, CAR-OTP-2124-0900, at 0900.

received and that ‘*le compte rendu sera fait immédiatement*’.²⁰⁹⁷ The evidence before the Chamber suggests that this email account was associated with Eric Danboy.²⁰⁹⁸

885. P-2843 recalled that [REDACTED].²⁰⁹⁹ [REDACTED].²¹⁰⁰ [REDACTED].²¹⁰¹ Everyone knew Mr Ngaïssona was the coordinator of the Anti-Balaka [REDACTED].²¹⁰² P-2843 [REDACTED].²¹⁰³ P-2843 [REDACTED].²¹⁰⁴ P-2843 [REDACTED].²¹⁰⁵ P-2843 confirmed that [REDACTED].²¹⁰⁶

886. In this regard, the Chamber considers P-2841’s explanations on this email [REDACTED], and in any event inapt to create doubt as to the unambiguous content of the emails. First, P-2841 never seeing [REDACTED] buying the mentioned supplies²¹⁰⁷ does not negate the sending of the email and, more importantly, the requesting of such items to Mr Ngaïssona. Second, the email does not refer to [REDACTED] as being ‘in charge’ of the south,²¹⁰⁸ but rather as being a focal or contact point for the southern area, the question of whether [REDACTED] controlled any group is therefore immaterial as such control is no precondition for serving as contact person. Third, the email itself and also P-2843’s explanations provided thereon do not suggest that any money would indeed have been received, that P-2841 thought he would have noticed if such money had been available²¹⁰⁹ is thus equally immaterial. Fourth, P-2841 stated hearing [REDACTED] that the military men who formed groups in Bangui were waiting for supplies and Mr Ngaïssona told [REDACTED] what the needs were.²¹¹⁰ That P-2841 also thought [REDACTED] often lied to obtain information does not negate this statement.²¹¹¹ Fifth, also P-2841 was clear in

²⁰⁹⁷ Email, CAR-OTP-2124-0903, at 0903. *See also* Email, CAR-OTP-2124-0901.

²⁰⁹⁸ *See* Report, CAR-OTP-2134-0407, at 0426-27.

²⁰⁹⁹ P-2843: T-073, p. 73, line 24 – p. 74, line 13.

²¹⁰⁰ P-2843: T-074, p. 42, line 15 – p. 43, line 19, p. 64, line 20 – p. 66, line 16.

²¹⁰¹ P-2843: T-073, p. 74, line 14 – p. 75, line 10.

²¹⁰² P-2843: T-073, p. 75, lines 11-25, p. 80, line 14 – p. 81, line 2.

²¹⁰³ P-2843: T-073, p. 76, line 13 – p. 77, line 13.

²¹⁰⁴ P-2843: T-073, p. 79, line 5 – p. 80, line 3; T-074, p. 47, line 22 – p. 48, line 4.

²¹⁰⁵ P-2843: T-073, p. 84, line 18 – p. 85, line 1.

²¹⁰⁶ P-2843: T-073, p. 73, lines 5-23. *See* Facebook messages, CAR-OTP-2101-9735, at 9811-12.

²¹⁰⁷ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4255, para. 97.

²¹⁰⁸ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4255, para. 97, at 4261, para. 128; P-2841: T-029, p. 51, line 22 – p. 52, line 9; T-030, p. 59, line 11 – p. 60, line 6.

²¹⁰⁹ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4255, paras 95-96.

²¹¹⁰ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4254-55, para. 94. *See* [REDACTED].

²¹¹¹ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4254-55, para. 94. *See* [REDACTED].

saying that ‘*matos*’ was a reference to weapons and ammunition, while ‘*les besoins*’ concerned everything that went with the former, such as food for the troops, credit and the kind of supplies mentioned in the email.²¹¹² P-2841 thus obviously understood the content of the email as a request with materiel needed for armed activities. P-2841 further testified that he [REDACTED] received information [REDACTED] about ‘*matos*’ arriving which would have been sent to the bush to the Anti-Balaka chiefs and people would cross over from the DRC with ammunition.²¹¹³ The Chamber further considers the content of this email in the context of the events on the ground at the time, as discussed in further detail below.²¹¹⁴ Indeed, P-2841 also knew that at the time, the Anti-Balaka came closer to Bangui and there was a battle in Ndjo.²¹¹⁵ Sixth, it is immaterial that P-2841 did not know why Mr Ngaïssona would have forwarded the email to [REDACTED], whom he knew in Bangui and who joined [REDACTED] Mr Ngaïssona’s group in Yaoundé, or that [REDACTED] and P-2841 did not speak about this when they were in contact.²¹¹⁶

887. This is because seventh, and most importantly, P-2841 testified that everybody knew in the country that Mr Ngaïssona was a big businessman, head of the Central African football federation, and he supported and had influence on the youth.²¹¹⁷ According to P-2841, it was when Mr Ngaïssona was in Cameroon and things were beginning to change on the ground as the Anti-Balaka advanced and took over a number of cities that it was understood that he would be the one in charge of mobilising resources and that resources should be transferred through him.²¹¹⁸ [REDACTED] looked for various sources which is why he immediately had to seek to contact Mr Ngaïssona to understand what was happening with funding.²¹¹⁹

888. P-2841 testified that everyone knew that for Michel Djotodia to go, resources had to be mobilised for the people in the field and [REDACTED] told P-2841 that he had a list of people who were contributing to the movement.²¹²⁰ Guerson was close to the Anti-Balaka,

²¹¹² P-2841 Statement, CAR-OTP-2127-4238-R01, at 4255, para. 100.

²¹¹³ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4256, paras 103-104.

²¹¹⁴ See section II.A.6 below.

²¹¹⁵ P-2841: T-029, p. 51, lines 9-15.

²¹¹⁶ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4262, para. 134.

²¹¹⁷ P-2841: T-030, p. 18, lines 14-18.

²¹¹⁸ P-2841: T-030, p. 18, line 22 – p. 19, line 5.

²¹¹⁹ P-2841: T-030, p. 19, lines 6-8.

²¹²⁰ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4263, para. 141; P-2841: T-030, p. 24, lines 3-20.

served in the transitional government of Catherine Samba-Panza as representative of the Anti-Balaka wing,²¹²¹ but would not have been a financier, he was more of an intermediary for various commissions; he brought money to the Anti-Balaka in the field where he had contacts, in the range of 200,000 or 500,000 FCFA, in cash in little bags.²¹²² P-2841 did not know who gave Guerson the money.²¹²³ The Anti-Balaka in the field were also supported by villagers who provided food, goats, manioc; the main need was ammunition for traditional weapons and AK-47s, this essentially came from the DRC.²¹²⁴ At a certain point information circulated that the Anti-Balaka were suffering in the field, people made enquiries and heard Mr Ngaïssona was close to them, they contacted him and asked what to contribute; practically speaking, P-2841 did not know how such transfers were effectuated.²¹²⁵ P-2841 did not see any receipts from Western Union or Express Union.²¹²⁶ P-2841 did not see Mr Ngaïssona transferring money, but explained that in this context, smaller amounts of money like 200,000, 100,000, 50,000 were given in cash by hand, there was no need for money transfers.²¹²⁷ Celestin Yanindji was Mr Ngaïssona's vice-president at the football federation, had a lot of money, but lost it at one point.²¹²⁸ While Mr Ngaïssona was in exile in Cameroon, he had problems managing his accounts in CAR; [REDACTED] told P-2841 that Yanindji sent Mr Ngaïssona small amounts of money on occasion to help him out, but did not say how.²¹²⁹ According to P-2841, Touadera also contributed to the Anti-Balaka; Maxime Mokom indicated this.²¹³⁰ P-2841 clarified that he was never on the ground, never saw any direct contact between Mr Ngaïssona and the Anti-Balaka.²¹³¹ But what he said was based on discussions he had with all the teams, whether in Cameroon or DRC, he heard a number of things from a number of credible sources.²¹³² P-2841 explained that he exchanged

²¹²¹ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4263, paras 142-143.

²¹²² P-2841 Statement, CAR-OTP-2127-4238-R01, at 4264, para. 144.

²¹²³ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4264, para. 145.

²¹²⁴ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4264, para. 144.

²¹²⁵ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4264, para. 146; P-2841: T-030, p. 24, lines 3-23.

²¹²⁶ P-2841: T-030, p. 24, line 25 – p. 25, line 4.

²¹²⁷ P-2841: T-030, p. 25, lines 5-13.

²¹²⁸ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4264, para. 147.

²¹²⁹ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4264, para. 148.

²¹³⁰ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4265, para. 150.

²¹³¹ P-2841: T-030, p. 25, line 18 – p. 26, line 1.

²¹³² P-2841: T-030, p. 26, lines 2-5.

with [REDACTED], was a witness of some money that came from DRC and saw it with his own eyes.²¹³³

889. The Ngaïssona Defence argues that the emails in question do not support the allegation of Mr Ngaïssona providing weapons and ammunition to the Anti-Balaka in Bangui.²¹³⁴ Bearing in mind its assessment of the evidence as outlined above, the Chamber considers that the emails show that Mr Ngaïssona, at the very least, acted as a liaison with the clear knowledge and intent that this entailed being a link to which the Anti-Balaka would make requests for weapons and ammunition, for purposes of engaging in armed hostilities.

Liaising with individuals linked to efforts to remove Michel Djotodia and the Seleka from power and bring François Bozizé back to power

890. The evidence before the Chamber as further outlined below shows that Mr Ngaïssona, in addition to being involved in meetings with François Bozizé, Bernard Mokom and others in Cameroon, and travelling to the border area to liaise with groups as discussed below, was also liaising with other persons that, at that time or later, were involved in efforts to remove Michel Djotodia and the Seleka from power and bring François Bozizé back to power.
891. An email of 10 May 2013 from ‘thierry bongolo’ to the email addresses of Mr Ngaïssona, Levy Yakété and Joachim Kokaté suggests that at this time Mr Ngaïssona and the others were communicating with others, and that others wanted them to be engaged in their efforts.²¹³⁵ The Chamber notes in this regard that some months later, Thierry Bongolo was involved in the setting up of FROCCA.²¹³⁶
892. Further, Jacob Mokpem-Bionli heard from his nephew Ngaya that Mr Ngaïssona was beside himself that foreigners from abroad, Chad and Sudan, like Ali Darassa, Sidiki and Alkhatim could aggress their country and its inhabitants, he thought the CAR had opened its doors to

²¹³³ P-2841: T-030, p. 60, line 13 – p. 63, line 6.

²¹³⁴ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 498-503.

²¹³⁵ Email, CAR-OTP-2130-3466 (the sender informs of having sent ‘les codes de publication pour vous à Yaoundé’, further talks of messages for publication, mentions he has ‘les jeunes de Douala sous mon contrôle’, and says wanting to come the following week to work together on their strategy).

²¹³⁶ See paragraphs 999-1005 below.

them and he could not accept what was happening, Mr Ngaïssona said he would do everything to return to the country also in light of the fact that he had many assets looted by the Seleka.²¹³⁷ Mr Ngaïssona was still in Cameroon and with François Bozizé at the time and was informed of the resistance and movement of the resistance from the provinces to Bangui; they were kept informed and he told them not to commit crimes because they had already heard that some crimes were being committed.²¹³⁸ Mr Ngaïssona and François Bozizé were informed by phone, they had contacts with a lot of people still living in Bangui; Legrand Ngaya often called Mr Ngaïssona; Mr Ngaïssona was also a businessman so he had his own way of getting information.²¹³⁹ In Cameroon were also ‘Bozizé’, Captain Goundemo aka Gbagouma and Captain Eugène Ngaïkosset, military people who were behind the organisation of the resistance in Cameroon.²¹⁴⁰ Eugène Ngaïssoket came to Cameroon after he had been in the DRC, arrested there and freed again.²¹⁴¹ According to the witness, Mr Ngaïssona was in Cameroon when he heard that the Anti-Balaka had come to Bangui and were committing some misdeeds, so he needed to be in Bangui to take control of those youths, and he used his own personal money to take care of those children who had organised themselves from Bozoum, Ouham-Pende, Ouham, etc., until they got to Bangui – someone needed to bring them to reason so that the destruction may end.²¹⁴² Ngaya informed Jacob Mokpem-Bionli about the meetings held in Cameroon between Bozizé, Mr Ngaïssona, Koudemon and others.²¹⁴³ The witness did not know if Kokaté and Bernard Mokom took part in these meetings, but Bernard Mokom was very close to Bozizé.²¹⁴⁴ According to the witness, he did not know whether the meetings in Cameroon were in Yaoundé, Douala or any other location.²¹⁴⁵ According to Jacob Mokpem-Bionli, he was not aware of former CAR ambassador Louis Oguere Ngaïkoumon being removed from his position because of meetings regarding the destabilisation of the CAR at the CAR embassy in Cameroon.²¹⁴⁶ It

²¹³⁷ P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0304-05, para. 104.

²¹³⁸ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0055-56, para. 38.

²¹³⁹ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0055-56, para. 38.

²¹⁴⁰ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0057, para. 46.

²¹⁴¹ P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0305, para. 105.

²¹⁴² P-0992: T-092, p. 22, line 22 – p. 23, line 12.

²¹⁴³ P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0305, para. 108; P-0992: T-092, p. 20, line 5 – p. 21, line 2, p. 21, lines 15-17, p. 22, lines 3-21.

²¹⁴⁴ P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0305-06, paras 109-110.

²¹⁴⁵ P-0992: T-092, p. 21, line 23 – p. 22, line 2.

²¹⁴⁶ P-0992: T-092, p. 25, line 21 – p. 26, line 21.

was said that Oguere was removed from his position because he was Gbaya, but the witness was not aware of that.²¹⁴⁷ Jacob Mokpem-Bionli confirmed that in 2013, Oguere was secretary-general of the KNK.²¹⁴⁸

893. Jacob Mokpem-Bionli testified that the ‘Bozizé clan’ took a very strategically and physically active part in the Anti-Balaka resistance, Rodrigue Bozizé was one of François Bozizé’s children who actively took part in the fight and he was very mobile between Boeing and Boy-Rabe, while François Bozizé’s other children were not in Bangui.²¹⁴⁹ The witness did not know if they also financed the Anti-Balaka.²¹⁵⁰ The Bozizé clan refers to the Gbaya people – the Anti-Balaka were born in three prefectures, Ouham-Pende, Ouham and Nana-Grebizi and most of the people Jacob Mokpem-Bionli referred to as Bozizé clan were those who organised themselves to descend on Bangui.²¹⁵¹ They put in place a system to fight back against the Seleka advances – on 5 December when close to 4,000 elements met behind the hills, this was not a light matter.²¹⁵² The physical aspect were the Anti-Balaka coming down from the hill and confronting the Seleka on 5 December; some had sticks and others traditional weapons.²¹⁵³ According to the witness, he was not fighting to bring François Bozizé back to power, but against the Seleka violence, he never attended ‘any such meetings’.²¹⁵⁴ According to Jacob Mokpem-Bionli, he ‘never heard’ of such a thing to bring François Bozizé back to power.²¹⁵⁵

894. Brice Emotion Namsio explained that when Mr Ngaïssona was in Cameroon and in contact with Ngaya, the latter, who was the witness’s neighbour, also told Mr Ngaïssona that if he could not find Ngaya, he should call Emotion’s number.²¹⁵⁶

895. P-2232 learned from [REDACTED] that [REDACTED] organised with Steve Yambété, but the attack did not take place because of a misunderstanding between the various teams,

²¹⁴⁷ P-0992: T-093, p. 9, line 23 – p. 10, line 19.

²¹⁴⁸ P-0992: T-093, p. 10, line 20 – p. 11, line 7.

²¹⁴⁹ P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0311, para. 145.

²¹⁵⁰ P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0311, paras 146-147.

²¹⁵¹ P-0992: T-092, p. 26, line 22 – p. 27, line 23.

²¹⁵² P-0992: T-092, p. 28, lines 4-17.

²¹⁵³ P-0992: T-092, p. 28, line 19 – p. 29, line 1.

²¹⁵⁴ P-0992: T-092, p. 17, lines 11-15.

²¹⁵⁵ P-0992: T-092, p. 17, lines 16-23.

²¹⁵⁶ P-0446 Interview Transcript, CAR-OTP-2105-0572-R01, at 0586-88, lines 438-525.

which was how Maxime Mokom was given responsibility – at that time, Levy Yakété had gone to France.²¹⁵⁷ P-2232 heard [REDACTED] that they set up a coordination office in Cameroon and since it was not functioning very well, they handed over responsibility [REDACTED] in Zongo; Gbangouma also known as Olivier Koudemon as well as certain officers were also in Cameroon.²¹⁵⁸ Steve Yambété organised the first attack at the border and was arrested by the Cameroonians, at which time they noticed that their operation would not work and therefore asked people in the Congo to take over.²¹⁵⁹ According to P-2232, they did not succeed in coordinating their actions because the Cameroonian authorities were controlling them, and that is how they asked Maxime Mokom to take over.²¹⁶⁰ P-2232 stated that it was a political struggle which was followed by a military struggle.²¹⁶¹ They set up that front in order to fight politically with the international community so as to appeal to them so that Bozizé should be able to return and complete his term of office.²¹⁶² When responsibilities were transferred to [REDACTED] he was in communication with the people in Cameroon, but P-2232 did not have further information about what happened there, he only knew that during that period there was a lot of pressure upon them from the authorities of the country;²¹⁶³ [REDACTED] was still in contact with Cameroon, it was Cameroon that sent him money to enable him to work; they were still in communication, and coordinating the activities together.²¹⁶⁴ After [REDACTED] had used the money, he reported back to them, tell them who had taken such an operation in such-and-such a place, and he paid for this person and that person and for the food of other people.²¹⁶⁵ P-2232 did not know who he reported to; the name of the sender was a Cameroonian name.²¹⁶⁶

896. P-2658 knew Mr Ngaïssona as member of parliament from Nana-Bakassa, and thought Kema, Yongo and Charly based in Bossangoa were directly communicating with Mr Ngaïssona, then passing his messages to Dedane on the phone when they talked from

²¹⁵⁷ P-2232: T-075, p. 56, line 16 – p. 57, line 12; T-076, p. 19, lines 4-7.

²¹⁵⁸ P-2232: T-075, p. 57, lines 13-21; T-076, p. 19, lines 7-8; T-078, p. 30, line 25 – p. 31, line 13.

²¹⁵⁹ P-2232: T-076, p. 19, lines 3-7; T-078, p. 37, line 7 – p. 38, line 5.

²¹⁶⁰ P-2232: T-076, p. 18, lines 21-25.

²¹⁶¹ P-2232: T-076, p. 19, lines 1-4.

²¹⁶² P-2232: T-078, p. 36, line 24 – p. 37, line 6.

²¹⁶³ P-2232: T-078, p. 38, line 17 – p. 39, line 12.

²¹⁶⁴ P-2232: T-078, p. 39, line 19 – p. 40, line 1, p. 41, lines 3-8.

²¹⁶⁵ P-2232: T-078, p. 41, line 18 – p. 42, line 1.

²¹⁶⁶ P-2232: T-078, p. 42, lines 2-6.

time to time.²¹⁶⁷ After Dedane talked to the three, he briefed his elements [REDACTED]; the elements said that their ‘big boss Ngaïssona’ sent a message through the three men, that Mr Ngaïssona would send ammunition and ammunition for the battle.²¹⁶⁸ The elements talked among themselves about Mr Ngaïssona providing them with materiel.²¹⁶⁹ P-2658 did not see the Anti-Balaka receiving equipment, but knew that Dedane brought ammunition when he went to Bossangoa before he deployed the elements for the attacks in Bowäi, Bouca and Bossangoa.²¹⁷⁰ P-2658 did see ammunition arriving, as well as Kalashnikovs, a heavy weapon that was positioned on the main route, automatic hunting weapons and others.²¹⁷¹ P-2658 stated that there was no network connection in Gbonguere; he did not know if the Anti-Balaka, including Dedane, communicated with Mr Ngaïssona.²¹⁷²

897. P-0884 testified that he did not have Mr Ngaïssona’s or Bernard Mokom’s numbers in Cameroon,²¹⁷³ but Mr Ngaïssona called him following a demonstration they organised at the airport.²¹⁷⁴ In or after August, Bernard Mokom called P-0884, but not very regularly, while P-0884 and Mr Ngaïssona called each other frequently, from September, maybe two or three times a week also when Mr Ngaïssona was travelling as he would call P-0884 to know what the situation in the country was.²¹⁷⁵ Bernard Mokom called P-0884 because of the demonstration [REDACTED],²¹⁷⁶ and they remained in contact, with Bernard Mokom saying he would give P-0884 his son’s number and this son would call him – Maxime Mokom called P-0884 [REDACTED].²¹⁷⁷

²¹⁶⁷ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0037, para. 164; P-2658 Corrections, CAR-OTP-2135-3476, at 3489, para. 164; P-2658: T-134, p. 50, lines 7-16, p. 60, line 24 – p. 61, line 3. *See also* paragraph 1158 below.

²¹⁶⁸ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0037, para. 164; P-2658 Corrections, CAR-OTP-2135-3476-R01, at 3489, para. 164; P-2658: T-134, p. 50, lines 7-16, p. 60, lines 20-23, p. 61, lines 6-14.

²¹⁶⁹ P-2658: T-134, p. 60, lines 8-19, p. 62, line 15 – p. 63, line 2.

²¹⁷⁰ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0037, para. 164; P-2658 Corrections, CAR-OTP-2135-3476-R01, at 3489, para. 164; P-2658: T-134, p. 50, lines 7-16, p. 61, lines 15-24.

²¹⁷¹ P-2658: T-134, p. 61, line 25 – p. 62, line 14.

²¹⁷² P-2658 Statement, CAR-OTP-2126-0012-R02, at 0037, para. 166; P-2658 Corrections, CAR-OTP-2135-3476-R01, at 3489, paras 165-166; P-2658: T-134, p. 50, lines 17-22.

²¹⁷³ P-0884: T-055, p. 15, lines 7-20, p. 18, lines 7-15, p. 19, line 6 – p. 20, line 9.

²¹⁷⁴ P-0884: T-055, p. 15, line 21 – p. 16, line 4.

²¹⁷⁵ P-0884: T-055, p. 13, lines 1-6, p. 16, lines 5-16, p. 41, lines 14-19, p. 47, lines 20-22, p. 48, lines 7-13. *See also* P-0884: T-055, p. 48, line 14 – p. 49, line 7.

²¹⁷⁶ P-0885: T-055, p. 19, lines 3-6,

²¹⁷⁷ P-0884: T-055, p. 15, line 21 – p. 16, line 4, p. 19, line 3 – p. 20, line 10. *See also* section IV.A.2.ii.b below.

898. P-1719 testified that Rocca Mokom was in constant touch with Yaoundé, Bangui and Zongo, because at that time he was one of the key elements of the restricted team.²¹⁷⁸ Rocca [REDACTED] that he was in touch with the authorities in Yaoundé, that he had exchanges with his father in Yaoundé.²¹⁷⁹ He was part of the restricted team and [REDACTED] only received instructions which were passed on.²¹⁸⁰
899. P-0306 testified that Andjilo was not in contact with Mr Ngaïssona while he was in Bouca, he talked to the emissaries who passed the messages on to them, ‘Richard’ and Konaté would receive instructions and pass them on, Konaté who told Andjilo everything he was saying; Mr Ngaïssona was in contact with Richard and Konaté by telephone.²¹⁸¹ When Andjilo received calls or they were communicating, and when their communication ended, he would tell them that it was Mr Ngaïssona who was on the line; and when they arrived to Bangui, they did not meet anyone else.²¹⁸²
900. P-2673 explained that he [REDACTED] received money that Mr Ngaïssona gave to Mokom twice [REDACTED].²¹⁸³ Mr Ngaïssona and François Bozizé are from the same village, said to be relatives; Mr Ngaïssona and Mokom father had to inform Bozizé before they made any decisions, everybody knew this.²¹⁸⁴ Mokom father [REDACTED] was in touch with Bozizé and they would call each other on the phone – according to P-2673, it is because of Mokom father’s relationship with Bozizé that Mr Ngaïssona wanted him near him.²¹⁸⁵ Mr Ngaïssona and Mokom father worked together, were always together in Cameroon apart from when Mr Ngaïssona left on business, and remained together until they returned to Bangui in 2014.²¹⁸⁶ P-2673 heard that when Mr Ngaïssona was in Yaoundé, he had contact with all the Anti-Balaka chiefs, had their phone numbers, and in particular was in contact with ‘Ndale’, and also with Andjilo and the chiefs in Bossangoa.²¹⁸⁷ Maxime Mokom was also in contact with

²¹⁷⁸ P-1719: T-142, p. 48, line 20 – p. 49, line 15; T-144, p. 39, line 12 – p. 40, line 7.

²¹⁷⁹ P-1719: T-144, p. 40, lines 9-22.

²¹⁸⁰ P-1719: T-144, p. 40, line 23 – p. 41, line 4.

²¹⁸¹ P-0306: T-064, p. 52, lines 1-22.

²¹⁸² P-0306: T-064, p. 53, lines 5-17.

²¹⁸³ P-2673: T-042, p. 20, line 18 – p. 25, line 11.

²¹⁸⁴ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6452, para. 107.

²¹⁸⁵ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6452, para. 108.

²¹⁸⁶ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6452, para. 110.

²¹⁸⁷ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6455-56, para. 132.

the chiefs and Mr Ngaïssona was with Mokom father, so P-2673 thought he was also in contact with Maxime Mokom.²¹⁸⁸ The problems between Mr Ngaïssona and Maxime Mokom only started in Bangui when everyone wanted to be the chief, but before they were all in contact with the chiefs in the field.²¹⁸⁹ [REDACTED].²¹⁹⁰ [REDACTED].²¹⁹¹ [REDACTED].²¹⁹² [REDACTED].²¹⁹³ P-2673 knew of two people who had already crossed over to Bouar, a sous-lieutenant named Kambasseo and a son of Bozizé's elder brother named Hector Emtenu [REDACTED]; he later learned that Didier Danboy and Jules Pessere also crossed to Bouar.²¹⁹⁴ [REDACTED].²¹⁹⁵ [REDACTED].²¹⁹⁶

901. Adrien Poussou reiterated that Mr Ngaïssona reported during a meeting of FROCCA that he had been in contact with the former FACA and PG elements and others,²¹⁹⁷ with the 'children' out in the field who were motivated, and that he told Adrien Poussou and Yvon Songuet that he was financing and spent a great deal of money on the upkeep of the soldiers out in the field – to the witness, it logically followed from this that Mr Ngaïssona was part of the armed struggle for taking power back.²¹⁹⁸
902. P-0974 testified that [REDACTED] Mr Ngaïssona explained that although he had been out of the country during the fighting, he had still been active with the movement, had organised meetings with former FACA members from Cameroon and been in telephone contact with people in the provinces for the birth of the movement.²¹⁹⁹ [REDACTED].²²⁰⁰
903. P-2673 testified that Eugène Ngaikosset, part of François Bozizé's entourage and of Mr Ngaïssona's entourage had already crossed over to Zongo before the 2014 events;

²¹⁸⁸ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6455-56, para. 132.

²¹⁸⁹ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6456, para. 133.

²¹⁹⁰ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6444, para. 59.

²¹⁹¹ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6444, para. 59, at 6452, para. 111; P-2673: T-042, p. 71, line 25 – p. 72, line 11. *See also* P-2027 Statement, CAR-OTP-2078-0059-R03, at 0069, para. 61 (the witness stated that Mr Ngaïssona's house in Yaoundé was just behind Hôtel la Vallée, towards the CAR embassy).

²¹⁹² P-2673 Statement, CAR-OTP-2127-6435-R01, at 6452, para. 112.

²¹⁹³ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6452-53, para. 113.

²¹⁹⁴ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6452-53, para. 113.

²¹⁹⁵ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6453, para. 114.

²¹⁹⁶ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6453, para. 115; P-2673: T-042, p. 72, line 9 – p. 73, line 1.

²¹⁹⁷ P-2625: T-193, p. 57, line 3 – p. 58, line 19.

²¹⁹⁸ P-2625: T-190, p. 23, line 13 – p. 24, line 1; T-193, p. 60, line 5 – p. 61, line 12.

²¹⁹⁹ P-0974 Statement, CAR-OTP-2058-0165-R01, at 0177, para. 81; P-0974: T-243, p. 12, lines 17-24; T-244, p. 31, line 16 – p. 35, line 22.

²²⁰⁰ P-0974: T-243, p. 14, line 17 – p. 15, line 5.

[REDACTED] P-2673 heard that he had come to meet with Mr Ngaïssona and was seeking to go to Garam-Boulaï at the border with Cameroon.²²⁰¹ P-2673 learned after that Ngaïkosset had arrived in Yaoundé and met with Mr Ngaïssona and Mokom,²²⁰² in October.²²⁰³

904. Furthermore, the Chamber recalls its discussion above regarding the prior recorded testimony of P-1847 introduced pursuant to Rule 68(2)(d) of the Rules.²²⁰⁴ The question of Mr Ngaïssona's activities in liaising and coordinating in 2013 was one of the topics regarding which P-1847 deviated in his in-court testimony from his prior recorded testimony. Bearing in mind its above considerations, the Chamber has relied on P-1847's prior recorded testimony on this matter within the context of the other evidence before it.

905. Specifically, in his prior recorded testimony, P-1847 stated that Mr Ngaïssona was fully involved in the process of coordinating the Anti-Balaka actions even before his return to the country, and he continued to do so once officially designated coordinator of the Anti-Balaka.²²⁰⁵

906. P-1847 also stated, in his prior recorded testimony, that Mr Ngaïssona stayed at François Bozizé's residence at the Golf in Yaoundé [REDACTED], and expressly communicated orders and attack plans to Anti-Balaka in the CAR via the telephone.²²⁰⁶ In this statement, P-1847 also explained that coordination meant the 'Anti-Balaka north' reporting directly to Mr Ngaïssona and Bernard Mokom, and taking directions and instructions from them.²²⁰⁷ Further, P-1847 stated that he heard from some Anti-Balaka elements that Bozizé called Florent Kema to give him orders via Mr Ngaïssona or Bernard Mokom.²²⁰⁸ In his prior recorded testimony, P-1847 said that Mr Ngaïssona controlled and verified if the money

²²⁰¹ P-2673: T-041, p. 8, line 13 – p. 9, line 4. See Facebook message, CAR-OTP-2103-4073, at 4076.

²²⁰² P-2673: T-041, p. 9, lines 5-10. The Chamber disregards in this context, on the basis of the other evidence before it, the testimony of D30-4914 who stated never hearing that Eugène Ngaïkosset would have crossed the border from Zongo to go to Cameroon (see D30-4914 Statement, CAR-D30-0024-0001-R01, at 0029, lines 1169-1176).

²²⁰³ P-2673: T-042, p. 5, line 20 – p. 6, line 1.

²²⁰⁴ See paragraphs 843-846 above.

²²⁰⁵ P-1847 Second Statement, CAR-OTP-2122-8251-R01, at 8264, para. 117.

²²⁰⁶ P-1847 First Statement, CAR-OTP-2061-1534, at 1551, para. 112.

²²⁰⁷ P-1847 First Statement, CAR-OTP-2061-1534, at 1553, para. 121.

²²⁰⁸ P-1847 First Statement, CAR-OTP-2061-1534, at 1558, para. 152.

which he transferred to the combatants had arrived and was used for the intended purposes, such as buying of ammunition.²²⁰⁹

907. Bearing in mind the above considerations regarding the introduction of P-1847's prior recorded testimony pursuant to Rule 68(2)(d) of the Rules, the Chamber finds not credible P-1847's claims in court that this concerned the period after 2014 when Mr Ngaïssona was already coordinator, while before December 2013, Mokom and Wapounaba would have coordinated Anti-Balaka activities and issued orders to the Anti-Balaka at the border,²²¹⁰ or his general denial that Mr Ngaïssona would have given orders to the elements on the ground.²²¹¹ This assessment is further underscored by P-1847 indeed confirming, in court, that he heard from [REDACTED] that Ngaïkosset had discussions with Mr Ngaïssona and received some money to go back on the road so he could go back to Bangui and help the fighters who were fighting there.²²¹²

908. The Chamber further notes Mr Ngaïssona's knowledge and information in relation to attacks in the provinces,²²¹³ as well as in discussions preceding the attack in Bangui on 5 December 2013.²²¹⁴

909. P-1719 testified that when they were at the border, they clandestinely organised meeting and amongst all the members of the group, they knew that there was a coordination or directorate with a coordinator in Yaoundé, and they also knew that the coordinator of operations during that period was in Zongo, in Congo; this was known to everyone.²²¹⁵ There were several personalities in Yaoundé and the person he considered as the leading personality, the captain of the ship, was Mr Ngaïssona and Bernard Mokom, whom he met in Yaoundé and who gave him money for his transportation costs to the border; apart from those two individuals,

²²⁰⁹ P-1847 First Statement, CAR-OTP-2061-1534, at 1551, para. 112.

²²¹⁰ See P-1847: T-023, p. 43, line 18 – p. 44, line 2, p. 46, line 21 – p. 47, line 11, p. 62, line 23 – p. 64, line 16.

²²¹¹ P-1847: T-023, p. 43, lines 5-17.

²²¹² P-1847: T-023, p. 87, line 15 – p. 88, line 2. See P-1847 First Statement, CAR-OTP-2061-1534, at 1562, para. 177. See also P-1847 First Statement, CAR-OTP-2061-1534, at 1562, paras 178-179; P-1847: T-023, p. 88, lines 3-20. See further P-1847 Second Statement, CAR-OTP-2122-8251-R01, at 8254-55, para. 28 (where the witness stated that Fred Serefio lived in a house in Yaoundé with his family, but was constantly in contact with Mr Ngaïssona and Mokom father, and they were often at the Golf residence).

²²¹³ See paragraphs 1445-1467 below.

²²¹⁴ See paragraphs 2206-2213 below.

²²¹⁵ P-1719: T-142, p. 24, line 25 – p. 25, line 18.

[REDACTED] did not have any allegiance towards any other person and were not answerable to other people regarding what was happening in the field.²²¹⁶ According to P-1719, there was a provisional office before the arrival of Mr Ngaïssona in Bangui, each village, each prefecture had an operational local coordination; P-1719 heard people talk about Sébastien Wenezoui, at that time Yagouzou, Kamezolari and Maxime Mokom were all in Bangui.²²¹⁷

910. Alfred Legrand Ngaya stated that when Mr Ngaïssona came back to Bangui, the witness saw that he knew the Anti-Balaka very well; he realised that Mr Ngaïssona had links with the military because he saw him with FACA; for example, when Mr Ngaïssona called Alfred Legrand Ngaya on the day of the meeting with the transitional government in January 2014, the witness went to his house and saw him with Konaté – it was clear that they knew each other from before that day.²²¹⁸ Mr Ngaïssona was very popular and generous, but Alfred Legrand Ngaya did not know if he had contact with the Anti-Balaka leaders while he was in exile.²²¹⁹ Alfred Legrand Ngaya went to meet Mr Ngaïssona at the airport when he returned; the whole neighbourhood was really overjoyed at his return; there was a crowd of people at his house celebrating his return.²²²⁰ Everyone knew that Mr Ngaïssona was an influential person, had relationships, was close to Bozizé and a public personality.²²²¹ Alfred Legrand Ngaya stated that his exchanges with Mr Ngaïssona while the latter was in Cameroon were not because the latter was involved in any organisation but because he was the former minister of youth when the witness was director general of the youth, and they were looking for some assistance and Mr Ngaïssona had permanent contact with the lawyer of FROCCA.²²²² During the meeting, Alfred Legrand Ngaya's impression was that Wenezoui and Ngremangou were amongst the main leaders of the Anti-Balaka at that time, but he did not know and could not decide the level of responsibility they had in the movement.²²²³

²²¹⁶ P-1719: T-143, p. 23, line 7 – p. 24, line 6.

²²¹⁷ P-1719: T-143, p. 72, line 1 – p. 74, line 4.

²²¹⁸ P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0021, para. 59.

²²¹⁹ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0337, para. 87.

²²²⁰ P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0023, para. 69; P-0808: T-070, p. 41, lines 6-21.

²²²¹ P-0808: T-069, p. 24, line 21 – p. 25, line 8.

²²²² P-0808: T-070, p. 40, line 6 – p. 40, line 4 *referring to* CAR-OTP-2124-0511.

²²²³ P-0808: T-070, p. 41, lines 5-25, *referring to* CAR-OTP-2124-0512.

911. Some witnesses testified that in 2013, they did not necessarily hear about Mr Ngaïssona being active in liaising and coordination activities, but rather Maxime Mokom.²²²⁴ At the same time, P-0884 also said in this context that Mr Ngaïssona was in a group in Cameroon which often worked with Maxime Mokom and he always told P-0884 that ‘his children’ were advancing towards Bangui, but he himself never personally went to the field – but he had constant and regular contact with Maxime Mokom, in Cameroon they set up a team to coordinate activities.²²²⁵
912. Bearing in mind the above, and on the basis of the evidence as outlined, the Chamber therefore finds not credible the claim of D30-4914 that he was ‘very surprised’ when Mr Ngaïssona was chosen as coordinator as he had never heard of Mr Ngaïssona in connection with the Anti-Balaka before 2014.²²²⁶ Similarly, Sali Issa’s apparent attempt to account for all of Mr Ngaïssona’s activities during at least two weeks during which they would have worked together on football matters²²²⁷ is inapt to impact the Chamber’s conclusions on Mr Ngaïssona’s liaising and coordination activities while away from the CAR in 2013.
913. Based on the evidence as outlined above, the Chamber finds that Mr Ngaïssona liaised with persons that, at that time or later, were involved in efforts to remove Michel Djotodia and the Seleka from power and bring François Bozizé back to power.

Liaising with groups in the border area

914. The evidence before the Chamber, as further outlined below, shows that Mr Ngaïssona and Bernard Mokom travelled to the border area between Cameroon and the CAR with a view to liaising with groups that were to engage in armed efforts with the then-ultimate aim of bringing François Bozizé back to power.

²²²⁴ P-2232: T-075, p. 50, line 23 – p. 51, lines 2, 10, 19-24, p. 54, lines 9-12; P-0884: T-055, p. 38, lines 8-16, p. 39, line 24 – p. 40, line 8, p. 43, lines 9-22, p. 44, lines 11-17; T-058, p. 27, lines 13-18.

²²²⁵ P-0884: T-055, p. 71, lines 9-21.

²²²⁶ D30-4914 Statement, CAR-D30-0024-0001-R01, at 0010, lines 337-340, lines 344-345, at 0012, lines 463-465.

²²²⁷ D30-4680 Statement, CAR-D30-0016-0001, at 0006-07, paras 30-32.

915. P-2673 knew [REDACTED] that Mokom father visited a military camp in Bertoua to give the soldiers money for food.²²²⁸ In September or October 2013,²²²⁹ Ndale went to see Achille in Bertoua and they then travelled to Yaoundé to meet Mr Ngaïssona [REDACTED].²²³⁰ [REDACTED].²²³¹ P-2673 further stated that Alesco, a colonel and *commissaire* in the police, and Achille are related [REDACTED].²²³² Achille [REDACTED] had men in Gobere and in Bossangoa.²²³³ Ndale and Achille were close and went to Bertoua together if called to a meeting.²²³⁴ Achille did not go to the field to fight.²²³⁵ Achille's small group was later with Mr Ngaïssona in Boy-Rabe when the latter returned to Bangui.²²³⁶
916. [REDACTED] Mr Ngaïssona and Mokom father also went to Garam-Boulai with the 'chiefs of the archers', referring to Achille and Ndale who had their own group that used to fight poachers and highway bandits.²²³⁷ Ndale was the chief of the archers in Bouar, and Achille in Bossangoa, they used arrows to fight the '*aragina*' and were called on to support the Anti-Balaka.²²³⁸ According to P-2673, the archers worked for Mr Ngaïssona.²²³⁹ [REDACTED] information about Mokom and Mr Ngaïssona going to the border to meet the archers.²²⁴⁰ [REDACTED] Mr Ngaïssona and Mokom father had met with Achille and Ndale in Bertoua, where Bozizé's close protection guards had fled to.²²⁴¹ Mr Ngaïssona and Mokom spent two or three days at the border to mobilise the archers and then returned.²²⁴² Achille had taken

²²²⁸ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6455, paras 127-128 *referring to* Facebook messages, CAR-OTP-2102-5143, at 5169.

²²²⁹ While the prior recorded testimony indicated the meeting to be in September (*see* P-2673 Statement, CAR-OTP-2127-6435-R01, at 6456, para. 134), P-2673 no longer remembered the date during his testimony, clarifying that it was probably in October, not before the fighting in Gaga, Bouca and Bossangoa (*see* P-2673: T-042, p. 4, line 10 – p. 5, line 7). The Chamber notes in this regard that according to the evidence before it as discussed below, attacks in Bouca and Bossangoa took place in early to mid-September 2013 (*see* section II.A.6 below).

²²³⁰ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6456, para. 134; P-2673: T-042, p. 11, line 24 – p. 12, line 17, p. 27, lines 3-14.

²²³¹ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6456, para. 134; P-2673: T-042, p. 11, line 24 – p. 12, line 17, p. 27, lines 3-14.

²²³² P-2673 Statement, CAR-OTP-2127-6435-R01, at 6454, para. 124. *See* Facebook messages, CAR-OTP-2102-5143, at 5178.

²²³³ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6454, para. 125.

²²³⁴ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6454, para. 125.

²²³⁵ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6454, para. 125.

²²³⁶ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6454, para. 125.

²²³⁷ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6459, para. 154. *See* [REDACTED].

²²³⁸ P-2673: T-041, p. 21, line 23 – p. 22, line 9.

²²³⁹ P-2673: T-041, p. 20, line 20 – p. 21, line 22.

²²⁴⁰ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6460, para. 159. *See* [REDACTED].

²²⁴¹ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6459, para. 155.

²²⁴² P-2673 Statement, CAR-OTP-2127-6435-R01, at 6460, para. 160.

refuge in Bertoua, but Ndale remained in Bouar; [REDACTED] he would return to Bossangoa to reassemble them.²²⁴³ That is when they were provided with ammunition in Bouar.²²⁴⁴ [REDACTED] Mokom was not going back to Yaoundé, he was supposed to stay at Garam-Boulaï, meet and mobilise the archers and have everyone gather in Bouar, [REDACTED] Mokom took all his luggage and was going to leave for Bertoua and in Garam-Boulaï to talk to the Anti-Balaka to mobilise them to fight, and then Mokom and Mr Ngaïssona returned to Yaoundé.²²⁴⁵ [REDACTED] what Mr Ngaïssona was doing and that he went to Bertoua, accompanied by Mokom father; he went to Bertoua to meet the military and make promises that he would give them money to go to Garam-Boulaï.²²⁴⁶

917. P-2841 testified that the archers were those who fought with bows and arrows to protect their cattle, they also used *gris-gris* and other things, and Mr Ngaïssona and Mokom father wanted to approach them to see if they could also be used in the resistance, as at the time there were no Anti-Balaka in the north-west of the country.²²⁴⁷ Bouar is about 100 kilometres from the Cameroonian border, so they needed a first group to ‘clean the ground’ and then allow others to intervene – at the time, the situation in Bouar was very difficult and Mr Ngaïssona and Mokom wanted to potentially organise the movement there.²²⁴⁸ P-2841 did not visit Bertoua or Garam-Boulaï at that point.²²⁴⁹ According to P-2841, the ‘*rapprochement*’ concerned more Mokom and the archers, they were not really talking about Mr Ngaïssona.²²⁵⁰ Mr Ngaïssona and Mokom father, both Gbaya and close to François Bozizé who wanted to return to constitutional order, were in exile in Cameroon and wanted to organise a resistance movement in the CAR.²²⁵¹ According to what P-2841 heard, Mr Ngaïssona and Mokom father went to the border with ammunition and medicine for the archers in Bouar and Berbérati.²²⁵² P-2841 was not on the ground, did not see Mr Ngaïssona in Bertoua or at the border, and did not know how or by what means he went there, how the ammunition was

²²⁴³ P-2673: T-041, p. 22, line 16 – p. 23, line 12.

²²⁴⁴ P-2673: T-041, p. 21, line 23 – p. 22, line 9.

²²⁴⁵ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6460, para. 160; P-2673: T-041, p. 31, lines 9-17.

²²⁴⁶ P-2673: T-041, p. 30, line 22 – p. 31, line 17. See Facebook messages, CAR-OTP-2102-5143, at 5180.

²²⁴⁷ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4250, para. 68. See [REDACTED].

²²⁴⁸ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4250, para. 68.

²²⁴⁹ P-2841: T-030, p. 13, lines 9-16.

²²⁵⁰ P-2841: T-030, p. 13, lines 17-25.

²²⁵¹ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4250, para. 69.

²²⁵² P-2841 Statement, CAR-OTP-2127-4238-R01, at 4257, para. 109. See [REDACTED].

taken or how much of it, or who received the ammunition or medicine.²²⁵³ [REDACTED] knew about all this because he was amongst the civilians and military who had fled to Yaoundé, he took part [REDACTED] and according to P-2841, the information he provided was 80-90% reliable.²²⁵⁴

918. P-2841 was informed through messages that Levy Yakété was in Yaoundé [REDACTED], while Mr Ngaïssona was on mission, he was supposed to go to the border to make contact with the archers from Bouar, but [REDACTED] did not say what the nature of Mr Ngaïssona's visit was and P-2841 stated it was possible when asked whether Mr Ngaïssona travelled frequently as president of the football federation.²²⁵⁵ Kokaté was like a liaison person, contacted elements to mobilise them, he had a lot of connections in the military and in politics.²²⁵⁶
919. Further in this regard, the Chamber recalls its discussion of P-1847's prior recorded testimony being introduced pursuant to Rule 68(2)(d) of the Rules.²²⁵⁷ The Chamber has thus considered P-1847's prior recorded testimony, including his evidence as set out below, together with the other evidence before it.
920. P-1847 stated that Bernard Mokom went several times to see the Anti-Balaka at the border in Garam-Boulai, several compatriots saw him at the border, and Achille Godonam [REDACTED] met Bernard Mokom several times.²²⁵⁸ Mr Ngaïssona moved between Douala, Garam-Boulai and Bertoua to meet former soldiers, PG that had fled to the zone, all guards were in Bertoua under lead of Colonel Ngboya.²²⁵⁹
921. P-1847 also stated that Bernard Mokom stayed in Cameroon while others went to France to meet Bozizé, and coordinated the actions and messages in relation to the other FACA elements that had stayed in the CAR; he gave them orders, asking them to regroup to counter-

²²⁵³ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4257, para. 109; P-2841: T-030, p. 19, line 24 – p. 20, line 25.

²²⁵⁴ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4257, para. 111.

²²⁵⁵ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4252, para. 77; P-2841: T-030, p. 14, lines 1-13. See [REDACTED].

²²⁵⁶ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4252, para. 78.

²²⁵⁷ See paragraphs 843-846 above. See also paragraphs 365-373 above.

²²⁵⁸ P-1847 First Statement, CAR-OTP-2061-1534, at 1551, para. 110; P-1847 Second Statement, CAR-OTP-2122-8251-R01, at 8254, para. 25, at 8255, para. 31, at 8264, para. 119.

²²⁵⁹ P-1847 Second Statement, CAR-OTP-2122-8251-R01, at 8263, para. 115.

attack the Seleka positions [REDACTED].²²⁶⁰ Some soldiers were at Beloko and Bouar and were very favourable to subversive military attacks.²²⁶¹ Achille Godonam was with several elements in a refugee camp in Cameroon and then sent several elements to the CAR to fight, with financing he had received from Bernard Mokom and Mr Ngaïssona for this purpose; these elements had makeshift weapons which they had in part from before, but they also bought additional makeshift arms with the funds transmitted by Bernard Mokom.²²⁶² Achille Godonam [REDACTED] took part in meetings led by Bernard Mokom and received orders from him, in particular to regroup his men to attack the Seleka; [REDACTED] in particular when he came from Garam-Boulai to meet Bernard Mokom in Odja neighbourhood.²²⁶³ Achille Godonam came to Yaoundé with Adambou Ndale, who called himself ‘General’ and was the leader of the Anti-Balaka in Bouar; they wanted to meet Bernard Mokom but did not know where he lived [REDACTED].²²⁶⁴ They spent a day with him and then went to see Danzoumi in Douala; his brother Sani Yalo was also in Douala; they organised meetings with Achille Godonam and Ndale.²²⁶⁵ Following these meetings, the latter two received some money from Danzoumi to be able to organise to attack; P-1847 heard this from [REDACTED], who said the objective was very clear: organise on the ground to attack the Seleka.²²⁶⁶ Bernard Mokom had proclaimed himself coordinator of the Anti-Balaka that were at the border between Cameroon and the CAR, and also those on the ground in the CAR [REDACTED]; he said he coordinated all Anti-Balaka activities and should be addressed.²²⁶⁷

922. P-1847 stated that the Anti-Balaka coordinators that lived in Yaoundé did not get along with the Anti-Balaka coordinators that lived in Douala, which led to information leaking and young people benefiting to take money to execute attack plans; there was no particular entity that put these two groups in touch; those in Douala fought for Michel Djotodia’s withdrawal, while those in Yaoundé had as main goal that François Bozizé returns to power, meaning return to the constitutional order.²²⁶⁸ At the beginning, these two groups were together in

²²⁶⁰ P-1847 First Statement, CAR-OTP-2061-1534, at 1549, para. 101.

²²⁶¹ P-1847 First Statement, CAR-OTP-2061-1534, at 1549, para. 103.

²²⁶² P-1847 First Statement, CAR-OTP-2061-1534, at 1550, para. 104.

²²⁶³ P-1847 First Statement, CAR-OTP-2061-1534, at 1550, para. 105.

²²⁶⁴ P-1847 First Statement, CAR-OTP-2061-1534, at 1550, para. 106.

²²⁶⁵ P-1847 First Statement, CAR-OTP-2061-1534, at 1550-51, para. 107.

²²⁶⁶ P-1847 First Statement, CAR-OTP-2061-1534, at 1551, para. 108.

²²⁶⁷ P-1847 First Statement, CAR-OTP-2061-1534, at 1551, para. 109.

²²⁶⁸ P-1847 First Statement, CAR-OTP-2061-1534, at 1557, para. 148.

their goal to chase out the Seleka, and it was following the demands of the Yaoundé group insisting on the retour to François Bozizé that the split occurred.²²⁶⁹ When François Bozizé was in Cameroon, the Anti-Balaka were not very well organised; P-1847 thought that they really started organising structurally towards October 2013, because that was the first time that Achille Godonam and Ndale were contacted by Mr Ngaïssona and Bernard Mokom to accelerate the struggle.²²⁷⁰

923. The Chamber does not consider the above evidence to be negated by the information provided by D30-4914, who said that Mr Ngaïssona and Bernard Mokom never crossed the border at the Garam-Boulai side.²²⁷¹ Their crossing the border is indeed not suggested by the evidence, but rather that they went to the border area with a view to liaising with individuals of various groups. Further, other witnesses not hearing about Mr Ngaïssona or Bernard Mokom travelling to the border or being in contact with the ‘archers’ or Ndale²²⁷² does not mean such events did not take place. The same considerations apply to D30-4914 ‘not hearing’ or ‘not believing’ other aspects in this context.²²⁷³

iv. Further activities in the border areas

924. As part of the communication and coordination activities, and further to the visits of Mr Ngaïssona and Bernard Mokom discussed above, the evidence before the Chamber shows that steps were taken in particular also in areas in Cameroon bordering the CAR, specifically Bertoua and Garam-Boulai,²²⁷⁴ which were location for refuge in particular of former members of the CAR security forces, including FACA and PG, as well as vantage point for planning an eventual return to the CAR.

925. For instance, the CAR Panel concluded that among those fleeing the violence since March 2013 were also around 150 former FACA who were duly disarmed and cantoned in sites in

²²⁶⁹ P-1847 First Statement, CAR-OTP-2061-1534, at 1557, para. 149.

²²⁷⁰ P-1847 First Statement, CAR-OTP-2061-1534, at 1558-59, para. 156.

²²⁷¹ D30-4914 Statement, CAR-D30-0024-0001-R01, at 0014, lines 553-554.

²²⁷² P-0974: T-243, p. 15, lines 14-22.

²²⁷³ D30-4914 Statement, CAR-D30-0024-0001-R01, at 0015, lines 575-577, at 0017, lines 648-649; D30-4914: T-302, p. 46, line 4 – p. 47, line 16, p. 52, line 9 – p. 53, line 5, p. 54, lines 15-22, p. 70, lines 19-25, p. 73, lines 8-14; T-303, p. 18, lines 3-13.

²²⁷⁴ See Map, CAR-OTP-2070-0268.

Bertoua and Douala, remaining in expectation of a return to the CAR once conditions for the reform of the army would have been put in place.²²⁷⁵

926. Jean-Jacques Demafouth testified that an entire company of François Bozizé's soldiers had fled to Bertoua, under Colonel Ngboya [REDACTED].²²⁷⁶ Ngboya was the highest ranking officer heading the troops that had entered Cameroonian territory, so they were provided with his name at the Cameroonian ministry of defence and Jean-Jacques Demafouth tried to locate him and was told they were all in Bertoua; eventually, the witness managed to convince him to return to the CAR and he did.²²⁷⁷
927. P-2673 [REDACTED].²²⁷⁸ Colonel Ngboya, who was in Bertoua with his elements [REDACTED].²²⁷⁹ Ngboya left Bertoua for Yaoundé to meet Mr Ngaïssona and Mokom, but was arrested and taken to Yaoundé on his return, after which he returned to Bertoua.²²⁸⁰ P-2673 did not know if Mr Ngaïssona met with Gbangouma while at the border.²²⁸¹ [REDACTED] many people had been arrested, including Gbangouma, Lamkague, Pabandji, Wango, and after that they went back to Yaoundé.²²⁸² According to P-2673, Bozizé issued instructions to Mr Ngaïssona, who then passed them on to Mokom, and everything else that flowed from it, and Bozizé was aware of everything that happened; Mr Ngaïssona and Mokom had asked [REDACTED] to go to Garam-Bouläi [REDACTED].²²⁸³ Many FACA had gone to Garam-Bouläi in advance of crossing over the border to the CAR, and when going there, one was supposed to contact a gendarme called Sabe, who had been to Yaoundé and had a meeting with Mr Ngaïssona[REDACTED].²²⁸⁴ Sabe arrived in November.²²⁸⁵ P-

²²⁷⁵ Annex 3 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0868, para. 3.

²²⁷⁶ P-2328: T-046, p. 85, lines 5-10.

²²⁷⁷ P-2328: T-046, p. 88, lines 2-16.

²²⁷⁸ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6441, para. 36; P-2673: T-041, p. 9, lines 13-24.

²²⁷⁹ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6459, para. 156. *See also* Facebook message, CAR-OTP-2103-3553, at 3560. P-2673 explained that 'Gboya' referred to Colonel Emmanuel Ngoya, deputy director-general of the PG who had fled with his elements towards Bertoua where he had a military base (*see* P-2673: T-041, p. 36, line 16 – p. 37, line 5).

²²⁸⁰ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6459, para. 156; P-2673: T-041, p. 37, lines 8-22.

²²⁸¹ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6459, para. 157.

²²⁸² P-2673 Statement, CAR-OTP-2127-6435-R01, at 6445, para. 63; P-2673: T-041, p. 43, line 22 – p. 44, line 18; T-042, p. 68, lines 4-13. *See* [REDACTED].

²²⁸³ P-2673: T-041, p. 44, line 19 – p. 45, line 3. *See also* Facebook messages, CAR-OTP-2101-6897, at 6911; P-2673: T-041, p. 45, line 10 – p. 46, line 2 (the witness explained that '*yanga ti pere*' refers to the bush, the forest, and they had already left for [REDACTED]).

²²⁸⁴ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6445, para. 61.

²²⁸⁵ P-2673: T-041, p. 48, line 23 – p. 49, line 2; T-042, p. 5, lines 8-19.

2673 also [REDACTED].²²⁸⁶ P-2673 [REDACTED].²²⁸⁷ Following this meeting, Mr Ngaïssona gave an instruction that everyone should meet Sabe in Garam-Boulai; [REDACTED] Mr Ngaïssona had given this instruction.²²⁸⁸ According to P-2673, many soldiers went to see Sabe, Rocca Mokom and Aaron Ouilibona went to find his house.²²⁸⁹ [REDACTED].²²⁹⁰ [REDACTED] Sabe already had elements from before this time, he was brigade chief in Kounde near Garam Boulai.²²⁹¹ P-2673 [REDACTED] was told around this time [REDACTED] that they were preparing themselves and soldiers had left Garam-Boulai to fight in Baboua, led by Armel Emtenou, Bozizé's nephew.²²⁹² Some civilians and some Anti-Balaka were involved, as well as Azou Mandji and someone nicknamed Falli-Falli, a soldier.²²⁹³ Kempo also received money in Yaoundé before travelling to the border [REDACTED].²²⁹⁴ [REDACTED] did not tell P-2673 that he had met with Mr Ngaïssona.²²⁹⁵ [REDACTED];²²⁹⁶ [REDACTED].²²⁹⁷

928. In the context of the above, the Chamber considers immaterial that D30-4914 never saw Élysée Sabe getting instructions from Mr Ngaïssona, in particular bearing in mind that the witness stated not to know if the two were in contact.²²⁹⁸

929. P-1719 testified going to the border from Yaoundé [REDACTED].²²⁹⁹ At the border, P-1719 [REDACTED].²³⁰⁰ Other people from the CAR [REDACTED] Steve Yambété, Fylai Hervé, Kombo Juvenal, Seregaza Steve, Ouilibona, Zaparo Lili, Feindiro.²³⁰¹ Rocca Mokom, the

²²⁸⁶ P-2673: T-041, p. 48, lines 6-17.

²²⁸⁷ P-2673: T-041, p. 48, lines 18-22.

²²⁸⁸ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6445, para. 61.

²²⁸⁹ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6445, para. 62.

²²⁹⁰ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6440, para. 33, at 6459, para. 152.

²²⁹¹ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6445, para. 65, at 6446, para. 67.

²²⁹² P-2673 Statement, CAR-OTP-2127-6435-R01, at 6445, para. 66.

²²⁹³ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6445, para. 66.

²²⁹⁴ P-2673: T-042, p. 46, lines 7-24. The Chamber considers immaterial in this regard that D30-4914 stated knowing someone [REDACTED] who never told D30-4914 that he had money (see D30-4914: T-302, p. 39, lines 13-22, p. 40, lines 13-21).

²²⁹⁵ P-2673: T-042, p. 47, lines 8-12.

²²⁹⁶ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6447, para. 74.

²²⁹⁷ P-2673: T-042, p. 75, line 13 – p. 76, line 4.

²²⁹⁸ D30-4914 Statement, CAR-D30-0024-0001-R01, at 0028, lines 1121-1139.

²²⁹⁹ P-1719: T-141, p. 50, line 22 – p. 51, line 2.

²³⁰⁰ P-1719: T-141, p. 51, lines 6-20.

²³⁰¹ P-1719: T-141, p. 51, lines 9-20.

younger brother of Maxime, was a civilian.²³⁰² [REDACTED] told him they had to be patient because there had been a promise about weapons; some soldiers already had their weapons, hidden in the CAR.²³⁰³ P-1719 asked because already in Yaoundé Mokom had told them that military materiel was available to carry out war at the border.²³⁰⁴ P-1719 initially found one team when arriving at the border, but he had ideas of the names of the fighters only after the attack of 10 January 2014, because initially these fighters mixed with the civilian population, and he only realised after the fighting that there were at least 200 individuals, including gendarmerie, FACA, some PG, and civilians.²³⁰⁵ Persons who went on the ground included those who came from Douala, Yaoundé and Bertoua, some from Bouar, some civilians from small localities close to the border.²³⁰⁶ To P-1719's knowledge, the person who paid the transportation costs of him and those with him, as well as those who preceded them and came after them, was the authority, Mr Ngaïssona, and Bernard Mokom.²³⁰⁷ Mokom had said some of their brothers had already arrived before them, and [REDACTED] people continued arriving from Yaoundé, these brothers said they came from Douala.²³⁰⁸

930. P-2232 stated that there was a point in Garam-Boulai and another point towards Kenzo until Berbérati where people were preparing themselves for the battle that would take place.²³⁰⁹ Bernard Mokom left the area and went to Yaoundé and two of his children, Télé, a soldier, and Rocco, were in the area.²³¹⁰ Aaron Cosis was in Amadagaza, Demowanset was in charge all the way to Berbérati, and in Garam-Boulai was also Mokom's younger brother Aaron, Chiki Chiki and Machin.²³¹¹ There was a military base in Bouar after the Seleka came to power, the armoury was almost destroyed and all the weapons taken away; at that time, one only needed to have some money to buy weapons; those who had hunting guns also got ammunitions from the other side of the border, particularly from Cameroon.²³¹² Those who

²³⁰² P-1719: T-141, p. 51, lines 9-20.

²³⁰³ P-1719: T-141, p. 51, line 22 – p. 52, line 2; T-143, p. 49, lines 5-22.

²³⁰⁴ P-1719: T-143, p. 49, line 23 – p. 50, line 3.

²³⁰⁵ P-1719: T-142, p. 16, line 23 – p. 17, line 12; T-143, p. 49, line 23 – p. 50, line 17.

²³⁰⁶ P-1719: T-142, p. 17, lines 13-22, p. 18, line 21 – p. 19, line 9; T-143, p. 16, line 6 – p. 17, line 15.

²³⁰⁷ P-1719: T-142, p. 19, lines 10-18.

²³⁰⁸ P-1719: T-143, p. 14, line 14 – p. 15, line 13.

²³⁰⁹ P-2232: T-076, p. 8, line 17 – p. 9, line 3.

²³¹⁰ P-2232: T-076, p. 10, line 1 – p. 11, line 4.

²³¹¹ P-2232: T-076, p. 10, line 1 – p. 11, line 4.

²³¹² P-2232: T-076, p. 11, line 20 – p. 12, line 8.

were at the border posts got their supplies from Cameroon and the Bouar armoury, and from attacking the Seleka; those who received supplies from elsewhere were in Damara, Bossangoa, other locations.²³¹³

931. P-1847 testified that after initially taking the weapons which CAR military personnel wanted to take, the Cameroonian authorities also arrested some civilians and soldiers, held in Bertoua; after a while many of them were released.²³¹⁴ ‘Mbuya’ was put into barracks in the military camp Bertoua and free to move around.²³¹⁵ Koudemon aka ‘Bangouma’ was in the barracks.²³¹⁶ They were restricted to the area of Bertoua in the barracks from 2013 until 2014 after Michel Djotodia’s resignation.²³¹⁷ P-1847 agreed with the suggestion that Bozizé had around him several members of the FACA supporting the cause of his return to power, in position to advise him militarily speaking.²³¹⁸
932. P-0974 heard about local meetings that FACA had in Yaoundé and Bertoua, but [REDACTED] did not know who did, he later heard [REDACTED] about a strategic meeting planned in Garoua-Boulai so that FACA from Cameroon and the CAR could attend, but the Cameroon intelligence found out about it.²³¹⁹
933. Assessing D30-4914 in this context, the Chamber notes the unclarities in his testimony. D30-4914, [REDACTED] people in Garam-Boulai who joined them [REDACTED].²³²⁰ D30-4914 stated [REDACTED].²³²¹ Yet in his account D30-4914 is unclear about the timing, in first saying that the Anti-Balaka would have come to pass in December 2013-January 2014,²³²² while later saying [REDACTED] would have formed around October/November 2013, followed by the claim it was from Djotodia’s stepping down onwards.²³²³ D30-4914 [REDACTED], a minority came from the CAR, most of those people were just trying to get

²³¹³ P-2232: T-076, p. 12, lines 9-16.

²³¹⁴ P-1847: T-022, p. 71, line 12 – p. 72, line 4.

²³¹⁵ P-1847: T-022, p. 72, lines 6-11.

²³¹⁶ P-1847: T-022, p. 72, lines 12-20.

²³¹⁷ P-1847: T-022, p. 72, line 21 – p. 73, line 3.

²³¹⁸ P-1847: T-024-ENG, p. 26, lines 15-18; T-024-FRA, p. 26, lines 20-23.

²³¹⁹ P-0974 Statement, CAR-OTP-2058-0165-R01, at 0169, para. 27; P-0974: T-243, p. 13, lines 14-25.

²³²⁰ D30-4914 Statement, CAR-D30-0024-0001-R01, at 0010, lines 363-369.

²³²¹ D30-4914 Statement, CAR-D30-0024-0001-R01, at 0011, lines 390-400.

²³²² D30-4914: T-302, p. 61, lines 14-18.

²³²³ D30-4914: T-302, p. 63, lines 2-16.

back to Bangui.²³²⁴ Rodrigue Bozizé came to the border [REDACTED].²³²⁵ The uprising and movement at the border was not organised and no one coordinated them, but [REDACTED] channelled the people to avoid chaos.²³²⁶ D30-4914 never heard of people in this group being instructed by some kind of authority to go there.²³²⁷ The people that joined [REDACTED] at the border paid for the trip themselves, D30-4914 never heard that it would have been paid for by Bernard Mokom or Mr Ngaïssona.²³²⁸ However, when asked how he knew this, the witness did not give any concrete source, which suggests that this was based on the witness's own interpretation.²³²⁹ Steve Yambete was no coordinator; [REDACTED] Aaron Ouilibona was chief of operations, Zeregaza was also there; Machin Machin was not '*adjudant de compagnie*', he did not lead a section.²³³⁰ There was a chain of command, tasks were given to soldiers [REDACTED], each played their role; [REDACTED] they were told 'From today onwards, if illegal acts are committed, you are the one responsible for punishing them. You should not kill, you should not steal' [REDACTED].²³³¹ [REDACTED].²³³² D30-4914 refuted the suggestion that [REDACTED].²³³³ [REDACTED] it was a popular movement and each organised in the zone in which they were; he was not in contact with Dedane, Richard Bejouane or Andjilo; there was no structure to say there was any chain of command.²³³⁴ D30-4914 did not have any information that people [REDACTED] were in contact with individuals in Cameroon for the purposes of military operations [REDACTED].²³³⁵ [REDACTED] this regroupment initiative took place when the Seleka general in Bouar fell and the Seleka left [REDACTED].²³³⁶

²³²⁴ D30-4914 Statement, CAR-D30-0024-0001-R01, at 0011, lines 407-413; D30-4914: T-302, p. 61, line 24 – p. 63, line 2, p. 65, line 20 – p. 66, line 7.

²³²⁵ D30-4914 Statement, CAR-D30-0024-0001-R01, at 0011, lines 414-422.

²³²⁶ D30-4914 Statement, CAR-D30-0024-0001-R01, at 0012, lines 432-441; D30-4914: T-302, p. 58, line 13 – p. 59, line 22, p. 64, line 17 – p. 65, line 2.

²³²⁷ D30-4914: T-302, p. 65, lines 3-16.

²³²⁸ D30-4914 Statement, CAR-D30-0024-0001-R01, at 0012, lines 442-449.

²³²⁹ D30-4914: T-302, p. 41, line 25 – p. 42, line 16.

²³³⁰ D30-4914 Statement, CAR-D30-0024-0001-R01, at 0014, lines 524-530; D30-4914: T-302, p. 71, lines 1-11.

²³³¹ D30-4914: T-302, p. 71, line 22 – p. 72, line 11.

²³³² D30-4914: T-302, p. 72, lines 12-18.

²³³³ D30-4914: T-302, p. 72, line 19 – p. 73, line 7.

²³³⁴ D30-4914 Statement, CAR-D30-0024-0001-R01, at 0014, lines 531-537.

²³³⁵ D30-4914: T-302, p. 66, lines 12-25.

²³³⁶ D30-4914 Statement, CAR-D30-0024-0001-R01, at 0010, lines 370-381.

934. On the basis of the totality of the evidence before it, the Chamber considers D30-4914 blanket denials regarding any coordination or liaising activities between individuals or groups in Cameroon or the CAR not credible and for the most part self-serving. D30-4914 had a clear interest in minimising his own role in the events.

v. *General contacts of individuals within and across borders*

935. The evidence before the Chamber, as further outlined below, shows that in addition to Mr Ngaïssona and Bernard Mokom, many other individuals present in Cameroon were in contact with others both within Cameroon, as well as with those in Zongo and in the CAR, and thereby were in a position to provide further insights into the communications and activities at the time. This evidence illustrates that persons in different positions and locations communicated with others with ease and shared information, online or in person, in the period before December 2013, about the events and activities in CAR.

936. For instance, P-2673 testified that while he was in Cameroon [REDACTED].²³³⁷ [REDACTED].²³³⁸ P-2673 further explained that Lamkague worked with Gbangouma for Danzoumi; Steve Yambété was in the DRC, then in Douala, and found Mr Ngaïssona and Mokom in Yaoundé before going to Garam-Boulaï; one of the three Emtenou was the son of the older brother of Bozizé and was in Bertoua, fighting until Boali, while Hector Emtenou was in Yaoundé, came to find Danboy and Kambassio and they went towards Bouar; Armel was preparing for battle in Baboua.²³³⁹ Didier Danboy was with Mr Ngaïssona in the Golf area, Emtenou, Danboy were in the group which left before the rest, to Bouar.²³⁴⁰

937. Joachim Kokaté testified that while in Yaoundé and Douala, he saw many Central Africans who had sought refuge, soldiers and civilians, he met a number of soldiers and had telephone contact with others, with some regularly.²³⁴¹ For example, Joachim Kokaté had telephone contact with Tandor Lamkague and also saw him once in Douala.²³⁴² Joachim Kokaté also

²³³⁷ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6440-41, para. 35.

²³³⁸ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6440, para. 34, at 6441, para. 38, at 6444, para. 60.

²³³⁹ P-2673: T-041, p. 33, line 6 – p. 35, line 18.

²³⁴⁰ P-2673: T-041, p. 35, line 19 – p. 36, line 9.

²³⁴¹ P-0801: T-034, p. 56, line 9 – p. 57, line 8.

²³⁴² P-0801: T-034, p. 57, line 25 – p. 58, line 5.

called with Semdiro, who was in Yaoundé, but they did not meet, and according to Joachim Kokaté they did not discuss anything related to operations in the field or activities concerning preparations for an attack.²³⁴³ Joachim Kokaté also was in contact with Levy Yakété in Cameroon and France,²³⁴⁴ and with Kevin Kpefio in Yaoundé, a KNK youth who, according to the witness, was ‘all the time’ in contact with Mr Ngaïssona.²³⁴⁵ Joachim Kokaté also met Thierry Lengbe in France in 2013, though he did not recall if he met him in Cameroon in November 2013, but Lengbe came to Cameroon frequently.²³⁴⁶

938. P-0884 testified that he started being in contact with the people in Cameroon after his return to Bangui as of August, September, as they called him to ask what had happened in August [REDACTED].²³⁴⁷ The first person who contacted P-0884 was Bernard Mokom and later in September Mr Ngaïssona called him, as did Lamkague.²³⁴⁸ Mr Ngaïssona rang him saying [REDACTED], which caused people to get in touch with him.²³⁴⁹

939. Jean-Jacques Demafouth was part of a mission sent by Tiangaye to Congo and Cameroon.²³⁵⁰ Jean-Jacques Demafouth heard, for example, conversations in which François Bozizé contacted some European friends and asked them to help him organise the Anti-Balaka, conversations wherein he asked soldiers who had remained within the CAR to help the Anti-Balaka, and they also knew which personalities left Bangui to meet him there, such as a former minister, Kokaté, Mr Ngaïssona.²³⁵¹ The meetings took place in Bozizé’s hotel but, according to Jean-Jacques Demafouth, Mr Ngaïssona had the capacity to create an organisation to defend the regime which had just been defeated even without seeing François Bozizé.²³⁵² When the witness arrived in Cameroon, he was indeed there, and the prosecutor of Bangui was supposed to arrive in Cameroon with an arrest warrant for him and two or

²³⁴³ P-0801: T-034, p. 64, line 14 – p. 65, line 2.

²³⁴⁴ P-0801: T-034, p. 65, lines 3-7.

²³⁴⁵ P-0801: T-034, p. 65, line 12 – p. 66, line 1.

²³⁴⁶ P-0801: T-034, p. 60, lines 4-12.

²³⁴⁷ P-0884: T-055, p. 13, lines 1-5. *See also* P-0884: T-055, p. 13, line 21 – p. 14, line 21.

²³⁴⁸ P-0884: T-055, p. 13, lines 6-16. *See also* paragraph 897 above.

²³⁴⁹ P-0884: T-055, p. 20, line 20 – p. 21, line 7.

²³⁵⁰ P-2328: T-047, p. 81, line 14 – p. 82, line 11. *See* Mission order, CAR-OTP-2075-1289. The witness explained that [REDACTED] (*see* P-2328: T-046, p. 83, line 12 – p. 86, line 3).

²³⁵¹ P-2328: T-046, p. 86, lines 22-24, p. 87, lines 13-25. The Chamber notes that the English transcript mentions the name of ‘Willybiro-Sako’, whereas the French transcript provides the name of ‘Dominique Burosako’ (*see* P-2328: T-046-ENG, p. 87, line 20; T-046-FRA, p. 88, line 28).

²³⁵² P-2328: T-046-ENG, p. 88, line 17 – p. 89, line 2; T-046-FRA, p. 89, line 24 – p. 90, line 7.

three other persons.²³⁵³ At that time they knew that the Anti-Balaka were forming into a proper structure with real leaders in Cameroon.²³⁵⁴ As regards these leaders, they had been given the name of Lin Banoukepa, Mr Ngaïssona, Mokom, and some lower-rank soldiers.²³⁵⁵ They were also informed that there were meetings at the CAR embassy in Cameroon, to support the Anti-Balaka and re-organisation of the movement.²³⁵⁶ Jean-Jacques Demafouth did not know who participated, but they were told that their military attaché at the embassy in Yaoundé was organising the meeting in favour of the Anti-Balaka.²³⁵⁷

940. Nicolas Tiangaye testified that the Anti-Balaka were organised and had military leaders on the ground as well as political/financial leaders abroad, referring to François Bozizé and Mr Ngaïssona.²³⁵⁸ The witness was aware of an audio recording from beginning January 2014,²³⁵⁹ around the time at which Mr Ngaïssona returned to the CAR, intercepted by the intelligence services, in which François Bozizé gave instructions to the Anti-Balaka on actions to be undertaken, and regarding which Nicolas Tiangaye opined that one could understand that François Bozizé did not approve of the slippages and excesses committed by the Anti-Balaka, blaming them for the acts of violence against civilian populations.²³⁶⁰
941. The audio recording of this conversation, which is available to the Chamber, shows Bozizé asking what is happening, what exactly ‘they’ are doing and which mistakes they are making.²³⁶¹ Bozizé’s interlocutor states that the Sangaris asked them (‘us’) to billet elements in a single space, stay calm and not conduct military operations and that he (‘I’) transmits those messages but that once gone, ‘these children’ never respect advice.²³⁶² He continues that he had the opportunity to meet all leaders and asked them to directly give advice to their elements and ensure that it has impact, in which way ‘these children’ would be afraid and

²³⁵³ P-2328: T-046, p. 89, lines 2-7.

²³⁵⁴ P-2328: T-046, p. 89, line 7-9.

²³⁵⁵ P-2328: T-046, p. 89, lines 12-24.

²³⁵⁶ P-2328: T-047, p. 3, lines 14-18.

²³⁵⁷ P-2328: T-047, p. 3, lines 19-23.

²³⁵⁸ P-0291 Statement, CAR-OTP-2024-0036-R05, at 0054, para. 116.

²³⁵⁹ *See also* P-0291: T-051, p. 52, lines 5-8.

²³⁶⁰ P-0291 Statement, CAR-OTP-2024-0036-R05, at 0054-55, para. 117; P-0291: T-051, p. 21, line 4 – p. 22, line 9, p. 22, line 22 – p. 24, line 17.

²³⁶¹ Audio, CAR-OTP-2000-0603; Transcript, CAR-OTP-2060-0616; Translation, CAR-OTP-2060-0663, at 0665, lines 5-6.

²³⁶² Translation, CAR-OTP-2060-0663, at 0665, lines 7-11.

eventually respect advice, otherwise at this moment ‘total chaos’ (*désordre total*).²³⁶³ Bozizé says they, the leaders, need to reunite and take firm, strong measures in collaboration with the ‘whites’, that those who misbehave are to be executed, asks why they want to spoil all the good work accomplished, that they have done something great, saved their fellow citizens, and now everything is in the final phase, asks what they gain from getting themselves into trouble, that it will be said that all Seleka elements billeted and only Anti-Balaka are destroying country and that in the end instead of the Seleka it will be Anti-Balaka prosecuted at the ICC, that they (‘we’) defended them on ‘the waves’ and other media saying they were provoked by the Seleka who killed their families for which reason they revolted and now they put themselves in trouble?²³⁶⁴ He continues that the leaders need to take measures necessary to withdraw elements towards PK22 and other surrounding PK to better control them and that undisciplined elements who want to create all kinds of trouble need to be killed by Central African forces or French forces, that is the only solution.²³⁶⁵ He says that ‘we’ are following you and will return soon, but when they return it would be said to be faced with undisciplined elements, that they have to stop with this behaviour, and he does not want to hear about it anymore.²³⁶⁶ Further he says to regroup respectful and disciplined elements and those who do not want to be disciplined just have to be shot in the town concerned and it will be their problem.²³⁶⁷ He reiterates that they did something great and they should listen to their leaders, only the final phase is to be done, and that after the final conclusion they would be first ones to benefit, and yet they are in the process of ruining everything.²³⁶⁸ He says they are all children of the country and fought for the country, that they covered a distance of 100, 200, 300, 400 km before arriving and accomplishing great work for Central African people and that this must not be ruined, nothing must be destroyed, otherwise what would the international opinion think.²³⁶⁹ He reiterates to regroup elements and withdraw them far from Bangui, to take measures and discuss them with the whites from the French army, leaders of African forces to prevent any repetition of such acts; asks if they

²³⁶³ Translation, CAR-OTP-2060-0663, at 0665, lines 11-15.

²³⁶⁴ Translation, CAR-OTP-2060-0663, at 0665, lines 16-32.

²³⁶⁵ Translation, CAR-OTP-2060-0663, at 0665, lines 34-38.

²³⁶⁶ Translation, CAR-OTP-2060-0663, at 0665, lines 38-41.

²³⁶⁷ Translation, CAR-OTP-2060-0663, at 0665, lines 42-44.

²³⁶⁸ Translation, CAR-OTP-2060-0663, at 0665-66, lines 44-54.

²³⁶⁹ Translation, CAR-OTP-2060-0663, at 0666, lines 56-59.

did not leave their villages from far to Bangui for a good cause and what their reward would be if they ruin everything.²³⁷⁰ The unidentified individual informs that the following day he would have a concertation meeting with the MISCA general and members of delegations based in M’Poko, asking for advice to know what to say.²³⁷¹ Bozizé says that the main subject needs to be how interlocutors can help mastering Anti-Balaka, but for the rest that since he does not know the agenda cannot give any advice.²³⁷² He reiterates to control the Anti-Balaka and that if overwhelmed to ask Central African or French forces to organise patrols to arrest and detain them.²³⁷³

942. The Chamber disagrees with the suggestion of the Ngaïssona Defence that this audio recording does not allow the inference of François Bozizé’s involvement with the Anti-Balaka.²³⁷⁴ It is clear from the way in which François Bozizé criticised his interlocutor that he wanted the Anti-Balaka to behave in a certain way, and not another. It is equally clear that he gives clear instructions on what should be done in the situation at hand. That François Bozizé would have told Aurélien Llorca that he made the call on instruction of the US State Department to prevent further violence²³⁷⁵ does not distract from this conclusion, it rather reinforces the impression that François Bozizé held, at that time, a certain authority over the Anti-Balaka which would have put him in a position to convince them of a certain course of action.

943. P-1847 testified that the relationship between Levy Yakété and Mr Ngaïssona began in Cameroon, not in Bangui, he did not know what their relationship was in Bangui.²³⁷⁶ P-1847 was in touch with other Central Africans that had also fled the coup at the time, both in Douala and in the capital, at different times, people of different backgrounds, civil society, civilians, government, military.²³⁷⁷ The military that he met who came to Bozizé were part from the general bodyguards, one of them came with him [REDACTED].²³⁷⁸ [REDACTED]

²³⁷⁰ Translation, CAR-OTP-2060-0663, at 0666, lines 59-72.

²³⁷¹ Translation, CAR-OTP-2060-0663, at 0666, lines 73-76.

²³⁷² Translation, CAR-OTP-2060-0663, at 0666-67, lines 77-91.

²³⁷³ Translation, CAR-OTP-2060-0663, at 0667, lines 93-96.

²³⁷⁴ See [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 159.

²³⁷⁵ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0259, para. 92.

²³⁷⁶ P-1847: T-022, p. 49, lines 2-9.

²³⁷⁷ P-1847: T-022, p. 73, line 18 – p. 74, line 13.

²³⁷⁸ P-1847: T-022, p. 74, line 22 – p. 75, line 2.

brothers in arms who had stayed in the CAR, saying some were hidden on the hill at Boy-Rabe and others in Berbérati.²³⁷⁹ Vincent Wapounaba was the bodyguard of Bozizé.²³⁸⁰ Adamou Ndale was not a military, he came [REDACTED] when they were on their way to Douala.²³⁸¹ P-1847 did not encounter Yalo Danzoumi [REDACTED], when they went through P-1847 to say hello, they said they were going to see Danzoumi.²³⁸² Sani Yalo, a Central African businessman, also crossed to come to Cameroon, but P-1847 did not really know him like that.²³⁸³ [REDACTED] told P-1847 that Godonam was in permanent communication with Mr Ngaïssona and Mokom father; P-1847 was convinced they were preparing the attack of 5 December 2013.²³⁸⁴ [REDACTED] also told P-1847 that Mr Ngaïssona and Mokom father were a lot in contact with chief sergeant Dedane, who was on the ground in Bossangoa; Serefio lived in Yaoundé but was constantly in contact with Mr Ngaïssona and Mokom father; they often met at the Golf residence of Bozizé.²³⁸⁵

944. P-0876 commented on a number of emails he exchanged with others at the relevant time. In an email of 2 July 2013 sent to '[REDACTED]', P-0876 asked for the addressee's phone number.²³⁸⁶ P-0876 explained that he wanted to meet Levy Yakété, but the latter was extremely cautious and it took a while before he answered.²³⁸⁷ Given Yakété's high level of involvement, and P-0876 already thinking of going to Bangui, he still thought that if he could talk with the leaders from Paris and convince them to abstain from going down the path of war, he could have spared him the trip, but Yakété never wanted to meet.²³⁸⁸

945. In an email of 14 September 2013 sent to '[REDACTED]',²³⁸⁹ P-0876 mentions that work progresses well [REDACTED], whereas '[REDACTED]'.²³⁹⁰ He further asks for everyone's

²³⁷⁹ P-1847 Second Statement, CAR-OTP-2122-8251-R01, at 8254, para. 27.

²³⁸⁰ P-1847: T-022, p. 75, lines 3-4.

²³⁸¹ P-1847: T-022, p. 75, lines 5-12.

²³⁸² P-1847: T-022, p. 75, lines 13-16.

²³⁸³ P-1847: T-022, p. 75, lines 17-25.

²³⁸⁴ P-1847 Second Statement, CAR-OTP-2122-8251-R01, at 8254, para. 28.

²³⁸⁵ P-1847 Second Statement, CAR-OTP-2122-8251-R01, at 8254-55, para. 28.

²³⁸⁶ Email, CAR-OTP-2084-0605, at 0605.

²³⁸⁷ P-0876: T-085, p. 17, lines 11-24.

²³⁸⁸ P-0876: T-085, p. 17, line 25 – p. 18, line 7.

²³⁸⁹ The Chamber notes that this account is, in other emails, linked to the name [REDACTED] (*see e.g.*, Email, CAR-OTP-2084-1000, at 1000).

²³⁹⁰ Email, CAR-OTP-2084-1046, at 1046.

contribution '[REDACTED]'.²³⁹¹ The Chamber notes the explanation provided by P-0876 and considers it does not stand against the text of the email read by itself, as well as within the context of other evidence before the Chamber. First, P-0876 stated that [REDACTED] elements mentioned were French troops in Bangui,²³⁹² whereas later stating that these were FACA who remained in Bangui, many of whom had fled.²³⁹³ The email itself makes clear that [REDACTED] refers to 'FACA' [REDACTED] and that contribution was sought to put these elements at ease as operations were planned for the end of the month. This, in turn, makes clear that the email would not have been concerned about French troops [REDACTED].²³⁹⁴ It is similarly unlikely, given the widespread information available at the time about self-defence groups forming and Anti-Balaka attacks in the provinces starting by early September 2013,²³⁹⁵ that P-0876 would not yet have been aware of the Anti-Balaka at the time of this email.²³⁹⁶ Further, it appears illogical for the email to state that contributions are needed to put the elements at ease, if the money for SIM cards and credit would indeed have been for exclusively young people [REDACTED].²³⁹⁷

946. This email was followed by a further message on 23 September 2013, which mentions waiting for reinforcement from Boali, and states that the 'children' wait for being given communication credit, and if they had this, they could provide real-time information.²³⁹⁸ It also mentions FACA mobilising 'day and night' for the operations.²³⁹⁹ Bearing in mind the considerations above, the Chamber does not consider P-0876's explanation that the reinforcement would concern French forces to coincide with the actual content of the message.²⁴⁰⁰

²³⁹¹ Email, CAR-OTP-2084-1046, at 1046.

²³⁹² P-0876: T-085, p. 18, line 8 – p. 19, line 5.

²³⁹³ P-0876: T-085, p. 19, line 24 – p. 20, line 8.

²³⁹⁴ See P-0876: T-085, p. 18, line 8 – p. 19, line 5.

²³⁹⁵ See sections IV.A.4, IV.A.6 below.

²³⁹⁶ See P-0876: T-085, p. 19, lines 6-10.

²³⁹⁷ See P-0876: T-085, p. 19, lines 11-23.

²³⁹⁸ Email, CAR-OTP-2084-0912, at 0912.

²³⁹⁹ Email, CAR-OTP-2084-0912, at 0912.

²⁴⁰⁰ See P-0876: T-085, p. 21, line 5 – p. 22, line 2.

947. P-0876 further exchanged with '[REDACTED]' in the context [REDACTED] to demand the resignation of Djotodia, but people started being afraid of the possible Seleka reactions.²⁴⁰¹
948. Also P-2841 testified that many people fled but kept contacts in Bangui, during this time Anti-Balaka – both civilians and military – found it quite easy to organise, a little at a time, both in the provinces and in Bangui, through phone communication and messages.²⁴⁰² According to P-2841, the telephone network is quite reliable but variable, and people use it ordinarily; not all provinces have network coverage, but there are areas where antennas might be used and then connectivity is established.²⁴⁰³ P-2841 stated that when Michel Djotodia came to power, many people fled Bangui, including many [REDACTED] with whom he stayed in touch; he was in touch with Central Africans who had left for Brazzaville, Chad and Cameroon.²⁴⁰⁴ He received information about what was happening on the ground from [REDACTED] many others.²⁴⁰⁵ P-2841 was not in contact with Mr Ngaïssona while the latter was in Cameroon.²⁴⁰⁶ P-2841 was in contact with [REDACTED] who thought P-2841 was well placed in case he wanted to ask something about events in the CAR, as P-2841 obtained a lot of information from many people, including groups of friends, military, civilians, colleagues and [REDACTED] was a good source of information as he [REDACTED] was in contact with the Seleka's military hierarchy.²⁴⁰⁷ P-2841 agreed that in hindsight, some of the information he exchanged or received turned out to be false,²⁴⁰⁸ and that a lot was not always verified, but he also stated that one cross-checked information with someone within the network to see what it was worth.²⁴⁰⁹

²⁴⁰¹ P-0876: T-085, p. 22, line 25 – p. 24, line 6. See Emails, CAR-OTP-2084-1003; CAR-OTP-2084-1045; Document, CAR-OTP-2084-1005.

²⁴⁰² P-2841 Statement, CAR-OTP-2127-4238-R01, at 4273, para. 192.

²⁴⁰³ P-2841: T-029, p. 70, lines 8-15.

²⁴⁰⁴ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4242, para. 21.

²⁴⁰⁵ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4243, para. 29, at 4245, para. 39; P-2841: T-029, p. 10, line 24 – p. 11, line 13.

²⁴⁰⁶ P-2841: T-030, p. 12, lines 14-18.

²⁴⁰⁷ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4251-52, para. 76; P-2841: T-030, p. 10, lines 1-8.

²⁴⁰⁸ P-2841: T-029, p. 70, line 25 – p. 71, line 16. See also P-2841: T-030, p. 10, lines 9-12.

²⁴⁰⁹ P-2841: T-030, p. 9, line 15 – p. 10, line 8.

949. In addition, the Chamber has received a significant amount of Facebook messenger exchanges. As outlined above,²⁴¹⁰ the Chamber has treated this evidence with caution and assessed it specifically in the context of other evidence before it, including that provided by witnesses. To the extent the Chamber has considered such evidence in the context of its holistic assessment of the evidence before it, it notes the evidence of P-2843,²⁴¹¹ P-2673,²⁴¹² P-2841,²⁴¹³ D30-4848²⁴¹⁴ and P-1719,²⁴¹⁵ which gives further context to some individuals exchanging messages who testified before the Chamber.

950. In the view of the Chamber, the evidence as outlined above shows that individuals in Cameroon communicated with each other as well as with other persons in different countries with ease, sharing information online or in person, in the period before December 2013, about the events and activities in the CAR.

ii. DRC (Zongo)

951. In addition to various individuals seeking refuge in Cameroon as outlined above, the Chamber has heard evidence on persons, including in particular those that would become involved in efforts to fight against the Seleka, crossing to the DRC, specifically Zongo, located just across from Bangui on the other side of the Oubangui river. Several witnesses testified about crossing the river to Zongo, the groups and individuals present there, and their contacts among each other or with other groups and individuals in other locations.

²⁴¹⁰ See section III.B.1.i above.

²⁴¹¹ P-2843: T-073, p. 34, lines 2-10, p. 34, lines 16-19, p. 36, line 2 – p. 37, line 10.

²⁴¹² P-2673 Statement, CAR-OTP-2127-6435-R01, at 6440, para. 32, at 6441, paras 39-40, at 6442, para. 43, at 6454, para. 122, at 6459, para. 158; P-2673: T-042, p. 44, line 10 – p. 45, line 17.

²⁴¹³ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4257, para. 113; P-2841: T-029, p. 76, lines 16-23. *See also* P-2841: T-029, p. 74, line 6 – p. 78, line 23 [REDACTED].

²⁴¹⁴ D30-4848: T-296, p. 44, lines 6-10, p. 44, line 17 – p. 45, line 1, p. 45, line 19 – p. 50, line 10, p. 58, line 9 – p. 59, line 18.

²⁴¹⁵ P-1719: T-141, p. 48, line 19 – p. 49, line 13, p. 60, line 17 – p. 63, line 9, p. 67, lines 1-4; T-142, p. 6, line 13 – p. 7, line 5; T-144, p. 4, line 9 – p. 9, line 3, p. 28, lines 2-10; T-144-ENG, p. 11, lines 8-19, p. 12, line 11 – p. 14, line 15; T-144-FRA, p. 10, line 27 – p. 11, line 11.

a. Individuals in Zongo

952. Mr Yekatom was one of the individuals who crossed to Zongo in the months following the Seleka takeover.²⁴¹⁶ The Chamber notes in this regard the suggestion that Maxime Mokom would have been at the origin of the arrest of Mr Yekatom,²⁴¹⁷ leading to animosity between the two, which is further addressed below. Of relevance in the current context is that Mr Yekatom did cross to Zongo at some point during the Seleka regime, and some time thereafter returned to the CAR.²⁴¹⁸
953. Thierry Tribunal Ndokobanda was another individual crossing the river to Zongo, likely in September 2013.²⁴¹⁹ He had heard that he was accused by Michel Djotodia as having been responsible, alongside Eugène Ngaikosset and Hervé Ganazoui who both worked at the PG, for a detonation planned to disrupt Michel Djotodia's oath-taking ceremony.²⁴²⁰ The witness crossed the river in a canoe sent by Hervé Ganazoui and paid for by himself, with two others, both military.²⁴²¹
954. P-2232 described [REDACTED].²⁴²² P-2232 [REDACTED].²⁴²³ When Hervé Ganazoui returned to Zongo, Maxime Mokom and Claude Ngaikosset were both there, after Mr

²⁴¹⁶ See P-0884: T-054, p. 53, lines 11-24, p. 54, line 22 – p. 55, line 1; T-057, p. 65, line 16 – p. 66, line 24, p. 76, line 16 – p. 77, line 3; P-2232: T-079, p. 12, lines 15-20; P-0889 Interview Transcripts, CAR-OTP-2122-7653-R02, at 7659-60, lines 202-257; CAR-OTP-2122-8036-R02, at 8037-38, lines 26-48.

²⁴¹⁷ See P-0884: T-055, p. 77, lines 14-20; P-0888 First Statement, CAR-OTP-2031-0217-R03, at 0222, para. 31; P-0888: T-120, p. 21, lines 16-21, p. 23, lines 13-19, p. 23, line 23 – p. 24, line 1. See also Video, CAR-OTP-2065-2348; Transcript, CAR-D29-0006-1178.

²⁴¹⁸ See also paragraphs 2411-2426 below.

²⁴¹⁹ P-1172 First Statement, CAR-OTP-2046-1003-R03, at 1011, paras 71, 74; P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1060-61, para. 15. See also P-2232: T-075, p. 27, lines 7-20, p. 28, line 8 – p. 29, line 2, p. 50, lines 19-22.

²⁴²⁰ P-1172 First Statement, CAR-OTP-2046-1003-R03, at 1011, paras 72-73; P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1060, paras 12-14. See also P-2232: T-075, p. 31, line 10 – p. 33, line 5 (the witness described that Claude Ngaikosset, Maxime Mokom and Hervé Ganazoui aimed at disrupting the swearing-in ceremony of Michel Djotodia by Hervé Ganazoui placing mortars from Kossi at the Boy-Rabe market; Ganazoui then returned to Zongo [REDACTED]). The Chamber notes that the swearing-in ceremony took place in August 2013 (see Press article, CAR-D29-0002-0078).

²⁴²¹ P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1061, paras 16-17.

²⁴²² P-2232: T-075, p. 26, lines 5-15. See also P-0889 Interview Transcript, CAR-OTP-2122-7653-R02, at 7662-63, lines 318-352; P-0889: T-108, p. 36, lines 5-6 (the witness mentioned that all of Bozizé's sons were in Kinshasa and went through Zongo [REDACTED]).

²⁴²³ P-2232: T-079, p. 10, lines 5-11.

Yekatom's arrival in Zongo there was Habib Beina, and later Ngaikosset was taken to Kinshasa, so they were in Zongo with Mokom, Dokabona, Sami Bawa and others.²⁴²⁴

955. Brice Emotion Namsio fled to Zongo in early September 2013, after the Seleka had attacked Boy-Rabe on 20 August 2013, and stayed there until November 2013.²⁴²⁵
956. P-0889 crossed the Oubangui river by boat to the DRC one week after the attack on his house [REDACTED] because he was afraid the Seleka might return to kill him, registered, and went to Mole refugee camp.²⁴²⁶
957. P-1839 [REDACTED].²⁴²⁷ According to P-1839, it was difficult to cross the river because there were Seleka at the port, though it was possible to cross from Hotel Oubangui as there was no Seleka position or post at the cement factory.²⁴²⁸
958. The evidence before the Chamber as outlined below shows that a variety of individuals fled to Zongo, in addition to civilians also, and in particular, members of the defence and security forces close to François Bozizé. Specifically, in addition to Mr Yekatom and the persons describing their crossing the Oubangui river to Zongo above, the persons in Zongo for certain periods at the relevant time included, *inter alia*, Maxime Mokom,²⁴²⁹ brothers Claude and

²⁴²⁴ P-2232: T-075, p. 33, line 6 – p. 34, line 4.

²⁴²⁵ P-0446 Interview Transcripts, CAR-OTP-2059-1433-R01, at 1444-45, lines 426-457; CAR-OTP-2059-1626-R01, at 1638, lines 445-454; CAR-OTP-2105-0523-R01, at 0538-39, lines 516-566; CAR-OTP-2105-0542-R02, at 0554-55, lines 400-433. *See also* P-2232: T-079, p. 10, lines 16-21 (the witness stated that Émotion Namsio crossed over when the Seleka attacked Boy-Rabe); P-0889 Statement, CAR-OTP-2027-2290-R02, at 2294, para. 27 (the witness stated that Émotion Namsio arrived to Zongo [REDACTED] and stayed two and a half or three months before returning to the CAR); P-0889 Interview Transcript, CAR-OTP-2122-7740-R02, at 7742, lines 41-55; P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0022, para. 66.

²⁴²⁶ P-0889 Statement, CAR-OTP-2027-2290-R02, at 2294, para. 27; P-0889 Interview Transcripts, CAR-OTP-2122-7517-R02, at 7534-35, lines 697-711; CAR-OTP-2122-7554-R02, at 7566-69, lines 464-594. *See also* P-0446 Interview Transcript, CAR-OTP-2059-1626-R01, at 1639-40, lines 497-510.

²⁴²⁷ P-1839: T-172, p. 17, line 25 – p. 18, line 10.

²⁴²⁸ P-1839: T-172, p. 18, line 17 – p. 19, line 5. *See also* Satellite image, CAR-D29-0003-0026; P-1839: T-172, p. 19, line 24 – p. 20, line 13 (the witness did not cross at the cement factory, but just opposite the French embassy), p. 20, lines 14-21 (the witness did not agree with the suggestion that there was a strong Seleka presence at the river, but there were a certain number of Seleka where she usually crossed).

²⁴²⁹ P-2232: T-075, p. 26, lines 20-24; T-079, p. 13, lines 1-7; P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1061, para. 18, at 1062, para. 22; P-2269 Statement, CAR-OTP-2111-0336-R01, at 0340, para. 26; P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0022, para. 66; P-0446: T-096, p. 22, line 17 – p. 23, line 6.

Eugène Ngaikosset,²⁴³⁰ with the latter at one point being transferred to Kinshasa;²⁴³¹ Hervé Ganazoui;²⁴³² Freddy Ouandjio, also known as ‘Cœur de Lion’, living in the same house as Satan;²⁴³³ Abel Denamganai;²⁴³⁴ P-2269;²⁴³⁵ brothers Aristide and Habib Beina;²⁴³⁶ Eusèbe Emtenou;²⁴³⁷ Bruno Semdiro;²⁴³⁸ Ngafou, a corporal from the PG;²⁴³⁹ Lieutenant Dokabona;²⁴⁴⁰ Thierry Tribunal;²⁴⁴¹ Samy Urbain;²⁴⁴² Florent Dokabona.²⁴⁴³ P-0889 did not hear of Sani and Dazoumi Yalo being in Zongo.²⁴⁴⁴ Brice Emotion Namsio also met ‘Junior’ and ‘Judicael’,²⁴⁴⁵ while P-0889 mentioned Eric, Juvenal and Junior Tounougouma.²⁴⁴⁶

²⁴³⁰ P-2232: T-075, p. 26, line 18 – p. 27, line 6; P-2269 Statement, CAR-OTP-2111-0336-R01, at 0340, para. 26; P-0446 Interview Transcript, CAR-OTP-2059-1626-R01, at 1639, lines 482-486; CAR-OTP-2059-1648-R01, at 1651, lines 81-89; P-0446: T-096, p. 23, line 24 – p. 24, line 1; P-0446: T-096, p. 22, line 17 – p. 23, line 6; P-0888: T-120, p. 24, lines 5-15 (the witness thought that Claude Ngaikosset was in Zongo, but not Eugène, which can be explained by (i) the witness not having been in Zongo himself, and (ii) Eugène, from other evidence available, clearly having left Zongo at some point); P-0889: T-108, p. 34, line 23 – p. 35, line 1.

²⁴³¹ P-2232: T-075, p. 26, lines 15-17, p. 29, lines 17-25; P-0446 Interview Transcript, CAR-OTP-2059-1626-R01, at 1638-39, lines 455-480.

²⁴³² P-2232: T-075, p. 27, lines 7-20, p. 28, line 8 – p. 29, line 2, p. 50, lines 19-22; P-2269 Statement, CAR-OTP-2111-0336-R01, at 0340, para. 26; P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0057, para. 47; P-0446 Interview Transcript, CAR-OTP-2059-1626-R01, at 1639-40, lines 497-510; P-0446: T-096, p. 22, line 17 – p. 23, line 6; P-0889 Interview Transcript, CAR-OTP-2122-7740-R02, at 7744, lines 111-114; P-1339: T-151, p. 31, lines 6-9.

²⁴³³ P-2232: T-075, p. 39, lines 2-5; P-0888: T-120, p. 29, lines 13-17 (the witness stated that Freddy Ouandjio was also in Zongo and was deputy to Mr Yekatom before Habib).

²⁴³⁴ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0340, para. 26; P-0446 Interview Transcript, CAR-OTP-2059-1626-R01, at 1639-40, lines 497-510; P-0889 Interview Transcript, CAR-OTP-2122-7740-R02, at 7743-44, lines 78-110.

²⁴³⁵ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0339, para. 23, at 0339-40, para. 25. The Chamber notes that the refugee registration card which P-2269 provided indicates a date of arrival of [REDACTED] March 2013, and date of registration of [REDACTED] July 2013 (see Card, CAR-OTP-2111-0364).

²⁴³⁶ P-0888: T-120, p. 20, lines 17-25, p. 21, lines 5-11, p. 22, lines 15-17; P-0888 First Statement, CAR-OTP-2031-0217-R03, at 0222, para. 30; P-0888: T-120, p. 20, line 21 – p. 21, line 12.

²⁴³⁷ P-2232: T-075, p. 27, lines 7-20, p. 28, line 8 – p. 29, line 2, p. 50, lines 19-22; P-0446: T-096, p. 30, lines 3-11; P-0889 Interview Transcript, CAR-OTP-2122-7740-R02, at 7745-46, lines 171-183.

²⁴³⁸ P-2232: T-075, p. 27, lines 7-20, p. 28, line 8 – p. 29, line 2, p. 50, lines 19-22; P-0446: T-096, p. 30, lines 3-11; P-1339: T-151, p. 31, lines 22-23.

²⁴³⁹ P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1061, para. 18, at 1062, para. 21.

²⁴⁴⁰ P-0446 Interview Transcript, CAR-OTP-2059-1626-R01, at 1639-40, lines 497-510.

²⁴⁴¹ P-0889 Interview Transcript, CAR-OTP-2122-7740-R02, at 7745, lines 146-156; P-1339: T-151, p. 31, lines 22-23.

²⁴⁴² P-0889 Interview Transcript, CAR-OTP-2122-7740-R02, at 7745, lines 158-168.

²⁴⁴³ P-1339: T-151, p. 31, lines 22-23; P-2232: T-075, p. 27, lines 1-20.

²⁴⁴⁴ P-0889 Interview Transcript, CAR-OTP-2122-7740-R02, at 7742-43, lines 69-77, at 7744, lines 115-131.

²⁴⁴⁵ P-0446: T-096, p. 31, lines 4-21.

²⁴⁴⁶ P-0889 Interview Transcript, CAR-OTP-2122-7746-R02, at 7746, lines 193-210; P-0889: T-108, p. 40, lines 6-18.

959. P-2050 visited Mole IDP camp in February 2014 and when crossing the Oubangui river to Bangui, [REDACTED] explained to her how he helped Bozizé's wife and family crossing the river to Zongo when they fled at the time of the coup.²⁴⁴⁷

960. It appears that other than civilians, including also members of François Bozizé's party KNK,²⁴⁴⁸ in particular members of the FACA and PG found themselves in Zongo.²⁴⁴⁹ In this regard, the Chamber notes the testimony of P-0876, who stated that the group in Zongo was '*le plus dur*', 80% of Bozizé's PG.²⁴⁵⁰ The majority of the PG had crossed over following the coup.²⁴⁵¹

b. Communication and coordination within and across borders

961. The evidence before the Chamber as outlined below shows that Maxime Mokom, while in Zongo, liaised with individuals and their groups in the provinces, as well as with his father Bernard Mokom and other individuals based at the time in Cameroon with a view to coordinating steps taken in response to the violence of the Seleka and bringing François Bozizé back to power. Following Michel Djotodia's resignation in 2014, and as the structure of the Anti-Balaka became more formalised, Maxime Mokom was appointed as operations coordinator of the movement.²⁴⁵²

962. Specifically, P-2232 testified that Maxime Mokom, Mr Ngaïssona and Claude Ngaikosset knew each other before in Bangui because they all worked under François Bozizé, and Ngaikosset and Mr Ngaïssona lived in the 4th arrondissement.²⁴⁵³ P-2232 confirmed that Claude Ngaikosset and Maxime Mokom were close and belonged to the same family.²⁴⁵⁴ Maxime Mokom was in a way the leader of all those who found themselves in Zongo, after

²⁴⁴⁷ P-2050 Statement, CAR-OTP-2076-0911-R02, at 0926, para. 86, at 0927, para. 88.

²⁴⁴⁸ P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1062, para. 23.

²⁴⁴⁹ P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1062, para. 23; P-0889 Statement, CAR-OTP-2027-2290-R02, at 2294, para. 27.

²⁴⁵⁰ P-0876 Interview Transcript, CAR-OTP-2046-0267-R01, at 0280-81, lines 493-521.

²⁴⁵¹ P-0876 Interview Transcript, CAR-OTP-2046-0370-R01, at 0375, lines 157-163. The witness stated that he himself crossed back and forth [REDACTED] (see P-0876 Interview Transcript, CAR-OTP-2046-0346-R01, at 0368-69, lines 838-852; CAR-OTP-2046-0370-R01, at 0371-72, lines 16-58; P-0876 Corrections, CAR-OTP-2135-1449, at 1455-56; P-0876: T-085, p. 7, lines 4-13, p. 11, lines 1-18).

²⁴⁵² See section IV.A.7.iii.a below.

²⁴⁵³ P-2232: T-075-ENG, p. 36, lines 16-23; T-075-FRA, p. 36, lines 6-16.

²⁴⁵⁴ P-2232: T-079, p. 10, line 22 – p. 11, line 1.

Ngaikosset's departure to Kinshasa he was like the supervisor of everyone [REDACTED].²⁴⁵⁵ Before Claude Ngaikosset was transferred to Kinshasa, he used to be in charge of publishing tracts that denounced Seleka's activities; he was subsequently arrested by the DRC [REDACTED] and brought to Kinshasa.²⁴⁵⁶

963. P-2232 described [REDACTED] having contacts with people in Bangui and those outside the country, which was how he led the operation.²⁴⁵⁷ During the preparatory phase for the attack of 5 December, he sent for those who were on the other side of the river to coordinate the activities, bringing in officers to lead those who were not soldiers.²⁴⁵⁸ Each group had a ComZone,²⁴⁵⁹ and [REDACTED] worked in collaboration with them to coordinate the operations all the way to the suburbs of Bangui, which was the time that those from the other side of the river joined them to carry out the attack of 5 December.²⁴⁶⁰ [REDACTED].²⁴⁶¹ Maxime Mokom was always in touch with [REDACTED] father, providing them with information; if they had not had these reports, they could not do the coordination, and that is also why Maxime Mokom remained coordinator of operations when he returned to Bangui and his father was advisor.²⁴⁶²
964. P-2232 [REDACTED] a notebook recording individuals which, according to P-2232 mostly reflected ComZones who were always in contact with [REDACTED], reporting on what was happening on the ground, he would call them to give instructions.²⁴⁶³ [REDACTED].²⁴⁶⁴ For example, sometimes he asked about practical measures to be taken before an attack, about

²⁴⁵⁵ P-2232: T-075, p. 39, lines 13-22.

²⁴⁵⁶ P-2232: T-078, p. 28, line 18 – p. 29, line 8.

²⁴⁵⁷ P-2232: T-075, p. 72, line 24 – p. 73, line 11.

²⁴⁵⁸ P-2232: T-075, p. 72, line 24 – p. 73, line 11.

²⁴⁵⁹ P-2232: T-078, p. 42, line 20 – p. 43, line 4.

²⁴⁶⁰ P-2232: T-075, p. 73, lines 12-20.

²⁴⁶¹ P-2232: T-076, p. 7, lines 11-13.

²⁴⁶² P-2232: T-076, p. 11, lines 5-9, p. 19, line 10 – p. 20, line 11.

²⁴⁶³ P-2232: T-076, p. 46, lines 11-20. *See* Notebook, CAR-OTP-2100-2602 [REDACTED]. The Chamber notes the Ngaïssona Defence's argument that the reliability and probative value of the notebook are 'questionable' in light of the ambiguity as to who the author of the notebook is (*see* Annex C to Ngaïssona Defence Response to 'Prosecution's submission of call data records and related evidence via the "bar table"' (ICC-01/14-01/18-1296), 13 May 2022, ICC-01/14-01/18-1409-Conf-AnxC, p. 96). P-0446 initially stated that he would have written parts of this notebook (*see* P-0446: T-096, p. 24, line 25 – p. 28, line 3). However, he later clarified that he had in fact not written anything in this notebook (*see* P-0446: T-096, p. 56, line 25 – p. 61, line 2). Considering this clarification, and on the basis of P-2232's testimony as to [REDACTED] of this notebook (*see* P-2232: T-076, p. 22, line 20 – p. 24, line 5), the Chamber considers that no ambiguity remains which would put into doubt the reliability or probative value of this notebook.

²⁴⁶⁴ P-2232: T-076, p. 46, lines 11-20.

the ammunition available, provided guidance, could instruct to attack only armed and not unarmed persons – for the Anti-Balaka, anything that was Muslim was a target, that is how a lot of damage was caused on the ground.²⁴⁶⁵ Maxime had phone contacts with Andjilo on the ground on a very regular basis ever since they were in the bush right up to 5 December 2013,²⁴⁶⁶ they coordinated the operations together.²⁴⁶⁷ P-2232 thought had there not been good collaboration and understanding between them, Andjilo would not have travelled hundreds of kilometres.²⁴⁶⁸ In 2013, the Orange network functioned very well in the CAR, in Zongo there was no communication problem because all the networks were functional, practically all the Bangui networks were functional.²⁴⁶⁹ Ngremangou was in Bangui behind the airport, used to communicate with Mokom and was also in charge of military operations.²⁴⁷⁰ ‘Ndali’, a native from Bouar, was from time to time in touch with Mokom, P-2232 did not know if Mokom gave him orders.²⁴⁷¹

965. P-0889 got to know Maxime [REDACTED].²⁴⁷² [REDACTED].²⁴⁷³ P-0889 thought Mokom and Namsio also met in Zongo, although he did not think Namsio knew the role Mokom had in the Anti-Balaka.²⁴⁷⁴

966. P-0889 stated that Maxime Mokom had a family member, a marabout, who distributed all the *gris-gris* to the Anti-Balaka leaders, and this marabout gave him the contact of Dedan Danboy, an Anti-Balaka ComZone, who then put Mokom in touch with the other Anti-Balaka leaders.²⁴⁷⁵ P-0889 further said that Achille Godonam, a Gbaya from Bossangoa, [REDACTED], gathering the numbers of most of these youth in the villages.²⁴⁷⁶ In this context, Maxime Mokom started instilling in them the idea that they had to chase out the

²⁴⁶⁵ P-2232: T-076, p. 46, line 22 – p. 47, line 5.

²⁴⁶⁶ P-2232: T-078, p. 23, line 19 – p. 24, line 12.

²⁴⁶⁷ P-2232: T-078, p. 25, lines 12-19.

²⁴⁶⁸ P-2232: T-078, p. 24, line 24 – p. 25, line 7.

²⁴⁶⁹ P-2232: T-078, p. 26, lines 6-20.

²⁴⁷⁰ P-2232: T-078, p. 30, lines 8-14.

²⁴⁷¹ P-2232: T-078, p. 30, lines 15-24.

²⁴⁷² P-0889 Interview Transcripts, CAR-OTP-2122-7554-R02, at 7569-70, lines 610-641; CAR-OTP-2122-7600-R02, at 7610-11, lines 356-407.

²⁴⁷³ P-0889 Interview Transcripts, CAR-OTP-2122-7554-R02, at 7570, lines 641-647; CAR-OTP-2122-7600-R02, at 7611, lines 402-419.

²⁴⁷⁴ P-0889 Statement, CAR-OTP-2027-2290-R02, at 2294-95, paras 28-29.

²⁴⁷⁵ P-0889 Statement, CAR-OTP-2027-2290-R02, at 2295, para. 30.

²⁴⁷⁶ P-0889 Interview Transcripts, CAR-OTP-2122-7740-R02, at 7748, lines 254-268, at 7749, lines 297-300; CAR-OTP-2122-7600-R02, at 7611-12, lines 425-447.

Seleka.²⁴⁷⁷ Mokom led the Anti-Balaka via telephone and was in permanent contact with the Anti-Balaka leaders in the CAR; he had set up information cells in the CAR and was informed when the Seleka left a certain road or which numbers of vehicles they would take to get somewhere; youth called him to warn him of the Seleka movements.²⁴⁷⁸ Mokom was constantly on the phone, all the leaders called him, every morning, [REDACTED].²⁴⁷⁹ Things started being structured.²⁴⁸⁰ [REDACTED].²⁴⁸¹ Mokom would enquire about headcount, tell groups where to go and which other groups to assist, with them chasing Seleka from one village after the other and advancing towards Bangui.²⁴⁸² At the very beginning, when people started out in villages including Bossangoa, Zere, Ouham-Bac, Bouca, Benzambe, Maxime Mokom was not in contact with them, [REDACTED] put them in touch once they defended their villages.²⁴⁸³ The Anti-Balaka leaders in contact with Mokom while they were in Zongo were Mokpem Guy-Gervais, Mazimbele, Ngaïbona Rodrigue ‘Andilo’, Ngaïbona Dieudonné (younger brother of Andilo), Dedane Danboy, Yagouzou Sylvestre, Florent Kema, Ndangba Théophile, Lebene Thierry ‘Douze Puissances’, Ouapoutou Benjamin, Mandago Alexis aka Sol-Sol, Aforo, Ouabiro Dan Jobrice, Zonie Alain, Konate Yvon, Beorofei Sylvain, Mahamat Hissen, Yapele Chrysostone ‘Chikichiki’, Godonam Achille, Dede Alexandre, Hyppolite Azounou Côme [REDACTED].²⁴⁸⁴ P-0889 also recalled Richard, Thibaut Kpa, an Anti-Balaka leader in Bossangoa, Romain Feindiri, and Constant Mahani, an Anti-Balaka leader in Damara or Bossembélé, among the contacts of Maxime Mokom while in Zongo.²⁴⁸⁵ P-0889 [REDACTED] Bernard Mokom, telling him that he had established contact with the youth

²⁴⁷⁷ P-0889 Interview Transcript, CAR-OTP-2122-7600-R02, at 7612, lines 447-452.

²⁴⁷⁸ P-0889 Statement, CAR-OTP-2027-2290-R02, at 2295, para. 31.

²⁴⁷⁹ P-0889 Statement, CAR-OTP-2027-2290-R02, at 2295, para. 32; P-0889 Interview Transcript, CAR-OTP-2122-7600-R02, at 7612, lines 453-456.

²⁴⁸⁰ P-0889 Interview Transcript, CAR-OTP-2122-7600-R02, at 7612, lines 454-457.

²⁴⁸¹ P-0889 Interview Transcript, CAR-OTP-2122-7600-R02, at 7621-22, lines 840-843.

²⁴⁸² P-0889 Interview Transcripts, CAR-OTP-2122-7600-R02, at 7612, lines 456-461, at 7614-15, lines 560-580; CAR-OTP-2122-7626-R02, at 7628, lines 42-58.

²⁴⁸³ P-0889 Interview Transcript, CAR-OTP-2122-7962-R02, at 7967-68, lines 171-214.

²⁴⁸⁴ P-0889 Statement, CAR-OTP-2027-2290-R02, at 2295-96, para. 34; P-0889 Interview Transcripts, CAR-OTP-2122-7740-R02, at 7748-51, lines 270-373, at 7754-55, lines 468-493; CAR-OTP-2122-7962-R02, at 7970-72, lines 286-374.

²⁴⁸⁵ P-0889 Interview Transcript, CAR-OTP-2122-7740-R02, at 7748, lines 273-278, at 7749-51, lines 301-374, at 7752-53, lines 396-417.

that defended their villages.²⁴⁸⁶ Two lieutenants spent time or spoke with Maxime Mokom in Zongo, Tribunal and Dokabona, as did Émotion Brice Namsio, [REDACTED].²⁴⁸⁷ Maxime Mokom often sent telephone credit to the Anti-Balaka leaders in the provinces, [REDACTED].²⁴⁸⁸

967. Brice Emotion Namsio stated that while following the formation of self-defence groups in the hinterland on the radio, Maxime Mokom was in constant contact with those in the hinterland, communicating with them.²⁴⁸⁹ In November 2013, they heard that those in the hinterland who had left for Bangui, to attack the Seleka and defend the country, had reached the hill behind Boy-Rabe and the witness crossed back over from Zongo to defend the country.²⁴⁹⁰ There were no Anti-Balaka activities at Zongo yet, but Brice Emotion Namsio would not have known what was happening when he was not yet there.²⁴⁹¹ Maxime Mokom coordinated the operations conducted by those in the hinterland, from Batangafo, Bossangoa, to descend to Bangui, through telephone.²⁴⁹² Mokom sometimes called Andjilo, sometimes other leaders who were in areas with network, to say there were other coordinations there.²⁴⁹³ According to the witness, he was told while staying for a week with Lt Denamganai that all Central Africans coming to Zongo were also registered to have an eye on them, and the witness went twice to Claude Ngaikosse to do so, but without success.²⁴⁹⁴ Maxime Mokom was police, there were FACA and also civilians living in the same houses, and they at times said that Maxime Mokom had told them that Andjilo was in this place, Douze Puissances in that place.²⁴⁹⁵ Maxime Mokom had three telephones on hand and was very often with Judicael Ezz, and through them Brice Emotion Namsio got to know that something was happening, Maxime Mokom also was the one who said that Andjilo and others had got to

²⁴⁸⁶ P-0889 Interview Transcripts, CAR-OTP-2122-7600-R02, at 7619-21, lines 753-839; CAR-OTP-2122-7626-R02, at 7647, lines 824-838; P-0889: T-109, p. 21, line 5 – p. 22, line 4.

²⁴⁸⁷ P-0889 Interview Transcript, CAR-OTP-2122-7653-R02, at 7654-56, lines 29-83.

²⁴⁸⁸ P-0889 Interview Transcript, CAR-OTP-2122-7962-R02, at 7979-83, lines 622-775.

²⁴⁸⁹ P-0446 Interview Transcript, CAR-OTP-2059-1433-R01, at 1445, lines 460-468; CAR-OTP-2059-1498-R02, at 1517, lines 707-711, at 1518, lines 741-748.

²⁴⁹⁰ P-0446 Interview Transcript, CAR-OTP-2059-1433-R01, at 1445-46, lines 468-473.

²⁴⁹¹ P-0446 Interview Transcript, CAR-OTP-2059-1626-R01, at 1640, lines 518-526.

²⁴⁹² P-0446 Interview Transcript, CAR-OTP-2059-1626-R01, at 1640-41, lines 532-576.

²⁴⁹³ P-0446 Interview Transcript, CAR-OTP-2059-1626-R01, at 1642, lines 588-595.

²⁴⁹⁴ P-0446 Interview Transcript, CAR-OTP-2059-1626-R01, at 1642, lines 596-618; CAR-OTP-2059-1648-R01, at 1651, lines 90-96.

²⁴⁹⁵ P-0446 Interview Transcript, CAR-OTP-2059-1626-R01, at 1645, lines 730-738.

the hill and anyone who wanted to help their country get back to normalcy was supposed to do what they had to do.²⁴⁹⁶ Maxime Mokom was the operations coordinator, there was no other person who would actually issue the orders, and he was the one who coordinated before the attack, and after the attack called to initiate the ‘CLPC’.²⁴⁹⁷ They would also meet amongst the military staff, Judicael had the laptop of Maxime Mokom and they were basically talking amongst each other.²⁴⁹⁸ Zongo would use the Orange and Telecel network and one could call everywhere, Bangui, other places.²⁴⁹⁹ Before the attack of 5 December 2013, Yekatom Rambo was in Boeing with Wenezoui, and they were in permanent contact with Mokom.²⁵⁰⁰

968. Brice Emotion Namsio further explained at the end of November 2013, a meeting was held in a compound rented by Ngaikosse before he went to Gemena, with ‘commander’ Maxime Mokom, Denamganai, Dokabona, and others, who said that the Anti-Balaka were already behind the hill at Boy-Rabe and they needed to cross to support and make Djotodia and his supporters leave – this made the witness realise that there had been meetings and that indeed Maxime Mokom, who they called coordinator of operations, had been coordinating for a long time, because he said at this meeting that Douze Puissances was coming from the other direction, Andjilo came from that other direction, Mokpem had already arrived, Yandjoungou Gustave had already arrived, and that everyone had to cross to support these elements.²⁵⁰¹ Brice Emotion Namsio denied having been aware of military operations being planned to take back Bangui at the time he crossed over to Zongo.²⁵⁰²

969. Brice Emotion Namsio stated that while he was in Zongo, he ran out of money to pay his rent, and since through Alfred Legrand Ngaya he had Mr Ngaïssona’s number, he called him to ask for money.²⁵⁰³ A week later, Ngaya called the witness to say that Mr Ngaïssona had

²⁴⁹⁶ P-0446: T-096, p. 32, lines 1-21.

²⁴⁹⁷ P-0446: T-096, p. 33, lines 6-13. See paragraphs 1171-1176 below.

²⁴⁹⁸ P-0446: T-096, p. 33, line 20 – p. 34, line 2.

²⁴⁹⁹ P-0446: T-096, p. 32, line 22 – p. 33, line 6.

²⁵⁰⁰ P-0446 Interview Transcript, CAR-OTP-2105-0611-R01, at 0627-28, lines 555-575.

²⁵⁰¹ P-0446 Interview Transcript, CAR-OTP-2059-1626-R01, at 1646, lines 739-784; P-0446: T-096, p. 24, lines 7-19.

²⁵⁰² P-0446: T-096, p. 21, line 24 – p. 22, line 12.

²⁵⁰³ P-0446 Interview Transcript, CAR-OTP-2105-0572-R01, at 0588-89, lines 528-559; P-0446: T-096, p. 17, lines 5-25, p. 18, lines 9-12.

sent 40 or 45,000 CFA for him, which Ngaya then transferred to the witness through the Telecel network.²⁵⁰⁴ Brice Emotion Namsio maintained that while in Zongo, he did not know anything about Mr Ngaïssona organising an armed resistance to the Seleka.²⁵⁰⁵

970. P-1339 testified that when they were in Zongo, Mokom had a meeting with the soldiers, they spoke and created this plan to go back to the CAR and meet up behind the mountain and take their vengeance.²⁵⁰⁶

971. P-0884 testified that Bernard Mokom put him in touch with Maxime Mokom, who initially did not say who he was exactly.²⁵⁰⁷ Maxime Mokom called P-0884 frequently to know what was happening in Bangui, he wanted to know about the security situation and sometimes said he was holding meetings in the provinces and wanted to know whether there was a movement in the provinces, whether P-0884 was aware of the Anti-Balaka and coordinating this; P-0884 told him what was happening in Bangui.²⁵⁰⁸ After the demonstration at the airport, P-0884 was in contact with Maxime Mokom who told him that he had started gathering the Anti-Balaka in Bossangoa – people could see what they were doing on television, what FOMAC was doing, from the province right to Bangui, Maxime Mokom and his father were coordinating.²⁵⁰⁹ Maxime Mokom told P-0884 that he was following his efforts and when P-0884 denied his question of whether he was aware about the advance of the Anti-Balaka, he told P-0884 that he was the coordinator of the Anti-Balaka alongside his father.²⁵¹⁰ He would call about twice a week, Maxime called him regularly.²⁵¹¹ P-0884 initially did not believe Mokom when he talked about the Anti-Balaka on the ground and their advance; only towards the end he realised the Anti-Balaka were effectively advancing

²⁵⁰⁴ P-0446 Interview Transcript, CAR-OTP-2105-0572-R01, at 0589-90, lines 562-586; P-0446: T-096, p. 17, lines 5-25.

²⁵⁰⁵ P-0446: T-097, p. 55, lines 1-13. *See also* P-0446: T-096, p. 42, line 25 – p. 44, line 8; T-097, p. 34, line 17 – p. 39, line 8.

²⁵⁰⁶ P-1339: T-151, p. 24, lines 7-14.

²⁵⁰⁷ P-0884: T-055, p. 20, line 20 – p. 21, line 7.

²⁵⁰⁸ P-0884: T-055, p. 17, line 21 – p. 18, line 5.

²⁵⁰⁹ P-0884: T-055, p. 21, line 9 – p. 22, line 9.

²⁵¹⁰ P-0884: T-055, p. 22, lines 10-16.

²⁵¹¹ P-0884: T-055, p. 47, lines 20-22.

and only after February or March P-0884 realised that the person who called himself commander was effectively Maxime Mokom.²⁵¹²

972. Jacob Mokpem-Bionli stated that certain ‘youth’ from Bangui, such as Namsio Brice alias Emotion, Lt Herve and Maxime Mokom were in Zongo, and he made the link via intermediary Emotion between Zongo and the youth in the provinces, as well as communicating with Maxime Mokom via Emotion, keeping them informed of the situation they lived in.²⁵¹³ Mokom would tell Emotion their military strategy, even though Emotion was a civilian, and the witness often asked Emotion what Mokom was doing in preparation to stop the carnage, since Mokom would not give their military strategy to him, a civilian.²⁵¹⁴ Lt Herve later revealed the military strategy to Emotion.²⁵¹⁵ Emotion told Jacob Mokpem-Bionli that they were ready to go down to Bangui, that was the last phase.²⁵¹⁶ To the witness’s understanding, Maxime Mokom was in charge of the military operation specifically strategy, at the time of the Anti-Balaka; they were all on the other side in Zongo and their intermediary was Emotion.²⁵¹⁷ Maxime Mokom returned to Bangui after the return of Mr Ngaïssona, crossing the Oubangui river where he was behind the Boy-Rabe hill with Lt Herve, Emotion and other youth.²⁵¹⁸ Jacob Mokpem-Bionli did not know if Mokom was in contact with the young Anti-Balaka from the provinces while in Zongo, he was regularly informed of what happened in Bangui, in particular before the attack of 5 December 2013.²⁵¹⁹ Mokom reacted very positively to the information communicated to him; he said in substance, ‘be alert to defend the country’; it was a clear combatant message.²⁵²⁰

²⁵¹² P-0884: T-055, p. 70, line 11 – p. 71, line 8.

²⁵¹³ P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0302, para. 93.

²⁵¹⁴ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0057, para. 47.

²⁵¹⁵ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0057-58, para. 48.

²⁵¹⁶ P-0992: T-093-ENG, p. 20, line 19 – p. 21, line 7; T-093-FRA, p. 20, line 20 – p. 21, line 6.

²⁵¹⁷ P-0992: T-093, p. 20, lines 11-18.

²⁵¹⁸ P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0309, para. 133.

²⁵¹⁹ P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0309, para. 134.

²⁵²⁰ P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0310, para. 135.

973. P-2269 stated that [REDACTED] he spoke to Andjilo on the phone many times [REDACTED].²⁵²¹ P-2269 called Andjilo because he knew him [REDACTED].²⁵²² Although some ‘liberators’ joined the Anti-Balaka, its core were the youth.²⁵²³
974. The Chamber further recalls the evidence of witnesses who mentioned contacts between individuals in Cameroon and Maxime Mokom,²⁵²⁴ as well as of witnesses who were in the provinces and mentioned contacts with Maxime Mokom.²⁵²⁵
975. Further, Thierry Tribunal Ndokobanda described how in Zongo Central Africans met as they knew each other and stayed in the same neighbourhood, and many people, military and civilian alike, came to visit him.²⁵²⁶ The elders, officers, talked about serious matters, often sitting with about 20 men to chat, play games, listen to news about the CAR on RFI, where they also heard about an upcoming movement against the Seleka.²⁵²⁷ As the witness was the eldest, others sought advice from him, asked what to do to advance in attacking the Seleka, and he based his advice on what he heard on the radio (RFI, Central African radio and Ndeke Luka).²⁵²⁸
976. Communications were not the only activity pursued from Zongo. Indeed, P-2232 [REDACTED].²⁵²⁹ [REDACTED] while in Zongo, Mokom bought hunting ammunition which he sent to the field, on boats.²⁵³⁰ P-0889 [REDACTED] sending ammunition, the second time a few days before 5 December 2013, and Mokom gave the ammunition to Bienvenu Namguende to bring them to the field and the leaders divided among themselves for the attack.²⁵³¹ P-0889 described how shortly before 5 December 2013, [REDACTED] Mokom asked for money he wanted to pay a marabout, [REDACTED] with Orofe who

²⁵²¹ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0342, para. 46.

²⁵²² P-2269 Statement, CAR-OTP-2111-0336-R01, at 0343, para. 48.

²⁵²³ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0349, para. 96.

²⁵²⁴ See section IV.A.2.ii.b above.

²⁵²⁵ See paragraphs 1130-1131 below.

²⁵²⁶ P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1062, para. 25.

²⁵²⁷ P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1062, para. 26.

²⁵²⁸ P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1063, para. 28.

²⁵²⁹ P-2232: T-076, p. 6, line 18 – p. 7, line 2.

²⁵³⁰ P-0889 Statement, CAR-OTP-2027-2290-R02, at 2296, para. 35.

²⁵³¹ P-0889 Statement, CAR-OTP-2027-2290-R02, at 2296, para. 35.

worked there giving it to his wife, and Mokom's wife crossing the river to get the money and bring it back to Zongo.²⁵³²

977. In addition to the above, the Chamber has before it a significant amount of Facebook messenger chats involving username 'Maxime Mokom Gawaka', suggesting that Maxime Mokom liaised with many other individuals.²⁵³³
978. The evidence before the Chamber shows that Mr Yekatom was one of the individuals who started organising from Zongo with a view to fight the Seleka.
979. The Chamber considers this not negated by the Yekatom Defence's suggestion that there would have been 'personal animosity' between Mr Yekatom and Maxime Mokom due to the latter reportedly having been involved in Mr Yekatom's arrest by the Congolese authorities.²⁵³⁴ Personal likes or dislikes do not exclude, by themselves, coordination efforts.
980. The Chamber further notes the Ngaïssona Defence's submission that the evidence on record shows that Mr Yekatom and Maxime Mokom would not have been in contact while the former was in Zongo.²⁵³⁵
981. P-2232 had heard that Mr Yekatom, Claude Ngaikosset and Maxime Mokom were liberators and knew each other from supporting Bozizé when he took power, and on the day when Mr Yekatom crossed over to Zongo, Claude Ngaikosset asked [REDACTED], following which Mr Yekatom was placed under detention by the Congolese intelligence service.²⁵³⁶ After he was released, [REDACTED].²⁵³⁷ Mr Yekatom was constantly with Ouandjio and Satan.²⁵³⁸ It was after Mr Yekatom left Zongo with Ouandjio/Cœur de Lion and Satan that Mokom told [REDACTED], and afterwards P-2232 heard they found themselves in Mongoumba and from there went to Boeing behind the airport.²⁵³⁹ The Chamber notes that P-2232 also stated

²⁵³² P-0889 Statement, CAR-OTP-2027-2290-R02, at 2296, para. 36; P-0889 Interview Transcripts, CAR-OTP-2122-7600-R02, at 7616-18, lines 644-730, at 7624-25, lines 955-988; CAR-OTP-2122-7653-R02, at 7661, lines 277-302.

²⁵³³ See e.g. Facebook messages, CAR-OTP-2066-3003, at 3050-51, 3059, 3064, 3071-72, 3081-83.

²⁵³⁴ See [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 360.

²⁵³⁵ See [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 203.

²⁵³⁶ P-2232: T-075, p. 34, line 16 – p. 36, line 3, p. 36, line 16 – p. 38, line 22.

²⁵³⁷ P-2232: T-075, p. 36, lines 5-14, p. 38, line 23 – p. 39, line 1.

²⁵³⁸ P-2232: T-075, p. 39, lines 6-12.

²⁵³⁹ P-2232: T-075, p. 39, line 23 – p. 40, line 7.

that he did not see Maxime Mokom and Mr Yekatom discussing or meeting regularly in Zongo, with Mr Yekatom operating in Lobaye,²⁵⁴⁰ but considers this to refer to the time after Mr Yekatom left Zongo.²⁵⁴¹

982. P-1339 similarly testified that Mr Yekatom was a liberator when Bozizé took power.²⁵⁴² P-1339 further stated that Habib and Mr Yekatom would always meet up, they were soldiers and would meet regularly to talk.²⁵⁴³ P-1339 later heard from Bodios that Mr Yekatom was going to cross over again, go back and this indeed happened two or three days later.²⁵⁴⁴ The people in the bush after crossing that P-1339 then met up with included Mr Yekatom, Ouandjio Freddy aka Cœur de Lion, Habib, Satan and a corporal with nickname Keapex.²⁵⁴⁵
983. Vivien Beina stated that there were meetings with Claude Ngaikosset and Maxime Mokom, in which Mr Yekatom and Habib did not participate,²⁵⁴⁶ but he was forced to say that, since they were there, they wanted to start a rebellion.²⁵⁴⁷ The witness's brother joined Mr Yekatom because he wanted to fight the Seleka.²⁵⁴⁸ Soldiers were forced to cross and became committed together with their brothers in arms and some civilians, they reorganised themselves so they could fight the Seleka.²⁵⁴⁹ The movement to defend the population was created on CAR soil, and not in Zongo.²⁵⁵⁰ To Vivien Beina's knowledge, once Mr Yekatom and Habib had returned to the CAR, they never went back to Zongo.²⁵⁵¹

²⁵⁴⁰ P-2232: T-079, p. 14, line 12 – p. 15, line 17, p. 36, line 14 – p. 37, line 25.

²⁵⁴¹ The Chamber therefore considers the arguments of the Yekatom Defence in this regard, as well as in regard to other details provided by P-2232 (see [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 226-227), to be without merit.

²⁵⁴² P-1339: T-151, p. 21, line 15 – p. 22, line 1.

²⁵⁴³ P-1339: T-151, p. 22, lines 10-20.

²⁵⁴⁴ P-1339: T-151, p. 23, line 12 – p. 24, line 3, p. 25, line 21 – p. 26, line 5.

²⁵⁴⁵ P-1339: T-151, p. 27, line 14 – p. 28, line 4.

²⁵⁴⁶ P-0888: T-121, p. 31, line 19 – p. 32, line 5.

²⁵⁴⁷ P-0888: T-121, p. 17, line 6 – p. 18, line 11.

²⁵⁴⁸ P-0888: T-120, p. 27, lines 14-21.

²⁵⁴⁹ P-0888: T-120, p. 29, lines 5-12.

²⁵⁵⁰ P-0888: T-121, p. 12, line 3 – p. 16, line 21 *referring to* Video, CAR-OTP-2065-0716, at 00:00:38-00:05:15 (Translation, CAR-OTP-2122-2292, at 2294, line 17 – at 2296, line 87, Transcript CAR-OTP-2107-6924), CAR-OTP-2065-0718 (Transcript, CAR-OTP-2127-7169).

²⁵⁵¹ P-0888: T-121, p. 16, line 22 – p. 17, line 5.

984. P-0889 stated that Mr Yekatom and Maxime Mokom never talked while he was in Zongo and that Mr Yekatom did not want to accept Maxime Mokom's orders as there seemed to be a problem between them.²⁵⁵²
985. P-0884 stated that when the Seleka entered, Mr Yekatom fled to Zongo where he was imprisoned by the authorities, and after he was released, he crossed the river to the CAR, at which time he started to set up his own movement and called on his brothers in arms to create his own group.²⁵⁵³
986. On the basis of the above, the Chamber is unable to conclude that Mr Yekatom was discussing with Maxime Mokom during his time in Zongo. However, as also further outlined below, the Chamber considers that Maxime Mokom and Mr Yekatom liaised in other contexts.²⁵⁵⁴
987. The evidence before the Chamber includes a video of Mr Yekatom answering questions of a journalist. In this video, Mr Yekatom explains that he was arrested and then fled to Zongo, where the idea on forming a movement to fight the Seleka was born, yet the movement did not start in 'Zaire', it was 'here'.²⁵⁵⁵ Asked how he ended up having 1,500 men, Mr Yekatom states that Djotodia did not want to work with most soldiers and as trained soldiers, they could not just stay, while the youth were recruited but also chased by Michel Djotodia.²⁵⁵⁶ Mr Yekatom continues to explain the difference between Seleka and FACA, that with Seleka one can see they are Chadian, do not know Sango and are in majority Muslim, while they ('we') have military discipline and FACA are in majority Christian.²⁵⁵⁷ Mr Yekatom denies that it is a religious war because they do not touch the Muslims when passing through a village, and their concern is that the Seleka leave because 'he' is not Central African, but a

²⁵⁵² P-0889 Interview Transcripts, CAR-OTP-2122-7626-R02, at 7630-31, lines 153-205; CAR-OTP-2122-8002-R02, at 8033, lines 1141-1142.

²⁵⁵³ P-0884: T-055, p. 72, line 17 – p. 73, line 9.

²⁵⁵⁴ See paragraphs 2485-2522 below.

²⁵⁵⁵ Video, CAR-OTP-2065-0716, at 00:01:01-00:01:27; Transcript, CAR-OTP-2107-6924; Translation, CAR-OTP-2122-2292, at 2294, lines 22-29. See also Video, CAR-OTP-2065-0718, which appears to be part of the same interview. See also Video, CAR-OTP-2065-2404, at 00:02:37-00:03:48; Transcript, CAR-OTP-2127-3738; Translation, CAR-OTP-2127-3644, at 3648, lines 68-73.

²⁵⁵⁶ Video, CAR-OTP-2065-0716, at 00:01:28-00:01:59; Transcript, CAR-OTP-2107-6924; Translation, CAR-OTP-2122-2292, at 2294, lines 30-36.

²⁵⁵⁷ Video, CAR-OTP-2065-0716, at 00:02:09-00:03:19; Transcript, CAR-OTP-2107-6924; Translation, CAR-OTP-2122-2292, at 2295, lines 41-60.

foreigner, and their ('our') goal is to chase them back to where they are from and the populations are in peace.²⁵⁵⁸ Mr Yekatom states that with that they are in the process of doing, they will go to the end, that they do not want to have Chadian or Congolese CEMAC and also FOMAC does not help because they are in the majority Chadian and facilitated Michel Djotodia coming to power.²⁵⁵⁹

988. The Chamber notes the Yekatom Defence's submission that this video is an indication that a movement separate to the Anti-Balaka, namely the '*Révolution des forces armées centrafricaines pour le peuple*' (or 'RFACPP'), was formed by Mr Yekatom, Habib Beina and Freddy Ouandjio, also known as 'Cœur de Lion', on their return to the CAR from Zongo.²⁵⁶⁰ While the Chamber discusses the question of the 'RFACPP' and its relation to the Anti-Balaka further below,²⁵⁶¹ the Chamber is of the view that this video, by itself, does not support the conclusion of a separate movement. First, Mr Yekatom mentions the idea of a movement to fight the Seleka, which was started 'here' as opposed to 'Zaire', implying that a movement was created in the CAR. This by itself does not lead to conclude that such movement was separate to the Anti-Balaka. Second, and more importantly, in a different video in which Mr Yekatom appears, he indeed says so himself: introducing himself as '*chef de mouvement Anti-Balaka de zone sud*', he continues to explain that when he found other soldiers in Zongo, he thought it was better to return to the CAR and '[c]'*est là où que j'ai créé le mouvement A[nti-Balaka] pour venir chasser ces mercenaires qui sont venus détruire notre pays*'.²⁵⁶²

²⁵⁵⁸ Video, CAR-OTP-2065-0716, at 00:03:19-00:03:48; Transcript, CAR-OTP-2107-6924; Translation, CAR-OTP-2122-2292, at 2295, lines 61-71.

²⁵⁵⁹ Video, CAR-OTP-2065-0716, at 00:03:49-00:05:15; Transcript, CAR-OTP-2107-6924; Translation, CAR-OTP-2122-2292, at 2295-96, lines 69-87.

²⁵⁶⁰ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 222.

²⁵⁶¹ See section IV.A.7.iii.a.ii below.

²⁵⁶² Video, CAR-OTP-2118-0415, at 00:54:22-00:54:45; Transcript, CAR-OTP-2127-4357; Translation, CAR-OTP-2127-4410, at 4432, lines 760-770. The Chamber notes the Yekatom Defence's opposition to this video in light of it being outside the temporal scope, and the appearance of Mr Yekatom being made for a political campaign when running to be elected as member of parliament (see Annex A to the Yekatom Defence Response to the "Prosecution's Eight Application for Submission of Audio/Videos Evidence from the Bar Table", 26 June 2023, ICC-01/14-01/18-1945-Conf, 5 July 2023, ICC-01/14-01/18-1963-Conf-Anx-A, pp. 57-58; see also T-169, p. 82, lines 15-22). For purposes of its determination at hand, the Chamber considers this to be immaterial as a video having been aired after the time relevant to the charges does not negate the content of what Mr Yekatom is shown as saying on the video. Neither does the fact that his appearance may have been related to a political campaign.

3. *Front pour le retour à l'ordre constitutionnel en Centrafrique (FROCCA)*

As part of the efforts to counter the Seleka offensive and to ensure François Bozizé's return to power, in August 2013, François Bozizé, Mr Ngaïssona and others met in Paris to create the '*Front pour le retour à l'ordre constitutionnel en Centrafrique*' (FROCCA). Lin Banoukepa was the executive director of FROCCA, while Mr Ngaïssona was one of its members. The group's objective was to advocate for the return to 'the constitutional order', which signified the return of François Bozizé to power. As such, FROCCA was one of the initiatives to achieve this stated goal on a political level, which co-existed with other efforts in this regard, specifically the galvanisation of groups eventually known collectively as the Anti-Balaka.

989. The evidence shows that in August 2013, in Paris, an organisation called '*Front pour le retour à l'ordre constitutionnel en Centrafrique*', short FROCCA, was founded. Several witnesses testified about meetings in this context, and what was discussed thereat, as outlined below.

990. The Ngaïssona Defence submits, *inter alia*, that (i) FROCCA never reached the stage of a cogent structure; (ii) meetings in the context of FROCCA never led to concrete discussions or actions; (iii) FROCCA was never formalised; (iv) François Bozizé's return to power was an option, rather than FROCCA's objective and, in any event, FROCCA's objectives were non-violent; (v) Lin Banoukepa worked alone; (vi) FROCCA had no military capacity; and (vii) FROCCA did not finance the Anti-Balaka.²⁵⁶³

991. The Ngaïssona Defence further submits that there is no credible evidence that Mr Ngaïssona took steps to structure the Anti-Balaka and FACA pursuant to FROCCA's '*Plan Stratégique*',²⁵⁶⁴ arguing that (i) the Prosecution failed to demonstrate that Mr Ngaïssona played any role in the creation of FROCCA; (ii) there is no evidence that Mr Ngaïssona endorsed Lin Banoukepa's press releases; (iii) only Adrien Poussou alleged links between Mr Ngaïssona, FROCCA and activities in the field; and (iv) Mr Ngaïssona's email exchanges are not indicative of any action by him to further a so-called military '*Plan Stratégique*'.²⁵⁶⁵

992. At the outset, the Chamber considers that FROCCA, as already clearly stated by its very name, was meant to advocate for the return to the constitutional order, which, in the

²⁵⁶³ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 176-196.

²⁵⁶⁴ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 435.

²⁵⁶⁵ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 435-441.

understanding of its founders as well as external observers, signified the return of François Bozizé to power. The Chamber finds equally clearly established by the evidence as discussed below that Mr Ngaïssona was part of this group, active in its discussions, and that Lin Banoukepa, a lawyer in France at the time and, as further discussed below, chosen as FROCCA executive director, did not work in isolation. The Chamber considers that the evidence as outlined below makes clear that any steps undertaken in the context of FROCCA were part of broader-scale attempts to ensure François Bozizé's return to power. In the view of the Chamber, the creation of FROCCA and its activities, of whatever limited nature they may have resulted to be, cannot be seen in isolation, but must be put in the context of steps and coordination efforts undertaken as discussed above, as well as of activities then unfolding on the ground, as discussed below.²⁵⁶⁶

993. Adrien Poussou, a journalist involved in meetings in Cameroon as outlined above, testified that mid- or end July 2013, he became aware that François Bozizé was in France and he met him on several occasions, including when arranging for Ghislaine Dupont to interview François Bozizé.²⁵⁶⁷
994. The above-mentioned interview of François Bozizé is available to the Chamber. Therein, he mentions being surrounded by compatriots with whom they discussed and agreed to set up a structure called '*Front pour le retour à l'ordre constitutionnel en Centrafrique (Frocca)*', with the goal to closely follow and denounce events in the country with a view to informing the international community.²⁵⁶⁸ Asked whether return to constitutional order means he would want to re-take power, he answers, '*Oui. Reprendre le pouvoir. Si l'occasion se présente, je le [...] ferai*'.²⁵⁶⁹ Further asked whether this would be by political or military means, he answers, '*Oh, la voie politique puisque...la voie des armes ne vient que lorsque la solution politique n'est pas trouvée, bon ben...on choisit la voie des armes. Ça a été toujours comme ça*'.²⁵⁷⁰ He refutes that he would have deployed military along the Oubangui

²⁵⁶⁶ See sections IV.A.4, IV.A.6 below.

²⁵⁶⁷ P-2625: T-189, p. 22, line 25 – p. 23, line 14, p. 31, line 19 – p. 32, line 15.

²⁵⁶⁸ Press article, CAR-OTP-2091-1804, at 1804; Audio, CAR-OTP-00036359, at 00:00:57-00:01:43; Transcript, CAR-OTP-00036817, at 0002, lines 19-25.

²⁵⁶⁹ Audio, CAR-OTP-00036359, at 00:01:49-00:01:59; Transcript, CAR-OTP-00036817, at 0002, lines 28-30. See also Press article, CAR-OTP-2091-1804, at 1804.

²⁵⁷⁰ Audio, CAR-OTP-00036359, at 00:01:59-00:02:13; Transcript, CAR-OTP-00036817, at 0002, lines 31-33. See also Press article, CAR-OTP-2091-1804, at 1804.

in the DRC, in particular Captain Ngaikosset, stating that that is invented and that he only knows Ngaikosset is a refugee in the DRC.²⁵⁷¹ He also blames Chad for helping the Seleka to take power²⁵⁷² and when asked whether he hopes to take back the presidential seat one day, he says, *‘Mais, la démarche n’est pas une démarche brutale c’est voir les voies et moyens qui puissent nous permettre de sauver ce peuple, ce pays, qui a trop souffert’*.²⁵⁷³

995. In other supposed interviews at the time, François Bozizé is reported as stating that since he did not finish his mandate to expire in 2016, return to the constitution adopted in 2004 is a non-negotiable pre-condition, following which he would be open to dialogue with all Central Africans; while when asked whether he counts on taking up arms and launching a ‘guerilla’, he is reported as stating, *‘Je ne m’interdis rien, mais ce n’est pas d’actualité. Je veux sensibiliser la communauté internationale aux souffrances de mon peuple. [...]’*; asked which lesson to learn, says *‘Ce monde, c’est la loi du plus fort. Mais les Centrafricains doivent savoir que Bozizé ne les abandonnera pas’*.²⁵⁷⁴

996. In what appears to be the publication of another interview some months later, François Bozizé is reported as reproaching Djotodia for wanting to ‘Islamise’ the country, and later saying, *‘[...] je me dois de dénoncer les crimes de ceux qui oppriment mes concitoyens. Aussi, je voudrais interpeller tous les chefs d’Etat de la sous-région, les démocraties européennes et bien sûr la France qui a l’habitude de régler nos problèmes, pour leur demander de nous aider à faire partir ces bandits et rétablir la légalité constitutionnelle’*.²⁵⁷⁵

997. In what appears to be the publication of an interview with Lin Banoukepa in August 2013, the latter is reported as, *inter alia*, presenting himself as coordinator of FROCCA, stating that everyone knows the Seleka has a hidden agenda to impose Islam, and as listing the objectives of FROCCA as re-establishing constitutional order, establishing power which

²⁵⁷¹ Press article, CAR-OTP-2091-1804, at 1805; Audio, CAR-OTP-00036359, at 00:02:13-00:02:40; Transcript, CAR-OTP-00036817, at 0002, lines 34-38.

²⁵⁷² Press article, CAR-OTP-2091-1804, at 1805; Audio, CAR-OTP-00036359, at 00:02:40-00:03:15; Transcript, CAR-OTP-00036817, at 0003, lines 39-49.

²⁵⁷³ Audio, CAR-OTP-00036359, at 00:05:05-00:05:34; Transcript, CAR-OTP-00036817, at 0003, lines 72-76. See also Press article, CAR-OTP-2091-1804, at 1805.

²⁵⁷⁴ Press article, CAR-OTP-2001-4146, at 4148.

²⁵⁷⁵ Press article, CAR-OTP-2091-1783.

separates state and religion and is democratic, respecting freedoms and rights of individuals, based on law and not ‘Salafist religious dogmas’.²⁵⁷⁶

998. The Chamber also heard evidence of witnesses who were present at the meeting at which the creation of FROCCA was announced, as well as meetings following thereafter, as outlined below.

999. Adrien Poussou testified that the meeting he was invited to by François Bozizé was at the Novotel or one of the Accor Group hotels not far from Châtelet, and Adrien Poussou went in company of Martial Kombo.²⁵⁷⁷ Individuals attending the meeting included Martial Kombo, Kokaté, Mr Ngaïssona, Francis Bozizé, Jean-Serge Wafio, Levy Yakété; Yves Songuet was to Adrien Poussou’s knowledge not at that meeting, but he attended other meetings.²⁵⁷⁸ Approximately a dozen, maybe 20 people attended this meeting which was chaired by François Bozizé and had been presented as a meeting between him and the Central African diaspora.²⁵⁷⁹ François Bozizé presented his view of the situation in the country, the need to set up an organisation that would drive the demands for change, and asked the participants to make proposals to name or organise this.²⁵⁸⁰ Adrien Poussou thought that in reality the president and his entourage had already arranged this organisation beforehand, knew exactly what they wanted²⁵⁸¹ and after proposals were made, François Bozizé said, reading from a piece of paper,²⁵⁸² ‘What if we called this organisation FROCCA (*Front pour le retour à l’ordre constitutionnel en Centrafrique*)?’.²⁵⁸³ The participants were unanimous.²⁵⁸⁴ François Bozizé also informed the participants of the bureau’s composition, that the person acting as executive director as deputy to him was Lin Banoukepa, and that Adrien Poussou was to be the spokesperson.²⁵⁸⁵ The witness added that during the first meeting of FROCCA, just a few names were made public as belonging to the FROCCA

²⁵⁷⁶ Press article, CAR-OTP-2069-3540, at 3541.

²⁵⁷⁷ P-2625: T-189, p. 23, line 15 – p. 24, line 2.

²⁵⁷⁸ P-2625: T-189, p. 23, line 15 – p. 24, line 2.

²⁵⁷⁹ P-2625: T-189, p. 25, line 1 – p. 26, line 3; T-192, p. 63, line 13 – p. 65, line 9.

²⁵⁸⁰ P-2625: T-189, p. 25, line 1 – p. 26, line 3; T-192, p. 63, line 13 – p. 65, line 9.

²⁵⁸¹ P-2625: T-189, p. 27, line 21 – p. 28, line 6; T-192, p. 65, line 13 – p. 66, line 8.

²⁵⁸² P-2625: T-192, p. 65, line 13 – p. 66, line 8.

²⁵⁸³ P-2625: T-189, p. 25, line 1 – p. 26, line 3; T-192, p. 63, line 13 – p. 65, line 9.

²⁵⁸⁴ P-2625: T-189, p. 25, line 1 – p. 26, line 3; T-192, p. 63, line 13 – p. 65, line 9.

²⁵⁸⁵ P-2625: T-189, p. 25, line 1 – p. 26, line 3; T-192, p. 63, line 13 – p. 65, line 9.

bureau.²⁵⁸⁶ When Adrien Poussou got the email, further discussed below, from Serefio, who was also present at this meeting, presenting the different topics and the members that would make up this bureau, Adrien Poussou realised that these were issues that they had been discussing together.²⁵⁸⁷

1000. To Adrien Poussou's knowledge, at this first meeting no divergent views on how to return François Bozizé to power were discussed, however, they would be brought up in following meetings.²⁵⁸⁸ What was happening with the Anti-Balaka was not discussed during this first FROCCA meeting since these issues were not publicly discussed and that first meeting was public.²⁵⁸⁹ However, Adrien Poussou noticed private discussions within the inner circle of François Bozizé, which included Mr Ngaïssona, without the witness knowing what they were talking about.²⁵⁹⁰ After the meeting, François Bozizé was to meet with his supporters and Adrien Poussou did not know what happened there; only afterwards he was led to understand that the organisation was only a showcase for actions and activities carried out underground, hidden to them ('us') and the general public.²⁵⁹¹

1001. Joachim Kokaté testified that Lin Banoukepa was the general coordinator of FROCCA in 2013.²⁵⁹² FROCCA was created by François Bozizé during a lunch in Paris where he talked about the creation of FROCCA and told them that its president would be Banoukepa.²⁵⁹³ Joachim Kokaté was informed through a call from Mr Ngaïssona and Poussou who told him that there would be a meeting in a restaurant in Paris.²⁵⁹⁴ Joachim Kokaté was in Cameroon and Mr Ngaïssona called him.²⁵⁹⁵ Adrien Poussou and Joachim Kokaté met at the *Gare du Nord* and went to the hotel.²⁵⁹⁶ Joachim Kokaté did not recall when this meeting took place, but agreed with reference to a FROCCA '*communiqué*' of 5 August 2013 that it could have

²⁵⁸⁶ P-2625: T-189, p. 26, line 4 – p. 27, line 3.

²⁵⁸⁷ P-2625: T-189, p. 27, line 21 – p. 28, line 6.

²⁵⁸⁸ P-2625: T-189, p. 31, lines 6-9.

²⁵⁸⁹ P-2625: T-189, p. 27, lines 9-20.

²⁵⁹⁰ P-2625: T-189, p. 27, lines 9-20.

²⁵⁹¹ P-2625: T-189, p. 31, lines 10-18.

²⁵⁹² P-0801: T-033, p. 31, lines 12-14.

²⁵⁹³ P-0801: T-033, p. 10, lines 14-24.

²⁵⁹⁴ P-0801: T-034, p. 32, lines 12-21.

²⁵⁹⁵ P-0801: T-038, p. 7, lines 9-17.

²⁵⁹⁶ P-0801: T-034, p. 32, lines 22-24. The Chamber considers immaterial that Adrien Poussou testified going to the meeting with Martial Kombo, while Joachim Kokaté recalled going to the meeting with Adrien Poussou. Overall, both witnesses clearly talked about the same initial meeting.

been during that period.²⁵⁹⁷ At the meeting were Lin Banoukepa, Mr Ngaïssona, Levy Yakété, Adrien Poussou, Oguere, Francis Bozizé, Dieudonné Toko Félicien, 10, maybe 12, 13 people; Joachim Kokaté was not certain if Yvon Songuet was there, but he saw him during the same period in a hotel where Bozizé was living on the Champs Élysées.²⁵⁹⁸ François Bozizé revealed his intentions in a clear way; he said he had tried to contact the CEAC heads of states to be brought back to power, had not received a positive response, so he would start a movement called FROCCA, to be led by Lin Banoukepa; with this movement, he would use all the means possible, all means, so that he could return to power.²⁵⁹⁹ Joachim Kokaté thought Bozizé was thinking about using force to return to power.²⁶⁰⁰ At the meeting, there was talk about sending a delegation to New York; Bozizé sent money to Adrien Poussou to go and said to Adrien Poussou and Songuet that they would go to New York and represent and say what was going on.²⁶⁰¹

1002. Assessing the evidence of Joachim Kokaté and Adrien Poussou in context, the Chamber is of the view that Joachim Kokaté, in his description as outlined above, may have been mixing up information concerning several separate meetings. However, this does not, in the Chamber's view, distract from the reliability of either witness's testimony on the foundation of FROCCA and what was discussed in this context, with the caveat of Joachim Kokaté's description of his own role, as further discussed below.

1003. In this context, the Chamber also notes the evidence of D30-4720 [REDACTED].

1004. Specifically, D30-4720 recalled [REDACTED] a meeting around July or August [REDACTED],²⁶⁰² [REDACTED].²⁶⁰³ According to D30-4720, the meeting centred around the idea of them having lost power, being in disorder, and returning to constitutional order, re-taking power through negotiations and lobbying.²⁶⁰⁴ D30-4720 stated that

²⁵⁹⁷ P-0801: T-034, p. 33, lines 13-17, p. 34, lines 4-9.

²⁵⁹⁸ P-0801: T-034, p. 34, line 20 – p. 35, line 6.

²⁵⁹⁹ P-0801: T-034, p. 32, line 25 – p. 33, line 12.

²⁶⁰⁰ P-0801: T-034, p. 34, lines 10-19, p. 37, lines 1-19; T-037, p. 78, line 6 – p. 79, line 15.

²⁶⁰¹ P-0801: T-034, p. 35, lines 7-15.

²⁶⁰² D30-4720: T-281, p. 13, line 14; T-282, p. 11, line 25 – p. 12, line 5. The Chamber notes that the witness [REDACTED].

²⁶⁰³ D30-4720: T-280, p. 67, line 4 – p. 70, line 6; T-282, p. 9, line 18 – p. 10, line 10.

²⁶⁰⁴ D30-4720: T-280, p. 70, lines 7-25.

[REDACTED].²⁶⁰⁵ [REDACTED].²⁶⁰⁶ D30-4720 did not recall [REDACTED].²⁶⁰⁷ [REDACTED].²⁶⁰⁸ D30-4720 stated that [REDACTED]²⁶⁰⁹ [REDACTED].²⁶¹⁰ The name FROCCA was chosen during the meeting, people were trying to find a name and this was ultimately decided.²⁶¹¹ Lin Banoukepa was chosen by unanimity as coordinator of FROCCA;²⁶¹² [REDACTED] Kotro Salomon as deputy coordinator, Thierry Bogongolo and Poussou as in charge of communications [REDACTED].²⁶¹³ [REDACTED].²⁶¹⁴

1005. The Chamber does not consider that this evidence is capable of refuting the evidence of either Adrien Poussou or Joachim Kokaté on any of the meetings they described in the context of FROCCA, or of P-1847 as further outlined below. First, neither said that during the initial meeting at which FROCCA was set up, any military option to re-take power was discussed. Second, D30-4720 not remembering or noticing [REDACTED],²⁶¹⁵ or not hearing of meetings [REDACTED]²⁶¹⁶ does not mean, in and of itself, that such discussions or meetings did not happen at all. Third, the Chamber considers of note that D30-4720 initially volunteered an answer on the question [REDACTED], without in fact having been asked about it. This gives the impression that the witness intended to justify [REDACTED], even though this was not put into question. Fourth, when initially stating that she did not hear [REDACTED],²⁶¹⁷ D30-4720 then suggested that this was her way of confirming that this did not take place.²⁶¹⁸ To the Chamber, such explanation does not sound plausible, and indeed is rather an indication that also D30-4720 was conscious [REDACTED]. Fifth, the Chamber also notes its discussion further below on D30-4720 [REDACTED].²⁶¹⁹

²⁶⁰⁵ D30-4720: T-280-ENG, p. 71, line 1 – p. 73, line 4; T-280-FRA, p. 69, line 23 – p. 71, line 27.

²⁶⁰⁶ D30-4720: T-280, p. 73, line 25 – p. 74, line 15.

²⁶⁰⁷ D30-4720: T-280, p. 74, line 23 – p. 75, line 3.

²⁶⁰⁸ D30-4720: T-280, p. 75, lines 4-13.

²⁶⁰⁹ D30-4720: T-282-ENG, p. 12, line 25 – p. 13, line 5; T-282-FRA, p. 12, lines 20-26 [REDACTED].

²⁶¹⁰ D30-4720: T-282, p. 49, line 18 – p. 50, line 2.

²⁶¹¹ D30-4720: T-280, p. 76, lines 6-12.

²⁶¹² D30-4720: T-280, p. 75, line 19 – p. 76, line 5.

²⁶¹³ D30-4720: T-280, p. 75, lines 11-13, p. 76, line 13 – p. 77, line 2.

²⁶¹⁴ D30-4720: T-280, p. 78, lines 15-25.

²⁶¹⁵ D30-4720: T-280, p. 77, lines 3-16.

²⁶¹⁶ D30-4720: T-280, p. 77, line 17 – p. 78, line 6.

²⁶¹⁷ D30-4720: T-280, p. 75, lines 14-18.

²⁶¹⁸ D30-4720: T-282, p. 8, line 25 – p. 9, line 17.

²⁶¹⁹ [REDACTED]

1006. Adrien Poussou explained that long after the first meeting, Serefio sent him an email as a follow-up on a second meeting that had taken place in a hotel near the Champs Élysées at which ‘allusions were made to military activities on the ground’.²⁶²⁰ According to the witness, someone had to have told Serefio that the meeting’s goal was to set up a military organisation, but to Adrien Poussou’s knowledge that was not the case, and he did not touch on this in his reply to Serefio.²⁶²¹ Adrien Poussou also explained that the assignments described in the email had to be done ‘beforehand’.²⁶²² The witness indicated, when asked what he meant with ‘allusions’ to military activities on the ground, that it was Serefio who in his email complained that he was absent from that meeting which was going to talk about military matters.²⁶²³ Adrien Poussou indicated that in addition, there were a number of meetings near the Champs Élysées and during one, Mr Ngaïssona attempted to say that the children out in the field were advancing, motivated, organised, ready to fight, and that he was in contact with them, but that Francis or François Bozizé cut him short and said those matters would be broached subsequently.²⁶²⁴

1007. The email exchange, which is before the Chamber, includes an email from ‘Edouard Serefio’ to ‘[REDACTED]’, on 8 August 2013, with the subject ‘Le BUREAU FROCCA’, and in its body text lists what appear to be positions with related names, including ‘*coordination/diplomatie*’ – Banoukepa Lin, Serefio Edouard; ‘*porte/parole*’ – Yakete Lévy, Gounebana Fekeram Simon; ‘*communication/ presse*’ – Poussou Adrien, Kopaye François; ‘*intérieur/association*’ – Ngaïssona Patrick Edouard, Tokofesset Dieudonné; ‘*organisation féminine*’ [sic] – Mazoungou, Maboula; ‘*jeunesse/mobilisation/sensibilisation*’ – Nambo-Bona Michel, Bongolo Thierry; ‘*trésorerie*’ – Maboula, Bozizé Jean François.²⁶²⁵ This is followed by an email from ‘Edouard Serefio’ to ‘poussou.poussou’, which, on 23 August 2013, forwards the initial email and states that the undersigned did not attend the limited meeting at which Kokaté was present because he had not been informed and it should not be

²⁶²⁰ P-2625: T-189, p. 30, line 11 – p. 31, line 4.

²⁶²¹ P-2625: T-189, p. 30, line 11 – p. 31, line 4.

²⁶²² P-2625: T-189, p. 26, line 4 – p. 27, line 3.

²⁶²³ P-2625: T-192, p. 66, line 13 – p. 68, line 9.

²⁶²⁴ P-2625: T-189, p. 32, line 17 – p. 33, line 12, p. 34, line 20 – p. 35, line 7; T-192, p. 67, line 12 – p. 68, line 7. The Chamber notes that the witness initially referred to Francis Bozizé and subsequently to François Bozizé, so it is unclear to whom he exactly meant to refer.

²⁶²⁵ Email, CAR-OTP-2124-0002-R03, at 0002-03.

interpreted as bad faith, further asking whether the attributes of this (military) entity should be defined.²⁶²⁶

1008. Further, Adrien Poussou explained that the meeting at the hotel close to the Champs Élysées took place in August 2013 and was attended by Francis Bozizé, François Bozizé, Socrate Bozizé, Tokofesset, Mr Ngaïssona, Levy Yakété, Lin Banoukepa, Yvon Songuet, Joachim Kokaté, to take stock of what needed to be done to facilitate the restoration of constitutional order, meaning the return of François Bozizé to power.²⁶²⁷ At the time, nearly all Central Africans acknowledged that the situation in the country was catastrophic, and during the meetings they exchanged information on what was going on there.²⁶²⁸ That was when Mr Ngaïssona attempted to say that they were organised in the field, but Francis said such matters would be broached at a later stage.²⁶²⁹ Adrien Poussou understood Mr Ngaïssona's statement because he had already suspected those close to François Bozizé to be behind the Anti-Balaka, or at least be supporting them financially, so those utterances merely reinforced his conviction.²⁶³⁰ During one of the meetings, Adrien Poussou said that the military solution was not the right solution to solve the crisis and rather, diplomatic and political actions should be favoured.²⁶³¹ During one of the at least three meetings in that hotel near the Champs Élysées, Mr Ngaïssona also said that the elements in Bangui and Bossangoa were determined and motivated to fight the Seleka and regain power, but were missing weapons and ammunition.²⁶³²

1009. In Adrien Poussou's view, the meetings were not to set up a military organisation as he attended and neither he nor Mr Ngaïssona were military men, there was no military wing with direct links to FROCCA as an entity, in contrast to links with certain members of FROCCA.²⁶³³ The aura in the meetings was that the political solution was not the favourite; they talked about political action, but not many people within the Bozizé clan believed in it,

²⁶²⁶ Email, CAR-OTP-2124-0002-R03, at 0002.

²⁶²⁷ P-2625: T-189, p. 34, lines 6-19.

²⁶²⁸ P-2625: T-189, p. 34, line 20 – p. 35, line 7.

²⁶²⁹ P-2625: T-189, p. 34, line 20 – p. 35, line 7. See footnote 2624 above.

²⁶³⁰ P-2625: T-189, p. 35, lines 8-15.

²⁶³¹ P-2625: T-189, p. 35, lines 8-15.

²⁶³² P-2625: T-189, p. 36, lines 9-21.

²⁶³³ P-2625: T-192, p. 68, line 10 – p. 69, line 25.

which thought that the better choice was armed action.²⁶³⁴ On the day on which FROCCA was set up, there was no question of any action or military project, it was only subsequent that this became apparent as something obvious.²⁶³⁵

1010. Joachim Kokaté stated that after the lunch at which FROCCA was set up and Bozizé said that with FROCCA they would take up power by any means, they met again at the hotel where Bozizé was staying before the departure of Songuet and Poussou to New York.²⁶³⁶ Joachim Kokaté indicated that after this, he never had a meeting with Bozizé again, but Bozizé communicated directly with people close to him, while Joachim Kokaté followed the statement made by Banoukepa, who made several statements on behalf of FROCCA.²⁶³⁷

1011. Adrien Poussou testified that when they had finished their meeting, he, Yves Songuet and Mr Ngaïssona met in a café where Mr Ngaïssona informed them that he was financing the children out in the field, that he was responsible and handing out a lot of money for the upkeep of the Anti-Balaka combatants out in the field which he considered as being his children, being slightly reproachful to François Bozizé to the extent that it was him giving out money.²⁶³⁸ Adrien Poussou reached the conclusion about ‘*sous-entendu militaires*’ because Mr Ngaïssona had let it be understood that he had been speaking with Maxime Mokom, who turned out to be an Anti-Balaka, and after having spoken to him, he said that things were moving forward smoothly – Adrien Poussou drew from this that it was about military preparations which were progressing well.²⁶³⁹ Mr Ngaïssona did not say what Mokom was doing in the field, all that he said was that he would have further details subsequently.²⁶⁴⁰ Mr Ngaïssona said he had been on the phone with Maxime Mokom.²⁶⁴¹ Even if Adrien Poussou never met Maxime Mokom physically, it was public knowledge at the time that he was one of the Anti-Balaka leaders on the ground.²⁶⁴² The witness did not

²⁶³⁴ P-2625: T-189, p. 31, line 19 – p. 32, line 15.

²⁶³⁵ P-2625: T-189, p. 32, line 17 – p. 33, line 12.

²⁶³⁶ P-0801: T-034, p. 45, line 23 – p. 47, line 3.

²⁶³⁷ P-0801: T-034, p. 45, line 23 – p. 47, line 3.

²⁶³⁸ P-2625: T-189, p. 35, lines 16-24, p. 36, line 24 – p. 37, line 5, p. 46, lines 3-12.

²⁶³⁹ P-2625: T-193, p. 5, lines 8-22.

²⁶⁴⁰ P-2625: T-189, p. 48, line 16 – p. 49, line 3.

²⁶⁴¹ P-2625: T-189, p. 47, line 3 – p. 48, line 8, p. 53, lines 15-24; T-193, p. 5, line 25 – p. 6, line 11.

²⁶⁴² P-2625: T-193, p. 5, line 25 – p. 6, line 11.

know who Maxime Mokom was at the time of that conversation, but got to know who he was when he was back in Bangui.²⁶⁴³

1012. Adrien Poussou reiterated that Mr Ngaïssona was reporting during a meeting of FROCCA that he had been in contact with the former FACA and PG elements and others,²⁶⁴⁴ with ‘the children’ out in the field who were motivated, and that he told Adrien Poussou and Yvon Songuet that he was financing and spent a great deal of money on the upkeep of the soldiers out in the field – to the witness, it logically followed from this that Mr Ngaïssona was part of the armed struggle for taking power back.²⁶⁴⁵ Adrien Poussou did not recall meeting Mr Ngaïssona in the time frame of August to 30 November 2013.²⁶⁴⁶

1013. In the view of the Chamber, the evidence as outlined above clearly shows that also around the time of the creation of FROCCA in Paris, in August 2013, Mr Ngaïssona remained in contact with individuals who were ‘in the field’ organising efforts in response to the Seleka violence, set within the context of the stated goal of removing Michel Djotodia and the Seleka from power, and re-instating François Bozizé to power.

1014. While Adrien Poussou did not recall the exact sequence or timeline, he said that there were at least three meetings at the hotel near the Champs Élysées, one of which Albert Besse also attended, the one at which Mr Ngaïssona spoke about elements on the ground.²⁶⁴⁷ They did not discuss the issue of elements in Bossangoa during the FROCCA meetings, but it was common knowledge that many former PG elements were in Bossangoa and constituted the majority of the Anti-Balaka in that town.²⁶⁴⁸

²⁶⁴³ P-2625: T-189, p. 47, line 3 – p. 48, line 8, p. 53, lines 15-24.

²⁶⁴⁴ P-2625: T-193, p. 57, line 3 – p. 58, line 19.

²⁶⁴⁵ P-2625: T-190, p. 23, line 13 – p. 24, line 1; T-193, p. 60, line 4 – p. 61, line 11.

²⁶⁴⁶ P-2625: T-193, p. 59, line 23 – p. 60, line 3. The Chamber notes that the Ngaïssona Defence counsel asked the witness whether he spoke to Mr Ngaïssona in the period from August to 30 November 2013 or whether, apart from phone contacts, he met him after August 2013, to which the witness responded that not as far as he recalled, leaving the exact subject of his answer unclarified.

²⁶⁴⁷ P-2625: T-189, p. 45, line 12 – p. 46, line 2.

²⁶⁴⁸ P-2625: T-189, p. 52, line 17 – p. 53, line 8.

1015.D30-4720 testified [REDACTED].²⁶⁴⁹ [REDACTED].²⁶⁵⁰ [REDACTED].²⁶⁵¹
[REDACTED].²⁶⁵² [REDACTED].²⁶⁵³ There was never any talk of armed struggle
[REDACTED].²⁶⁵⁴

1016.D30-4720 also described [REDACTED].²⁶⁵⁵ People did not talk about any armed
struggle.²⁶⁵⁶ [REDACTED].²⁶⁵⁷ [REDACTED].²⁶⁵⁸ According to D30-4720,
[REDACTED].²⁶⁵⁹ [REDACTED].²⁶⁶⁰ D30-4720 had not heard people say that there was an
armed branch of FROCCA and had not heard that François Bozizé and his entourage would
weaponise and organise self-defence groups to lead attacks against Muslims.²⁶⁶¹

1017.The Chamber recalls that in its view, the evidence of D30-4720 does not serve to discredit
the evidence provided by Adrien Poussou, in particular. It is clear from D30-4720 that
[REDACTED] she was not aware [REDACTED]. In particular, the Chamber notes that the
witness mentioned [REDACTED].²⁶⁶² In this context, the Chamber considers of note that
the witness seemed unsure whether Mr Ngaïssona [REDACTED],²⁶⁶³ which is remarkable
insofar as she seemed to be certain [REDACTED]. The Chamber is of the view that it is
implausible for D30-4720 to be certain [REDACTED]. To the Chamber, this indicates a
certain tendency in the witness's evidence.

1018.The evidence before the Chamber includes a number of emails sent to the account used by
Mr Ngaïssona at the time.²⁶⁶⁴ In a first email from 'ndikissi Ella' to '[REDACTED]' of 24
September 2013, with subject line '*projets pour examen*' and seemingly sending as
attachments three documents with titles 'A[ccord] FROCCA', 'FROCCA-F[iche]-1' and

²⁶⁴⁹ D30-4720: T-280, p. 79, lines 1-25.

²⁶⁵⁰ D30-4720: T-280, p. 80, line 17 – p. 81, line 12; T-282, p. 13, line 13 – p. 15, line 17.

²⁶⁵¹ D30-4720: T-280, p. 81, line 14 – p. 82, line 25; T-282, p. 16, line 15 – p. 17, line 15.

²⁶⁵² D30-4720: T-280, p. 83, line 16 – p. 84, line 10.

²⁶⁵³ D30-4720: T-281, p. 4, line 15 – p. 6, line 11.

²⁶⁵⁴ D30-4720: T-281, p. 8, lines 1-4.

²⁶⁵⁵ D30-4720: T-281, p. 9, line 7 – p. 11, line 21, p. 12, line 16 – p. 13, line 4.

²⁶⁵⁶ D30-4720: T-281, p. 11, line 22 – p. 12, line 15.

²⁶⁵⁷ D30-4720: T-281, p. 13, line 15 – p. 15, line 18; T-282, p. 7, line 22 – p. 8, line 4, p. 18, line 1 – p. 22, line 10.

²⁶⁵⁸ D30-4720: T-281, p. 15, lines 19-21.

²⁶⁵⁹ D30-4720: T-282, p. 6, line 17 – p. 7, line 10.

²⁶⁶⁰ D30-4720: T-281, p. 15, lines 22-24.

²⁶⁶¹ D30-4720: T-281, p. 18, line 4 – p. 21, line 13.

²⁶⁶² [REDACTED]

²⁶⁶³ D30-4720: T-281, p. 47, line 13 – p. 48, line 19, p. 56, line 21 – p. 57, line 4.

²⁶⁶⁴ See also paragraphs 866-870 above.

‘FROCCA-F[iche]-2’, the sender states that the drafts in question are attached, with the main lines which will be developed further, and that they would finalise the note on the ‘horrors of Seleka’ that day, to be sent maybe as of the following day.²⁶⁶⁵

1019. One of the documents which appears to be an attachment to this is entitled ‘*Protocole d’accord politique pour la création du Front pour le retour à l’ordre constitutionnel en Centrafrique (FROCCA)*’.²⁶⁶⁶ This document lists a number of goals, namely i) re-establishing as quickly as possible constitutional order destroyed by ‘enemies of the nation’ who inflicted, with ‘Islamist mercenaries’, violence on the CAR population; ii) restore and consolidate security; and iii) re-assure Central African people, economic operators and development partners for swift resumption of activities. The measures to be taken to achieve return to constitutional order include: (i) on the political level, make political parties, NGOs, intellectuals, opinion leaders (youth, women, ...), confession and spiritual leaders adhere to cause; (ii) on the diplomatic level, exhibit diplomatic intelligence on all levels; (iii) on the strategic level, take all measures necessary to avoid further suffering of people, specifically acquiring human, material and financial means to achieve goals, finding communication means which cannot be decrypted by intelligence services, preferably Thurayyas, setting up smooth and practical coordination for swift and effective strategic actions, rebuilding confidence and aligning elements of security apparatus that only wait to address the ‘affront’ inflicted by ‘*envahisseurs islamistes sans foi ni loi*’; and (iv) on the communication level, ‘*très fondamentale d’éviter des déclarations frisant la haine, la vengeance et la division*’.²⁶⁶⁷

1020. The abovementioned document outlines as essential steps the return of the democratically elected president to finish the mandate in 2016, the progressive re-establishment of State authority and security across the entire territory, organisation of elections, and re-organisation of the security apparatus. It further mentions a number of positions in the political and diplomatic coordination: political and diplomatic coordinator – Lin Banoukepa, spokesperson – Lévy Yakité, responsible for mobilisation of women – Mazoungou,

²⁶⁶⁵ Email, CAR-OTP-2124-0851. The Chamber notes that in an email of ‘ndikissi Ella’ to ‘[REDACTED]’ of 24 November 2013, the body text sends an address, landline and fax numbers and ends with ‘WAFIO J S’ (see Email, CAR-OTP-2124-0939).

²⁶⁶⁶ Protocol, CAR-OTP-2124-0852, at 0852.

²⁶⁶⁷ Protocol, CAR-OTP-2124-0852, at 0854-0855.

responsible for internal affairs and associations – Edouard Patrice Ngaïssona, responsible for mobilisation and sensitisation of youth – Thierry Bongolo, responsible for finances and logistics – ‘ancienne TG KNK’, responsible for communication – Adrien Poussou.²⁶⁶⁸

1021. Another document entitled ‘[FROCCA] – *Fiches d’activités préparatoires pour le retour en Centrafrique – Fiche 1*’ mentions the goal of awareness raising and outlines a plan for an activity to be held no later than one month after 16 September 2013.²⁶⁶⁹ A second document which appears to be ‘fiche 2’ outlines a political declaration to re-take power and form a government, priority activities for FROCCA, and an action plan for the political transition.²⁶⁷⁰

1022. Adrien Poussou commented on several emails and the above documents as follows: he knew Jean-Serge Wafio as president of the CAR democratic party who was thought of as close to François Bozizé, part of the presidential majority group, and Gbaya from the same region as Bozizé.²⁶⁷¹ Jean-Serge Wafio took part in the meeting that established FROCCA.²⁶⁷² Adrien Poussou had not seen the FROCCA political agreement before, but it is in keeping with the decision taken during the first meeting establishing FROCCA.²⁶⁷³ According to the witness, the role attributed to Mr Ngaïssona in this document, as being responsible for domestic affairs and associations, was related to his activities, since he said he was in regular contact with a number of people who had remained in the country, with associations referring to the groups in the field, like COAC.²⁶⁷⁴ Looking at the document was the first time Adrien Poussou had seen that such level of responsibility and such function had been attributed.²⁶⁷⁵

1023. Joachim Kokaté had also not seen the FROCCA political agreement before and stated that he did not know the plans and strategies of FROCCA because he was not a member.²⁶⁷⁶ He indicated that Jean Serge Waffio is a politician from the CAR but that he did not know why

²⁶⁶⁸ Protocol, CAR-OTP-2124-0852, at 0859.

²⁶⁶⁹ Fiche, CAR-OTP-2124-0861.

²⁶⁷⁰ Fiche, CAR-OTP-2124-0867.

²⁶⁷¹ P-2625: T-189, p. 53, line 25 – p. 55, line 4.

²⁶⁷² P-2625: T-189, p. 59, line 6 – p. 62, line 2.

²⁶⁷³ P-2625: T-189, p. 56, line 20 – p. 57, line 2, p. 59, line 6 – p. 62, line 2.

²⁶⁷⁴ P-2625: T-189, p. 55, line 5 – p. 56, line 18. *See also* P-2625: T-192, p. 74, line 11 – p. 76, line 6.

²⁶⁷⁵ P-2625: T-192, p. 71, line 20 – p. 73, line 5.

²⁶⁷⁶ P-0801: T-034, p. 35, line 16 – p. 37, line 19.

he would be a party to this agreement; Mazoungou was a member of Bozizé's government; Thierry Bongolo was working at the economic and social council during Bozizé's time.²⁶⁷⁷ Joachim Kokaté maintained not having been aware of the positions people occupied within FROCCA, never having been a member of FROCCA and having no information about what happened in FROCCA.²⁶⁷⁸ Joachim Kokaté insisted not knowing anything about FROCCA.²⁶⁷⁹ According to Joachim Kokaté, when he spoke on television, Africa 24, he denounced Djotodia's government speaking as a Central African who was against the seizing of power by force and the Seleka violence, but not on behalf of FROCCA.²⁶⁸⁰ When he spoke on television for the first time, he was in telephone contact with Mr Ngaïssona and they talked about that.²⁶⁸¹ Frequently when he made statements it was after discussions between himself, Mr Ngaïssona, other compatriots, because Joachim Kokaté was not present in Bangui.²⁶⁸²

1024. The Chamber notes in this regard that the evidence before it shows that Joachim Kokaté was clearly a member of FROCCA and involved in planning its activities, as shown by his attendance to the meetings and by the evidence of other witnesses who attribute to him a specific role in this group. The Chamber notes in this regard that the witness seems to have been well familiar with Lin Banoukepa, who appears to have been legal counsel of the CPJP while Joachim Kokaté was involved therewith.²⁶⁸³ On this basis, the Chamber considers not credible the claim of Joachim Kokaté that he was not a member of FROCCA and would not have played any role in it.

1025. The Chamber considers of no further consequence that D30-4720 stated never [REDACTED].²⁶⁸⁴ Indeed, the witness herself indicated that she did not [REDACTED].²⁶⁸⁵ Overall, in light of the witness's clearly limited knowledge [REDACTED], and bearing in

²⁶⁷⁷ P-0801: T-034, p. 37, line 20 – p. 38, line 22.

²⁶⁷⁸ P-0801: T-033, p. 10, line 25 – p. 11, line 1; T-034, p. 38, line 23 – p. 39, line 5, p. 39, line 23 – p. 40, line 3, p. 45, line 23 – p. 47, line 3, p. 48, line 21 – p. 49, line 1.

²⁶⁷⁹ P-0801: T-035, p. 20, line 8 – p. 21, line 20.

²⁶⁸⁰ P-0801: T-034, p. 40, lines 6-15.

²⁶⁸¹ P-0801: T-034, p. 40, lines 16-23, p. 45, line 23 – p. 47, line 3.

²⁶⁸² P-0801: T-034, p. 40, line 24 – p. 41, line 6.

²⁶⁸³ See CPJP document, CAR-OTP-2089-0840, at 0840 (mentioning Joachim Kokaté as coordinator and Lin Banoukepa as legal counsel).

²⁶⁸⁴ D30-4720: T-282, p. 38, lines 7-10.

²⁶⁸⁵ D30-4720: T-281, p. 16, line 12 – p. 17, line 23.

mind the Chamber's above discussion on this witness's evidence,²⁶⁸⁶ the Chamber considers the evidence of D30-4720 of little assistance for its determinations regarding FROCCA.

1026. The Chamber has before it a typed document which purports to contain a collection of FROCCA press releases.²⁶⁸⁷ In what is called '*Communiqué de presse no 001*' of 5 August 2013, the Seleka coup and violence are addressed, the creation of FROCCA is announced, before concluding, '*Tout en s'imposant le devoir de chasser, par les moyens légaux, les criminels de la Séléka du sol centrafricain qu'ils ont souillé et profané, le FROCCA interpelle la conscience collective centrafricaine en vue d'une adhésion sans condition à cette lutte légitime de libération nationale*'.²⁶⁸⁸ The second statement, dated 16 August 2013, also denounces the Seleka violence, and expresses the support of FROCCA for solutions envisaged by the UN Security Council to re-establish peace, democracy and stability in the CAR '*à la seule condition du retour à l'Ordre Constitutionnel en Centrafrique*', before concluding: '*Le [FROCCA] appelle l'ensemble des forces politiques et sociales centrafricaines à faire plus que jamais preuve du nécessaire esprit de responsabilité pour préserver l'unité nationale et obtenir sans délai, le rétablissement de notre président élu, qui doit garantir la poursuite du processus démocratique dans notre pays*'.²⁶⁸⁹

1027. A further statement of 18 September 2013 denounces the 'Islamisation' and 'Somalisation' of the CAR and demands the withdrawal of Djotodia, Tiangaye and the Seleka.²⁶⁹⁰ The statements are followed by what is said to be an interview with Lin Banoukepa who is reported as stating, *inter alia*, that the aim of FROCCA is to '*[r]établir l'ordre constitutionnel, établir un pouvoir laïc, démocratique respectant les libertés et droits des individus. Un pouvoir ayant pour fondement le droit et non les dogmes religieux salafistes*'.²⁶⁹¹

1028. The Chamber considers of importance to note within which temporal context these statements were set. Specifically, they were issued at a time when self-defence groups were

²⁶⁸⁶ See paragraphs 1003-1005, 1015, 1017 above.

²⁶⁸⁷ See Communiqués, CAR-OTP-2094-0387.

²⁶⁸⁸ Communiqués, CAR-OTP-2094-0387, at 0387-88. See also Press article, CAR-OTP-2001-4048.

²⁶⁸⁹ Communiqués, CAR-OTP-2094-0387, at 0388-89.

²⁶⁹⁰ Communiqués, CAR-OTP-2094-0387, at 0393-94. See also Press article, CAR-OTP-2091-1717.

²⁶⁹¹ Communiqués, CAR-OTP-2094-0387, at 0394-96. See also Press article, CAR-OTP-2123-0469.

organising in the CAR, emerged into the Anti-Balaka, and started to advance towards Bangui, engaging in hostilities during this advance.²⁶⁹² In particular the statement of 18 September 2013 was issued the day after an attack on Bossangoa.²⁶⁹³

1029. The Chamber notes that while in France, Mr Ngaïssona did not only participate in the meetings regarding FROCCA as outlined above. Rather, Adrien Poussou also learned – he did not recall from who – that Mr Ngaïssona, when in France, sent money via Western Union to the field, said to be for the upkeep of the elements in the field; and when Adrien Poussou was later in the government, he became aware of Western Union receipts on which he recognised some of the names of Central African soldiers.²⁶⁹⁴ Michel Djotodia showed Adrien Poussou a number of money transfers and gave him a number of names, including that of Mr Ngaïssona as being one of the people sending money to their accomplices in Bangui, but the witness did not specifically see the name of Mr Ngaïssona on a money transfer.²⁶⁹⁵ According to Adrien Poussou, it was not necessary for Mr Ngaïssona to go himself to a Western Union office; for example, when Adrien Poussou was in New York on a FROCCA mission with Yvon Songuet, it was not François Bozizé himself who went to a bank to send money to them, neither one of his sons, he would send somebody else.²⁶⁹⁶ People like Yvon Songuet and others might have resorted to other people to send this money.²⁶⁹⁷ Once Michel Djotodia resigned, they did not hear about this matter any further.²⁶⁹⁸ On the receipts which Djotodia showed him, Adrien Poussou could see amounts ranging from 800,000 to a million, and he saw that some of the amounts were sent to Olivier Koudemon, not remembering any other names.²⁶⁹⁹

1030. Adrien Poussou explained that that was why he later said on RFI that François Bozizé and people close to him were sending money to accomplices on the ground, that being the official

²⁶⁹² See sections IV.A.4, IV.A.6 below.

²⁶⁹³ See section IV.A.6.ii.b below.

²⁶⁹⁴ P-2625: T-189, p. 38, lines 1-14. See also P-2625: T-193, p. 4, line 1 – p. 5, line 2.

²⁶⁹⁵ P-2625: T-193, p. 16, line 12 – p. 18, line 6, p. 19, line 13 – p. 20, line 6.

²⁶⁹⁶ P-2625: T-190, p. 4, lines 10-23; T-193, p. 16, line 12 – p. 18, line 6, p. 19, line 13 – p. 20, line 6.

²⁶⁹⁷ P-2625: T-190-FRA, p. 4, line 22 – p. 5, line 2.

²⁶⁹⁸ P-2625: T-193, p. 21, line 2 – p. 22, line 10.

²⁶⁹⁹ P-2625: T-193, p. 7, line 24 – p. 8, line 25.

position of the government.²⁷⁰⁰ Also in this interview he felt pushed to say that people had been instrumentalised by people from Bozizé's clan because (i) he had listened to a phone conversation in which Levy Yakété told people to go to the airport to increase the numbers of displaced people to show that the Djotodia government was not in control of anything; (ii) Mr Ngaïssona had forwarded him an email from someone in Bangui telling him that he was distributing pamphlets, they were organising on the ground to destabilise the regime; and (iii) all eyes were on François Bozizé following the 5 December attacks, after which FROCCA published a '*communiqué*' claiming responsibility.²⁷⁰¹

1031. Adrien Poussou indicated that Mr Ngaïssona sent him the mentioned email in August or September 2013, in the period when he was meeting with members of FROCCA.²⁷⁰² It was a sort of report to Mr Ngaïssona sent by Ngaya, who then became lead of the Anti-Balaka at Boy-Rabe and claimed to be a pastor.²⁷⁰³ According to the witness, Mr Ngaïssona forwarded this email to him as he was supposed to be a member of the FROCCA communications team, and it was a means of telling Adrien Poussou that he was organising things on the ground, in touch with people there and that they were carrying out activities.²⁷⁰⁴ Adrien Poussou did nothing with this email.²⁷⁰⁵

1032. In an email from 'Alfred le Grand Ngaya' to '[REDACTED]' of 16 July 2013, the sender states that he communicates the composition of the coordination recently created with a view to mobilising the population for protest actions against the Seleka exactions, with the ultimate goal being the withdrawal of Djotodia and return of François Bozizé to power; further states that the members are highly motivated but lacking means, and asks whether such means would be expected from the addressee's side; further saying that the population, mainly in Bangui, is ready to go to the streets to protest and it is sufficient to just start the process; concluding that he knows the addressee is capable of presenting the situation to the

²⁷⁰⁰ P-2625: T-189, p. 39, line 22 – p. 40, line 22; T-193, p. 7, line 24 – p. 8, line 25. See Press article, CAR-OTP-2123-0454.

²⁷⁰¹ P-2625: T-189, p. 42, line 12 – p. 43, line 17.

²⁷⁰² P-2625: T-189, p. 43, lines 18-24.

²⁷⁰³ P-2625: T-189, p. 43, line 25 – p. 45, line 11.

²⁷⁰⁴ P-2625: T-189, p. 44, line 6 – p. 45, line 11.

²⁷⁰⁵ P-2625: T-189, p. 44, line 6 – p. 45, line 11.

president for steps to be taken.²⁷⁰⁶ In another email Alfred le Grand Ngaya' sends to '[REDACTED]' on 13 August 2013, included in the same email chain, the sender indicates that he attaches a copy of the '*tract*' they are disseminating in the city of Bangui on that day.²⁷⁰⁷ This email is forwarded by Mr Ngaïssona to Adrien Poussou on the same day, and appears to contain in its attachment a typed document with a FROCCA header entitled '*Appel patriotique*', which points to the positive situation under the Bozizé rule, denounces the exactions of the Djotodia regime with criminal disciples and mercenaries imported from Chad and Sudan, claims that the latter wants to 'Islamise' the CAR and asks, in this light, and bearing in mind the appeal of Bozizé on 10 August 2013 on RFI, the interview discussed above, that '*tu dois te lever, résister et rejeter l'oppression que t'impose NDOTODJIA et sa horde de séléka*', and to mobilise '*comme un seul homme*', to take out Djotodia and demand from international community 'return to constitutional order'.²⁷⁰⁸

1033. Alfred Legrand Ngaya stated that he knew that FROCCA was set up by Bozizé's lawyer, Lin Banoukepa, after Bozizé left the CAR, with deputy Mr Ngaïssona.²⁷⁰⁹ Alfred Legrand Ngaya communicated with Mr Ngaïssona briefly to find allies and share information, their goal was to restore Bozizé in power legally.²⁷¹⁰ Levy Yakété was a member of FROCCA.²⁷¹¹ They ('we') shared the same vision as FROCCA, had to liberate the country through a popular uprising and wanted something to indicate to the international community, that was why they walked about the front for the return to the constitutional order.²⁷¹²

1034. The exchanges between Mr Ngaïssona and Alfred Legrand Ngaya in relation to FROCCA did not end here. In response to a FROCCA '*communiqué*' sent by Alfred Legrand Ngaya on 13 August 2013, Mr Ngaïssona indicated that 'the authority' would like to read and

²⁷⁰⁶ Email, CAR-OTP-2130-3303, at 3303. The Chamber considers irrelevant the suggestion that the documents in question may not have been 'authentic' FROCCA documents (see D30-4720: T-282, p. 36, lines 11-15), in light of P-0808's specific testimony on this email and his exchanges with Mr Ngaïssona.

²⁷⁰⁷ Email, CAR-OTP-2130-3303, at 3303.

²⁷⁰⁸ Email, CAR-OTP-2130-3303, at 3303-04.

²⁷⁰⁹ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0348-49, para. 151; P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0022, para. 65.

²⁷¹⁰ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0348-49, para. 151; P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0022, para. 65.

²⁷¹¹ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0348-49, para. 151; P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0022, para. 65.

²⁷¹² P-0808: T-069, p. 19, line 25 – p. 21, line 9.

approve the document before publication, and suggests drafting a ‘*communiqué*’ accusing the Seleka of using the FROCCA name for diversion purposes, and that he as focal point waited for the central coordination in Paris regarding the actions to take, which will be read to the ‘*patron*’.²⁷¹³ Alfred Legrand Ngaya reacted, stating that a text would be proposed, and asking for advice on how to prompt the FROCCA executive coordinator for a preliminary view on the tract.²⁷¹⁴

1035. Mr Ngaïssona reached out again to Alfred Legrand Ngaya on 17 September 2013, asking for news,²⁷¹⁵ to which Alfred Legrand Ngaya responded that the situation in the country remained alarming, with Bossangoa, Bouca, Batangafo in distress, stating that preoccupied with FROCCA lines of action to allow envisaging actions on the national level, and asking whether Mr Ngaïssona could give some indication for which actions to propose.²⁷¹⁶ In response, Mr Ngaïssona stated that given the situation in the country, they (‘we’) have men on the ground that manoeuvre, asking Alfred Legrand Ngaya to ‘*accentuer la dégradation dans Bangui et faire généralisée sur une bonne partie du territoire [sic]*’, and further asking whether he could get workers in the public and private sector involved.²⁷¹⁷ Alfred Legrand Ngaya followed up stating that the proposals would be examined to find appropriate actions, but that people were afraid, though they were thinking ‘with the others’ and would keep informed.²⁷¹⁸ Mr Ngaïssona in turn responded saying that matters were urgent, and whether a response could be done as quickly as possible, ‘*le Grand BOSS attends [sic]*’.²⁷¹⁹

1036. The Chamber notes that this exchange coincides with the time of the attack in Bossangoa in September 2013, as well as attacks in surrounding locations earlier that month.²⁷²⁰

1037. Alfred Legrand Ngaya explained that he contacted Mr Ngaïssona for FROCCA action because the situation was really chaotic and they hoped for something to happen.²⁷²¹

²⁷¹³ Email, CAR-OTP-2130-3306, at 3306. *See also* P-0808: T-069, p. 21, line 10 – p. 22, line 15.

²⁷¹⁴ Email, CAR-OTP-2130-3306, at 3306.

²⁷¹⁵ Email, CAR-OTP-2124-0788.

²⁷¹⁶ Email, CAR-OTP-2124-0823, at 0823.

²⁷¹⁷ Email, CAR-OTP-2124-0823, at 0823.

²⁷¹⁸ Email, CAR-OTP-2124-0844, at 0844.

²⁷¹⁹ Email, CAR-OTP-2124-0844, at 0844.

²⁷²⁰ *See* section IV.A.6.ii below.

²⁷²¹ P-0808: T-069, p. 22, line 16 – p. 23, line 21.

According to the witness, any discussions on manoeuvring would have concerned mobilisation of the population, political actions, citizen actions.²⁷²² It was systematically through Mr Ngaïssona that Alfred Legrand Ngaya obtained information about FROCCA.²⁷²³ The witness did not know what Mr Ngaïssona meant with people on the ground, he could not suspect Mr Ngaïssona as being someone who was in favour of war; his correspondence with Mr Ngaïssona was related mainly to popular movements, associations; the idea was to persuade popular movements to do something; they ('we') were hoping that FROCCA would put pressure at the level of Paris.²⁷²⁴ Alfred Legrand Ngaya understood the proposals to be within the framework of the actions they had been carrying out, that is, to mobilise association leaders.²⁷²⁵ The witness did not recall exchanging messages with a Facebook account of 'Bangui FROCCA'; in any event, their ('our') actions were extremely discreet and he was therefore not aware whether other persons were working under the name of FROCCA.²⁷²⁶ At their level, there was an increasingly generalised awakening of consciences, such as concert of pots.²⁷²⁷

1038. Adrien Poussou stated that Yvon Songuet also said that he was putting a lot of money into the project for François Bozizé's return to power and that it had already cost him a lot of money, showing Adrien Poussou in the café in Paris receipts of Western Union money transfer to convince him that he was paying money to send to Cameroon out of his pocket.²⁷²⁸ The witness could see the logo, but not the sender or recipient.²⁷²⁹ When Songuet and Adrien Poussou were later colleagues in the government, from July 2014 onwards, Songuet gave him some receipts and said that this Anti-Balaka issue had ruined him, but Adrien Poussou no longer had those receipts.²⁷³⁰

²⁷²² P-0808: T-070, p. 23, line 20 – p. 25, line 3.

²⁷²³ P-0808: T-069, p. 23, line 22 – p. 24, line 2.

²⁷²⁴ P-0808: T-069, p. 24, lines 3-20, p. 25, line 18 – p. 26, line 23.

²⁷²⁵ P-0808: T-069, p. 27, lines 9-25.

²⁷²⁶ P-0808: T-069, p. 31, lines 4-22. See Facebook messages, CAR-OTP-2102-8506.

²⁷²⁷ P-0808: T-069, p. 31, line 23 – p. 34, line 11.

²⁷²⁸ P-2625: T-189, p. 37, lines 14-25; T-193, p. 6, line 12 – p. 7, line 20, p. 9, lines 9-19.

²⁷²⁹ P-2625: T-193, p. 6, line 12 – p. 7, line 20, p. 9, lines 9-19.

²⁷³⁰ P-2625: T-193, p. 9, line 21 – p. 10, line 13, p. 14, line 8 – p. 16, line 8. The Chamber notes that it was suggested to the witness that Yvon Songuet would have said not knowing FROCCA and not lending financial support to François Bozizé (see P-2625: T-193, p. 10, line 23 – p. 13, line 6). Without further information on this matter, the Chamber does not consider this allegation to compromise Adrien Poussou's account and relies on it accordingly.

1039. Adrien Poussou explained that in the meeting at the hotel close to the Champs Élysées he was nominated to go to New York with Yvon Songuet for a lobbying mission, especially by virtue of the fact that the witness attempted to sensitise others for the need to favour political and diplomatic solutions to the ongoing crisis.²⁷³¹ François Bozizé dealt with financial and military matters together with his son Francis, who used to be minister with special responsibility for defence matters.²⁷³² To Adrien Poussou, it seemed clear that there was a military branch, even though there was no formal link between it and FROCCA as such.²⁷³³ According to the witness, while he sent Adrien Poussou to New York, François Bozizé did not believe in these diplomatic initiatives and was not counting on them to regain power.²⁷³⁴ They ('we') were convinced that the solution would be diplomatic, and to satisfy them, and maybe to get rid of them as well, they were sent to New York – proof of this being that on their return, no one met with them for them to be able to report on their activities.²⁷³⁵ When they came back from New York, they talked, if only to tell Bozizé's inner circle about their impressions of what people told them there,²⁷³⁶ but Adrien Poussou had no further communications with François Bozizé.²⁷³⁷ According to the witness, he did not go to New York representing FROCCA, the messages transmitted were not in the name of François Bozizé, even though he financed the mission, and no memorandum was object of a discussion with François Bozizé whom they told it was important to go to New York to meet people and speak with them about the situation in the country.²⁷³⁸

1040. As regards further activities of FROCCA following the meetings in Paris as outlined above,²⁷³⁹ the Chamber notes, from the evidence outlined below, that its members seemed to attempt to gain support from individuals or groups that they considered could contribute to FROCCA's stated cause. However, the evidence on record does not show that there would have been a concerted alignment of groups with FROCCA.

²⁷³¹ P-2625: T-189, p. 38, line 17 – p. 39, line 7.

²⁷³² P-2625: T-189, p. 39, lines 17-21.

²⁷³³ P-2625: T-189, p. 39, lines 17-21.

²⁷³⁴ P-2625: T-193, p. 27, lines 7-23.

²⁷³⁵ P-2625: T-193, p. 27, line 25 – p. 28, line 11.

²⁷³⁶ P-2625: T-193, p. 31, line 5 – p. 32, line 25.

²⁷³⁷ P-2625: T-193, p. 33, line 16 – p. 34, line 17.

²⁷³⁸ P-2625: T-193, p. 29, line 3 – p. 30, line 25, p. 34, line 25 – p. 37, line 13, p. 38, line 1 – p. 39, line 24.

²⁷³⁹ See paragraphs 998-1017 above.

1041. First, Joachim Kokaté testified about being approached by Francis Bozizé who drafted and sent to him a document of the ‘*Collectif des Officiers Libres*’, which he wanted the witness to validate at the request of his father, and which Joachim Kokaté accepted, thereafter publishing it on social media.²⁷⁴⁰ According to the witness, this was just for the purpose of having his name on the document, it was a strategy of François Bozizé, but Joachim Kokaté had no role.²⁷⁴¹ The strategy of attack of Bozizé with others was planned by FROCCA.²⁷⁴² At the lunch they said they had an attack plan, a strategy, which they were going to work on, but Joachim Kokaté was not involved and could not give details; as former soldier, Joachim Kokaté considered that talking about ‘attack’ means going to war and he thought this was what FROCCA decided to do.²⁷⁴³ At the same time, the witness maintained that he was a supporter, sympathiser of the Anti-Balaka, but never on the ground; he never gave a single order and did not have that competence.²⁷⁴⁴ According to Joachim Kokaté, he understood after the meeting with Franklin Bozizé, Mr Ngaïssona, Bernard Mokom, Eric Danboy, Rodrigue Bozizé in Yaoundé that they were the deciders of the military wing of FROCCA.²⁷⁴⁵ Mr Ngaïssona was determined to see that Bozizé come to power with him and Mr Ngaïssona told Joachim Kokaté that he organised and coordinated military actions in the field.²⁷⁴⁶ Joachim Kokaté stated that his statement on BBC Radio on 22 August 2013 was in the context of knowing that the Seleka was made up of Central Africans and mercenaries from Chad and Sudan, and in any event not a statement, but the opinion of the written media.²⁷⁴⁷

1042. The document before the Chamber mentions that since 10 December 2012, a ‘horde of foreign invaders’ is in the pay of certain compatriots; that since 24 March 2013, a strange fate is imposed on the entire people with the systematic violation of fundamental human rights; and that to stop this, the ‘Collective’ adheres completely to the objectives of FROCCA; asking all Central African patriots to put themselves at the disposal of the efforts

²⁷⁴⁰ P-0801: T-034, p. 41, line 14 – p. 42, line 23, p. 45, lines 4-13, p. 46, lines 20-25; T-038, p. 35, line 24 – p. 36, line 11.

²⁷⁴¹ P-0801: T-034, p. 42, line 23 – p. 43, line 25.

²⁷⁴² P-0801: T-034, p. 44, lines 1-11.

²⁷⁴³ P-0801: T-034, p. 47, lines 4-25.

²⁷⁴⁴ P-0801: T-034, p. 49, lines 2-11.

²⁷⁴⁵ P-0801: T-034, p. 50, line 17 – p. 51, line 4.

²⁷⁴⁶ P-0801: T-034, p. 51, lines 5-21.

²⁷⁴⁷ P-0801: T-038, p. 35, lines 12-23, p. 36, line 12 – p. 37, line 14. See Press article, CAR-OTP-2088-2934.

made by François Bozizé, and stating that the time to act has come, asking for a patriotic uprising of all soldiers inside and out to liberate the country and re-establish the constitutional order.²⁷⁴⁸

1043. Second, Adrien Poussou testified about receiving an email forwarded to him by Mr Ngaïssona in August 2013, but indicated that he did not know Stéphane Youfeina, did not know the mentioned group, or any of the other groups that joined FROCCA in the acts of adhesion.²⁷⁴⁹ According to Adrien Poussou, in the main these groups were factitious – an individual alone could draft his own text and refer to a group to show there was public support for FROCCA, but in reality these groups did not exist, as was the case for Levi Yakété’s ‘MOREPOL’.²⁷⁵⁰ To Adrien Poussou’s knowledge, Kokaté was the only member of the previously mentioned ‘Collective of Free Officers’.²⁷⁵¹ Like ‘MOREPOL’ and some other movements that existed only in the form of their releases, that collective issued a statement indicating FROCCA membership.²⁷⁵² Adrien Poussou did not discuss with Mr Ngaïssona why the latter had sent the documents to him, he received emails quite regularly during that period and Mr Ngaïssona forwarded Adrien Poussou emails that had been received from Bangui.²⁷⁵³

1044. An email before the Chamber of 13 August 2013 from ‘[REDACTED]’ to Mr Ngaïssona indicates an attachment entitled ‘GSFROCCA.docx’, and states sending the document as discussed, email which then is forwarded by Mr Ngaïssona to Adrien Poussou on the same day.²⁷⁵⁴ An undated, unsigned document before the Chamber entitled ‘*Groupe de soutien au Front de Retour à l’ordre constitutionnel en Centrafrique (GSFROCCA)*’ states that following the recent announcement by François Bozizé of FROCCA’s creation, the ‘reflection group’ met and set up the GSFROCCA, mentioning the members of its coordination team.²⁷⁵⁵

²⁷⁴⁸ Appeal, CAR-OTP-2069-3544.

²⁷⁴⁹ P-2625: T-190, p. 7, line 3 – p. 8, line 5.

²⁷⁵⁰ P-2625: T-190, p. 7, line 14 – p. 8, line 5; T-192, p. 53, lines 11-22.

²⁷⁵¹ P-2625: T-192, p. 52, lines 4-17.

²⁷⁵² P-2625: T-192, p. 52, line 4 – p. 53, line 6.

²⁷⁵³ P-2625: T-190, p. 11, lines 7-19.

²⁷⁵⁴ Email, CAR-OTP-2130-3641.

²⁷⁵⁵ GSFROCCA document, CAR-OTP-2130-3423.

1045. Third, media publications which are not further supported by other evidence suggest that the FDPC would also have aligned with FROCCA.²⁷⁵⁶ Similarly, the Chamber has before it a number of items which suggest activities of a group called '*Jeunesse Centrafricaine du FROCCA*',²⁷⁵⁷ without however having received further information thereon.

1046. On the basis of the above, the Chamber considers that some groups may have expressed their support towards FROCCA, but that there was no general alignment with it.

1047. Adrien Poussou testified that at around end of November and beginning of December 2013, he was convinced that Anti-Balaka factions were acting in the name and on behalf of François Bozizé and his clan.²⁷⁵⁸ Former members of the PG and armed forces, considered as being close to François Bozizé, led these Anti-Balaka factions, as known by everyone and said by the government, and they knew François Bozizé was instrumentalising at least a faction of the Anti-Balaka.²⁷⁵⁹ When the attack on 5 December 2013 took place, there was a FROCCA '*communiqué*' signed by Banoukepa which stated clearly that FROCCA was the political entity behind those who had attacked, there were government '*communiqués*' which involved François Bozizé and the people close to him, and there was media information that named François Bozizé was being responsible for, or at least the beneficiary of, these attacks; also Mr Ngaissona.²⁷⁶⁰

1048. The Chamber notes that also witnesses who were not directly involved in setting up FROCCA or in its activities provided information on this group, as outlined below.

1049. P-1847 testified that [REDACTED] François Bozizé, in South Sudan, that he was leaving for Paris, where he then met up with his lawyer Banoukepa, Yakété, Kokaté, Adrien Poussou and other members of the Central African diaspora that supported Bozizé, and they created FROCCA, with Kokaté as spokesperson.²⁷⁶¹ P-1847 thought this was beginning September

²⁷⁵⁶ See Press article, CAR-OTP-2002-0692; Press article, CAR-OTP-2091-1743, at 1753.

²⁷⁵⁷ See Posts, CAR-OTP-2081-1414; CAR-OTP-2081-1416; CAR-OTP-2081-1418; CAR-OTP-2081-1420; CAR-OTP-2081-1430; CAR-OTP-2081-1432; CAR-OTP-2081-1435.

²⁷⁵⁸ P-2625: T-190, p. 23, lines 3-8.

²⁷⁵⁹ P-2625: T-193, p. 54, line 13 – p. 57, line 1.

²⁷⁶⁰ P-2625: T-193, p. 54, line 13 – p. 57, line 1.

²⁷⁶¹ P-1847: T-023, p. 51, line 8 – p. 52, line 8; P-1847 First Statement, CAR-OTP-2061-1534, at 1549, para. 100.

2013, shortly before the UN summit in New York planned for 19 September 2013.²⁷⁶² The purpose of FROCCA was to coordinate military action on the ground against the Seleka group that was there.²⁷⁶³ As spokesperson, Joachim Kokaté provided information, made contact with the soldiers and combatants on the ground.²⁷⁶⁴ Bozizé made a statement on RFI in regard to this meeting, and Joachim Kokaté made a statement on BBC, while [REDACTED] talked about the meeting, mentioning that they had designated Adrien Poussou to go to the US for the UN summit, to lobby and raise awareness among Central Africans in the US about the need to return to the constitutional order in the CAR.²⁷⁶⁵

1050. P-1847 was aware of the plan to return the constitutional order to the CAR [REDACTED]; the strategic plan as outlined accorded with P-1847's understanding of what FROCCA was designed to do and doing.²⁷⁶⁶ After FROCCA was created, [REDACTED] often contacted P-1847 and they discussed the situation in the country, political information, the organisation of FROCCA, in relation with Levy Yakété whom he always mentioned.²⁷⁶⁷ P-1847 was aware of Jean Serge Wafio's participation in FROCCA, he was an official of 'ECCAS' at the time and he decided to participate in FROCCA to help, as confirmed to P-1847.²⁷⁶⁸ Kokaté was contacting former military and fighters and tried to regroup them, both in relation to his role in the movement and in FROCCA.²⁷⁶⁹ At the time, they wanted to have the return to the constitutional order.²⁷⁷⁰

1051. Aurélien Llorca interviewed François Bozizé on 6 June 2014 in Entebbe, Uganda, occasion on which Bozizé denied commanding the Anti-Balaka in the CAR, any involvement with what was happening there, and stated not understanding why people would say he was responsible.²⁷⁷¹ Bozizé explained that the Anti-Balaka took control over Bossangoa in September 2013 when he was in Paris and thus he could not have been involved, and that

²⁷⁶² P-1847 First Statement, CAR-OTP-2061-1534, at 1549, para. 98.

²⁷⁶³ P-1847: T-023, p. 51, line 24 – p. 52, line 1.

²⁷⁶⁴ P-1847: T-023, p. 56, lines 14-19.

²⁷⁶⁵ P-1847 First Statement, CAR-OTP-2061-1534, at 1549, para. 99.

²⁷⁶⁶ P-1847: T-023, p. 52, line 9 – p. 54, line 1.

²⁷⁶⁷ P-1847 Second Statement, CAR-OTP-2122-8251-R01, at 8260, para. 77.

²⁷⁶⁸ P-1847: T-023, p. 57, line 9 – p. 58, line 2.

²⁷⁶⁹ P-1847: T-023, p. 60, lines 1-8. *See also* paragraphs 365-373 above.

²⁷⁷⁰ P-1847: T-023, p. 60, lines 20-23.

²⁷⁷¹ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0258, para. 87.

the fact that a lot of people involved in that insurgency were close to him was a coincidence.²⁷⁷² Bozizé also said in relation to the telephone call tapped between him and Yvon Konaté that he had called Konaté at the request of the US State Department to prevent further violence, and that the leak of the conversation coincided with internal struggles within the Anti-Balaka movement for leadership, which Aurélien Llorca supposed was referring to the power battles between Bara, Kokaté, Mr Ngaïssona, Wenezoui and others.²⁷⁷³ Bozizé said that he never played any coordination role for the Anti-Balaka and had never called any Anti-Balaka commander before that particular call, saying that the Anti-Balaka were a grassroots reaction to the crimes committed by the Seleka and that he welcomed the election of Samba-Panza.²⁷⁷⁴ Bozizé also said that his political movement, FROCCA or KNK, had no relation with the Anti-Balaka.²⁷⁷⁵ Aurélien Llorca believed [REDACTED].²⁷⁷⁶

1052. Jean-Jacques Demafouth testified that in 2013, they were aware of meetings organised by close collaborators of Francis Bozizé in France for the purpose of organising the Anti-Balaka.²⁷⁷⁷ Francis Bozizé and Lin Banoukepa were the main organisers of those meetings.²⁷⁷⁸ Kokaté introduced himself as leader of FROCCA at the time, a movement which was also an Anti-Balaka movement.²⁷⁷⁹ Jean-Jacques Demafouth thought it was sort of a Central African front led by Kokaté with the objective to re-dynamise the Anti-Balaka movement.²⁷⁸⁰ Kokaté was travelling between Paris, Cameroon, Congo and other African countries to find resources and to mobilise Central African soldiers in training who had been sent by François Bozizé and to re-dynamise the movement.²⁷⁸¹

1053. P-0884 testified that FROCCA, according to its name, advocated for the return of the constitutional order, supporting François Bozizé's return to power, and favouring a transition.²⁷⁸² He heard François Bozizé's statement about the FROCCA's creation on the

²⁷⁷² P-0287 Statement, CAR-OTP-2115-0239-R01, at 0258-59, para. 89.

²⁷⁷³ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0259, para. 92.

²⁷⁷⁴ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0259, para. 93.

²⁷⁷⁵ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0259-60, para. 94.

²⁷⁷⁶ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0260, para. 95.

²⁷⁷⁷ P-2328: T-047, p. 3, line 24 – p. 4, line 3.

²⁷⁷⁸ P-2328: T-047, p. 4, lines 4-9.

²⁷⁷⁹ P-2328: T-047, p. 4, lines 10-13.

²⁷⁸⁰ P-2328: T-047, p. 4, lines 14-16.

²⁷⁸¹ P-2328: T-047, p. 4, line 22 – p. 5, line 2.

²⁷⁸² P-0884: T-055, p. 42, lines 9-12; T-056, p. 34, lines 8-16.

radio, but did not know anything about FROCCA's activities.²⁷⁸³ They ('we') were informed that Joachim Kokaté and Levy Yakété were involved in the activities of FROCCA, P-0884 recalled Yakété made such a statement over RFI.²⁷⁸⁴ According to P-0884, FROCCA was considered to be the political arm of the Anti-Balaka.²⁷⁸⁵ P-0884 did not know the link between Mr Ngaïssona and FROCCA, though in the organigram, which P-0884 did not verify, he was a political leader in the group.²⁷⁸⁶ P-0884 knew that Mr Ngaïssona was a member of FROCCA, but did not know how FROCCA was set up and which role Mr Ngaïssona played in it; he heard over the radio that he was a political leader, but did not have any details.²⁷⁸⁷

1054. P-2673 stated hearing about FROCCA on the radio, but not knowing what they did or anyone in it; further stating that everybody knew that Yakété was its founder and creator.²⁷⁸⁸ At one point, P-2673 befriended 'FROCCA' on Facebook for his own information.²⁷⁸⁹ P-2673 gave the impression that he was not amongst them but simply wanted to know more, having heard that those in FROCCA were having meetings.²⁷⁹⁰ P-2673 [REDACTED] in reality did not want to attend, he merely wanted to find out [REDACTED].²⁷⁹¹ Asked about the relationship between FROCCA and the Anti-Balaka, if any, P-2673 opined that there was a link – all of Bozizé's entourage knew that there was a clear link between FROCCA and the Anti-Balaka, because members of FROCCA knew what Anti-Balaka were doing and vice versa, also Yakété was a member of FROCCA and supported the Anti-Balaka.²⁷⁹²

1055. According to P-2841, Yakété first created COCORA in Bangui and later FROCCA in France with Lin Banoukepa, who had a representative in Bangui named Cyriaque Azouassa; David Gbanga was also a FROCCA member.²⁷⁹³ According to P-2841, FROCCA began to claim responsibility for a lot of Anti-Balaka events since Yakété wanted to be seen as the

²⁷⁸³ P-0884: T-055, p. 42, lines 13-20.

²⁷⁸⁴ P-0884: T-055, p. 42, lines 21-25.

²⁷⁸⁵ P-0884: T-055, p. 53, lines 21-23.

²⁷⁸⁶ P-0884: T-055, p. 43, lines 1-6.

²⁷⁸⁷ P-0884: T-055, p. 42, lines 4-8, p. 43, lines 1-6, p. 43, lines 15-22.

²⁷⁸⁸ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6443, para. 50; P-2673: T-042, p. 52, line 16 – p. 54, line 19.

²⁷⁸⁹ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6443, para. 51; P-2673: T-042, p. 54, lines 6-19.

²⁷⁹⁰ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6450, paras 98-99 *referring to* [REDACTED].

²⁷⁹¹ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6451, para. 106; P-2673: T-041, p. 26, lines 1-17.

²⁷⁹² P-2673: T-041, p. 26, line 18 – p. 27, line 9; T-042, p. 51, line 20 – p. 52, line 10.

²⁷⁹³ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4272, para. 184.

inspiration for what was happening in the field, such as when the Seleka were defeated in Bossangoa.²⁷⁹⁴ Yakété was in contact with Bernard Mokom and Mr Ngaïssona, so they would have known what FROCCA was about.²⁷⁹⁵

1056.P-1858 agreed with the suggestion that Mr Ngaïssona never wanted the return of the constitutional order, and indicated that he believed that this thought was mentioned by Bara and that he heard Mr Ngaïssona talk about it for the second time, which was what brought discord between Mr Ngaïssona and ‘Mokom’.²⁷⁹⁶ Bringing Bozizé back to power was what was meant when saying ‘return to the constitutional order’.²⁷⁹⁷ P-1858 agreed with the suggestion that Mr Ngaïssona mentioned that the goal was reached in reference to chasing the Seleka away from power, whereas the goal of those who wanted to bring Bozizé back to power was never reached.²⁷⁹⁸

1057. According to P-2926’s report, François Bozizé went to France following stays in Yaoundé and Nairobi, seen there in summer 2013 and staying until September, coinciding with the re-emergence of his supporters and the creation of FROCCA announced on 5 August 2013, coordinated by Lin Banoukepa, composed of people close to Bozizé, including Mr Ngaïssona, Levy Yakété, Joachim Kokaté.²⁷⁹⁹ In releases and media interventions, the FROCCA coordinator took up the rhetoric of Bozizé’s circles from the beginning of the conflict in relation to the ‘forced Islamisation of the CAR’ and an attack launched by ‘Islamist Muslim mercenaries coming in more than 15,000 from Chad and Sudan’, which was perfectly illustrated by the ‘*communiqué*’ of 18 September 2013, which stated that the Seleka was systematically destroying public buildings, churches, houses of worship all across the CAR with the sole political aim of ‘de-Christianising’ the CAR to allow introduction of the Koran and forced Islamisation – it conceptualised the fight against the Muslims by bringing forward the notion of ‘*Centrafricanité*’, borrowing from the Ivorian

²⁷⁹⁴ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4272, para. 184.

²⁷⁹⁵ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4272, para. 185.

²⁷⁹⁶ P-1858: T-187, p. 29, lines 5-9.

²⁷⁹⁷ P-1858: T-187, p. 29, lines 17-24.

²⁷⁹⁸ P-1858: T-187, p. 33, line 23 – p. 34, line 6 *referring to* Audio recording, CAR-OTP-2042-2467, at 00:25:01-00:28:05.

²⁷⁹⁹ P-2926 Report, CAR-OTP-2127-4289, at 4307, para. 41.

political context.²⁸⁰⁰ This notion related to the argument that Seleka were not really citizens, and its promoters linked it to linguistic, cultural and religious aspects, in that people had to speak Sango, be part of the CAR culture (in particular through language), and not be Muslim.²⁸⁰¹ The agenda of FROCCA was return to the constitutional order, meaning the return of François Bozizé, playing the role of indirect spokesperson of Bozizé who was in hiding and stayed discreet.²⁸⁰² Through Lin Banoukepa, FROCCA also claimed the attack on Bangui on 5 December 2013, encouraging the youth to rise up against the ‘foreign Jihadists’ and considering this attack as a return to the constitutional order.²⁸⁰³

1058. The evidence as outlined above shows that FROCCA, founded in Paris in August 2013, was meant to advocate for the return to the constitutional order, which signified the return of François Bozizé to power. The evidence equally shows that Mr Ngaïssona was part of this group, active in its discussion, and that its executive director Lin Banoukepa did not work in isolation. Indeed, any steps undertaken in the context of FROCCA were part of broader-scale attempts to ensure François Bozizé’s return to power and must be seen in the context of steps and coordination efforts undertaken as discussed above, as well as of activities unfolding on the ground, as discussed in the following section.

4. Formation of groups in different localities and emergence of the Anti-Balaka

Against the backdrop of the violence committed by the Seleka, and in parallel to the activities in Cameroon and Zongo, self-defence groups in various localities across the CAR formed or re-activated from previous existence very quickly following the take-over of power by the Seleka. Individuals within those groups also obtained amulets or *gris-gris*. Some of these individuals and local groups converged onto and joined together in Gobere, north-east of Bossangoa.

In Gobere, civilians and former members of the Central African armed forces (FACA) and Presidential Guard gathered, and (i) organised into various sub-groups with a leader each; (ii) set up or maintained contacts with groups and individuals in other locations, including Maxime Mokom in Zongo, who was considered to be a coordinator of operations; (iii) organised trainings in weapon handling and combat by FACA members; and (iv) made

²⁸⁰⁰ P-2926 Report, CAR-OTP-2127-4289, at 4307, para. 42. The Chamber notes that P-2926 interviewed [REDACTED] and confirmed that part of the information contained in that part of the report was based on the notes he took during this interview (see P-2926: T-031, p. 28, line 23 – p. 30, line 7; see also Notes, CAR-OTP-2122-9822; CAR-OTP-2122-9823).

²⁸⁰¹ P-2926: T-031, p. 30, line 11 – p. 31, line 16.

²⁸⁰² P-2926 Report, CAR-OTP-2127-4289, at 4307-08, para. 43.

²⁸⁰³ P-2926 Report, CAR-OTP-2127-4289, at 4307-08, para. 43.

further plans with a view to descending onto Bangui and removing the Seleka and Michel Djotodia from power.

At the same time, former members of the FACA and Presidential Guard also in other localities created new or joined pre-existing self-defence groups, organising themselves into military-like structures and assuming or sharing command over them.

Initially having formed separately, these groups started out with a common enemy and increasingly coordinated their activities, thereby essentially forming one movement. This movement came to be known as ‘Anti-Balaka’.

The armed groups forming at the time were armed mainly with makeshift and bladed weapons, hunting rifles, service weapons retained by members of the FACA, and weapons they seized from the members of the Seleka after engaging them in hostilities.

i. Self-defence groups in various localities

1059. While efforts were undertaken in localities outside of the CAR as outlined above, individuals within the CAR, in particular in the provinces, did not remain passive. Rather, as further outlined below, the evidence before the Chamber shows that, in light and in the context of the violence committed by the Seleka as outlined above,²⁸⁰⁴ groups composed mainly of civilians formed in various localities across different provinces of the CAR as well as in Bangui with a view to defending against the abuses perpetrated by the Seleka. It appears from this evidence that, in many localities, self-defence groups already existed in the past to fight against road bandits and poachers and that such groups were either re-activated or re-purposed with a view to defending against the Seleka.

1060. The Prosecution submits that, consistent with the plan set out in FROCCA’s founding document, Mr Ngaïssona ‘helped mobilise and equip existing self-defence groups, new recruits, FACA and PGs in strategic positions’ in Bangui, Zongo, around Gobere, and along the Cameroon and CAR border, ‘to prepare and execute attacks against Seleka positions’.²⁸⁰⁵ The Prosecution submits that the evidence ‘demonstrates unequivocally that [Mr] N[gaïssona] exercised his coordinating role in collaboration with Bernard M[okom] and Maxime M[okom]’.²⁸⁰⁶ In particular, the Prosecution argues that Mr Ngaïssona invited members of the KNK, FACA, and chiefs of self-defence groups to meetings in Yaoundé

²⁸⁰⁴ See section IV.A.1.iv above.

²⁸⁰⁵ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 107.

²⁸⁰⁶ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 116.

before the 5 December 2013 attacks to structure the Anti-Balaka.²⁸⁰⁷ It further argues that Mr Ngaïssona ‘provided money, ammunition, food, medication, and Thuraya satellite phones’ to the Anti-Balaka ‘in the field’ directly and indirectly, including through Bernard Mokom and Maxime Mokom.²⁸⁰⁸

1061. The Ngaïssona Defence submits that the evidence does not support any coordination between Maxime Mokom and Mr Yekatom’s group, or between the ‘Gobere group’ and individuals in Cameroon, notably Mr Ngaïssona, or Maxime Mokom.²⁸⁰⁹ Regarding the ‘Gobere group’, it argues that the evidence concerning Mr Ngaïssona coordinating with or issuing orders to this group is inconsistent and often amounts to hearsay and speculation,²⁸¹⁰ and that there is inconclusive evidence regarding Maxime Mokom’s interactions and role *vis-à-vis* the ‘Gobere group’.²⁸¹¹

1062. The Yekatom Defence concedes that ‘various local resistance groups’ formed, some of which were ‘loosely coordinated, with differing levels of coordination’, but that this was not ‘unified, structured, and ideologically homogenous’, as argued by the Prosecution.²⁸¹² Regarding these groups, the Yekatom Defence submits that after the Seleka takeover, a group called ‘Siriri’ was formed and led by Yvon Konaté in Bangassou following instructions of François Bozizé with the aim of reaching Bangui to fight against the Seleka, including among its members FACA elements and Levy Yakété as ‘coordinator/spokesperson’.²⁸¹³ It further suggests that the CLPC was established through the initiative of ‘Mokom’ while he was in Zongo prior to 5 December 2013, aimed at ‘persuasion and mobilisation of the population to bring Bozizé back to power’, and that individuals associated with it included, *inter alia*, P-0306, Konaté, Brice Emotion Namsio, Alfred Legrand Ngaya, Lebene, Ngremangou and P-0884.²⁸¹⁴ The Yekatom Defence also

²⁸⁰⁷ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, paras 122-124.

²⁸⁰⁸ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 127.

²⁸⁰⁹ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 201-209.

²⁸¹⁰ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 204.

²⁸¹¹ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 205.

²⁸¹² [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 167.

²⁸¹³ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 169.

²⁸¹⁴ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 173.

argues that P-0954 [REDACTED];²⁸¹⁵ and that P-0974 became [REDACTED] after 5 December 2013.²⁸¹⁶

a. Information about a ‘movement’ forming in the provinces

1063. The evidence before the Chamber, as further outlined below, shows that information on self-defence groups forming with a view to defending themselves against the abuses committed by the Seleka was widely available.

1064. Indeed, Catherine Samba-Panza testified that the information she received once she became head of the transition government indicated that the Anti-Balaka were youth organised to defend their locality against robbers and bandits, using artisanal weapons, knives, non-fire arms to defend themselves, which then organised to defend their interests in light of the Seleka abuses.²⁸¹⁷ While she heard about the Anti-Balaka while she was mayor of Bangui, the first time that the witness became aware of the group as an organised movement was on 5 December 2013.²⁸¹⁸

1065. Adrien Poussou stated that information notably through the press indicated that ‘these “Anti-Balaka”’ – expression which had two meanings, but could be understood as ‘anti-machete’ – had more and more weapons and were increasingly better organised.²⁸¹⁹ This was between about April and summer 2013.²⁸²⁰ Since Adrien Poussou learned in Yaoundé that those close to François Bozizé wanted to use armed violence to take power, he concluded that they would organise ‘these Anti-Balaka militiamen’ to attack the Seleka.²⁸²¹ Levy Yakété, who

²⁸¹⁵ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 174.

²⁸¹⁶ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 175.

²⁸¹⁷ P-0952: T-249, p. 37, line 16 – p. 38, line 3.

²⁸¹⁸ P-0952: T-251, p. 6, lines 1-7. The witness was appointed as mayor of Bangui by Michel Djotodia and remained in this position until she was elected as new interim president following Michel Djotodia’s resignation (see P-0952: T-249, p. 10, line 12 – p. 11, line 10; paragraph 1561 below).

²⁸¹⁹ P-2625: T-189, p. 20, line 16 – p. 21, line 20.

²⁸²⁰ P-2625: T-189, p. 20, line 16 – p. 21, line 12.

²⁸²¹ P-2625: T-189, p. 20, line 16 – p. 21, line 16. The Chamber notes that Adrien Poussou explained, when questioned what led him to the conclusion that people close to Bozizé would organise ‘these Anti-Balaka militiamen’, that he took part in meetings, including in Yaoundé and Paris, in which people close to Bozizé discussed that they were organising themselves ‘to take control of power by force’, which made the witness think that they were ‘organising people on the ground’, also because Levy Yakété said that he was ‘in permanent contact with people on the ground’ (see P-2625: T-192, p. 57, line 23 – p. 58, line 7).

was also in France and with whom Adrien Poussou had occasional discussions, confirmed this when saying, ‘We are organising the young men out in the field’.²⁸²²

1066. Similarly, P-0884 explained that the movement was made up of different individuals from different areas like Bossangoa, Bouar, Mbaïki, Pissa, reacting to the abuses of the Seleka.²⁸²³ Everyone was organising their own ‘demonstrations’, Mr Ngaïssona, the Anti-Balaka, and they came together; everybody was responding differently and then moving towards this resistance.²⁸²⁴ For example, Maxime Mokom and Bernard Mokom called P-0884 to say that they were each in contact with some people; these people were organising their resistance spontaneously in different zones; in Cameroon, the provinces, groups coming from Bossangoa, Boganagom, Yaloké, Berbérati, Bossembélé, converging on Bangui on 5 December 2013; Maxime Mokom and others were all organising themselves separately.²⁸²⁵ At the beginning, the Anti-Balaka were several groups that came from the provinces, a revolution of the population, not a group that belonged to a single individual.²⁸²⁶

1067. Alfred Legrand Ngaya stated that they heard of people mobilising all over the country and moving towards Bangui using cattle routes.²⁸²⁷ The youth joined the Anti-Balaka spontaneously as they were angry with the way they were treated by the Seleka; they were motivated and it was not necessary to recruit anyone to join.²⁸²⁸ According to the witness, young people came from all villages, Sangreline, Ouham-Pendé, Ouham, Ombella-M’Poko, because people were exasperated.²⁸²⁹

1068. P-0876 stated that self-defence groups gathered under the banner Anti-Balaka, in a spontaneous movement without a structure as such led by someone and no political agenda at the time; they gathered in the provinces with ComZones and groups that did not know

²⁸²² P-2625: T-189, p. 20, line 16 – p. 21, line 20.

²⁸²³ P-0884: T-057, p. 4, line 7 – p. 5, line 6. *See also* P-0884: T-057, p. 10, lines 14-23.

²⁸²⁴ P-0884: T-058, p. 13, lines 15-23.

²⁸²⁵ P-0884: T-058, p. 14, line 6 – p. 16, line 7.

²⁸²⁶ P-0884: T-057, p. 3, line 20 – p. 4, line 1.

²⁸²⁷ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0331-32, para. 50.

²⁸²⁸ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0341, para. 108.

²⁸²⁹ P-0808: T-070, p. 19, line 24 – p. 21, line 6.

each other.²⁸³⁰ The name came up after the Anti-Balaka from Bouca clashed with the Seleka there and won, taking their weapons.²⁸³¹ The ComZones reported to Captain Ngremangou, intermediary between Bozizé and the elements on the ground, there were also Bozizé's children like Francis, and Mr Ngaïssona provided money.²⁸³² P-0876 agreed with the suggestion that it would have been impossible to organise all those groups under one coordination in 2013 and also 2014.²⁸³³

1069. Also other witnesses mentioned hearing of resistance groups organising in various localities in the face of violence committed by the Seleka.²⁸³⁴ In fact, the phenomenon of self-defence

²⁸³⁰ P-0876 Interview Transcripts, CAR-OTP-2046-0267-R01, at 0283, lines 590-612; CAR-OTP-2046-0324-R01, at 0325, lines 25-28; P-0876: T-086, p. 9, lines 11-18, p. 10, line 21 – p. 11, line 10, p. 16, lines 20-25; T-088, p. 13, line 9 – p. 15, line 11, p. 16, line 20 – p. 17, line 20; T-089, p. 17, line 16 – p. 20, line 17.

²⁸³¹ P-0876 Interview Transcript, CAR-OTP-2046-0324-R01, at 0325, lines 35-40.

²⁸³² P-0876 Interview Transcript, CAR-OTP-2046-0324-R01, at 0326, lines 45-72.

²⁸³³ P-0876: T-088, p. 19, lines 18-22.

²⁸³⁴ P-0446 Interview Transcripts, CAR-OTP-2059-1433-R01, at 1444, lines 412-425, at 1445, lines 459-463 (the witness stated that from Zongo, he followed on the radio that self-defence groups of youth formed in the hinterland and started attacking Seleka bases to put pressure); CAR-OTP-2059-1498-R02, at 1513-15, lines 556-603 (the witness stated that the youth organised against the Seleka violence, for example by organising a '*concert de casseroles*', which was an idea of a neighbourhood chief in Issa called Mara Karim); P-2843: T-074, p. 9, line 19 – p. 11, line 4, p. 15, lines 1-15, p. 38, line 21 – p. 39, line 3 (the witness stated that over time, young people were forced to organise themselves into self-defence groups to protect the neighbourhoods, with political and civilian actions being organised spontaneously by the population, and there was talk of the Anti-Balaka after Seleka exactions, in the provinces locals organised themselves to defend); P-2841 Statement, CAR-OTP-2127-4238-R01, at 4243, para. 28 (the witness stated that in every locality people organised a traditional resistance movement with fetishes and traditional weapons, through clashes they gradually obtained more weapons and military professionals joined them; everyone knew the Anti-Balaka were advancing, also the Seleka); P-2841: T-029, p. 67, line 2 – p. 68, line 6 (groups defending villages against highway robbers existed well before and their composition was subsequently strengthened or expanded by villagers); P-0974: T-243, p. 13, lines 8-13 (the witness stated that the Anti-Balaka movement was spontaneously created in different localities, they ('we') organised into a resistance movement); P-2084 Statement, CAR-OTP-2094-0968-R02, at 0977-78, para. 52 (the witness stated that the Anti-Balaka was a movement that came from Bouca, Bossangoa, Bossembélé, Bangui, Lobaye, Mambéré-Kadéï, Nana-Mambéré, to stop the Seleka violence, and they first heard from them mouth to mouth as the wood cutters in the forests met some of them); P-2652 Statement, CAR-OTP-2126-0175-R01, at 0181, para. 33 (the witness first heard about self-defence groups fighting against the Seleka because of the Seleka mistreating the population when he came to Bangui at the end of July, early August 2013); P-1838 Statement, CAR-OTP-2100-0252-R05, at 0268, para. 92 (the witness stated that the Anti-Balaka movement existed even before the Seleka arrived and grew to combat the Seleka invasion, starting from Bossangoa towards Bangui before spreading all over the country, with *gris-gris* that protected them from bullets, and their growth being reported on all radio stations); D29-5015: T-255, p. 30, lines 1-13 (the witness stated that as soon as the Seleka came from Bria, there was a self-defence 'situation' called the Anti-Balaka, with 'balaka' meaning machete, with a view to defending against those people who were coming, with Seleka being an alliance with Chadians, Sudanese and all those they met on the way); P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1062-63, paras 26-27 (the witness described how, about one week after his arrival in Zongo, which he dated around September 2013, they started hearing about an upcoming movement rising against the atrocities of the Seleka, that people were organising themselves in the provinces, a movement was starting in Bossangoa, Bouca, Sibut, Bokangolo), at 1064, para. 35 (the witness explained that Anti-Balaka and the 'movement' were the same, he did not know how the name was given).

groups in CAR provinces was not new, with local groups in the past defending against road bandits and poachers.²⁸³⁵

1070. The evidence before the Chamber shows that one of the objectives of these various self-defence groups was to defend themselves against the abuses committed by the Seleka.²⁸³⁶ For some individuals who joined such groups this was also based on suffering personal loss

²⁸³⁵ P-2625: T-189, p. 20, line 16 – p. 21, line 20 (the witness explained that, in the history of the country, self-defence groups had organised in the provinces against destruction of crops and road bandits); P-2841 Statement, CAR-OTP-2127-4238-R01, at 4249, para. 60 (the witness stated that ‘Anti Zaraguinas’ had existed for a long time, fighting highway bandits in the provinces and turning into self-defence groups, using *gris-gris* and fetishes to protect themselves – these groups became the Anti-Balaka); P-0974 Statement, CAR-OTP-2058-0165-R01, at 0170-71, para. 34; P-0974: T-244, p. 47, line 8 – p. 49, line 6 (the witness explained that Chadian highway bandits called ‘Zarangina’ would steal from people travelling on the roads and local villagers, calling themselves ‘Anti-Zarangina’ and using *gris-gris*, fought back, with the government supporting those villagers with sugar and coffee); P-0876 Interview Transcript, CAR-OTP-2046-0324-R01, at 0325-26, lines 41-43 (the witness stated that groups defending against road bandits had existed before, called ‘anti balles AK’); Report ‘Behind the Headlines’, CAR-OTP-2001-2564, at 2570, 2578 (the report concluded that the self-defence groups formed against the Seleka violence were similar to groups formed in the 1990s to protect the population from armed robbers and rebels); P-0965 Interview Transcripts, CAR-OTP-2046-0037-R02, at 0042, lines 181-184; CAR-OTP-2046-0134-R01, at 0138, lines 131-137 (the witness stated that the Anti-Balaka had already started when Bozizé was in power, as ‘Anti-Zarguina’ in Bossangoa). See also P-2251 Statement, CAR-OTP-2093-0045-R01, at 0051, para. 38.

²⁸³⁶ P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1064, para. 35 (the witness thought the movement was established so people could defend themselves because the Seleka were doing harm even in the small villages); P-1647 Statement, CAR-OTP-2050-0654-R02, at 0658, para. 28; P-1647: T-194, p. 8, lines 16-21, p. 16, lines 10-19 (the witness decided to join the Anti-Balaka after the Bangui Attack to save his country and protect his family); T-195, p. 12, lines 6-21 (the witness confirmed that it was a question of saving the people from the Seleka, ‘foreign mercenaries who were committing crimes and atrocities’); P-0801: T-036, p. 75, line 15 – p. 76, line 25, p. 78, line 10 – p. 79, line 10 (the witness stated that a feeling of rejection of the population towards the Seleka coalition led to the spontaneous emergence of a self-defence movement; as the Seleka attacked peaceful citizens, religious groups and persons, this created a sense of general discontent which caused young people to come together to defend themselves); P-0291: T-053, p. 8, line 25 – p. 9, lines 20 (the witness agreed with the suggestion that the situation in 2013 was unsupportable, with Seleka committing so many crimes against civilians, that many people felt they had no other choice but to try to chase out Seleka using their own resources, which was how gradually the Anti-Balaka was formed and created); P-1838: T-216, p. 17, lines 11-16 (the witness indicated that at the very start of the movement, the objective was to protect the population because the army had ‘given up’); P-0888 First Statement, CAR-OTP-2031-0217-R03, at 0221, para. 29 (the witness stated that people felt helpless under the Seleka, triggering the creation of the Anti-Balaka, which came from everywhere; and that initially people only gathered to protect themselves and ‘get rid’ of the Seleka); P-2841 Statement, CAR-OTP-2127-4238-R01, at 4243, para. 25; P-2841: T-029, p. 66, line 21 – p. 67, line 2 (the witness stated that when the Seleka took power, they ended up in a situation where everyone simply had to defend themselves and the population tried to provide security for themselves); P-0884: T-055, p. 51, line 17 – p. 52, line 2; T-057, p. 7, line 14 – p. 8, line 15 (the witness testified that people mobilised themselves to chase out the Seleka, specifically the Chadian and Sudanese mercenaries, who ‘committed a lot of harm [and] abuses’ referring to Video, CAR-D29-0008-0003, at 00:01:43-00:02:13; Transcript, CAR-D29-0006-0227, at 0227, lines 21-24); P-0888: T-121, p. 7, lines 6-21 (the witness indicated that the Anti-Balaka were a spontaneous movement to defend themselves; to say that they were recruited or called by somebody who was in Bangui is incorrect).

at the hand of the Seleka.²⁸³⁷ Such defence against Seleka atrocities also meant, according to some witnesses, removal of Michel Djotodia and of the Seleka from power.²⁸³⁸

1071. It appears from the evidence that while the above were among the initial motives, this did not include, in the early stages, advocating for the return of François Bozizé to power, or indeed having wider political ambitions. For example, P-1193 explained that after the collapse of the ‘Seleka government’, the population expected a change, a return to peace, to constitutional order.²⁸³⁹ Vivien Beina stated that initially, the goal was to get rid of the Seleka, they had no political ambition and the idea of taking Bangui came later.²⁸⁴⁰ Similarly, P-2841 stated that the Anti-Balaka was not created to ‘take power’, it was a spontaneous self-defence movement at first, politics came later.²⁸⁴¹ Alfred Legrand Ngaya confirmed that the objective of the Anti-Balaka groups was to defend themselves against the Seleka and that these groups were not set up with the aim of bringing Bozizé back to power – indicating that at that moment they were not thinking of Bozizé because he had abandoned them.²⁸⁴² D30-4848 testified that the Seleka was a danger for the country and that it was necessary for them to leave, so everyone was making efforts to ‘drive them out by all means possible’.²⁸⁴³

1072. The Chamber further refers to its discussion of the Anti-Balaka’s objectives and policies, as set out below.²⁸⁴⁴

²⁸³⁷ See paragraphs 1080, 1082 below.

²⁸³⁸ P-1193: T-126, p. 7, line 13 – p. 10, line 2 (the witness explained that ‘[t]he country was not doing well because President Djotodia was surrounded by mercenaries’ and that the Anti-Balaka were people rising up to ‘get rid of the Seleka government’ *referring to* Video, CAR-OTP-2042-4677, at 00:05:37-00:06:24; Transcript, CAR-OTP-2122-8957; Translation, CAR-OTP-2122-8916, at 8920, lines 50-59); P-0888: T-120, p. 72, lines 1-24, p. 75, lines 1-18 (the witness testified that ‘the main objective’ of the Anti-Balaka was to put pressure on the Seleka and ‘prompt the international community to react in such a way that Djotodia should be pushed to resign in N’Djamena’, further indicating that ‘[t]he point was not to take power’); P-2133 Statement, CAR-OTP-2093-0267-R02, at 0276, para. 72 (the witness learned that the objective of the Anti-Balaka was to chase away the Seleka and Djotodia since it was the Muslims who overthrew François Bozizé).

²⁸³⁹ P-1193: T-126, p. 7, line 13 – p. 10, line 2. *See also* P-0889: T-109, p. 13, lines 19-23.

²⁸⁴⁰ P-0888 First Statement, CAR-OTP-2031-0217-R03, at 0221, para. 29; P-0888: T-120, p. 72, lines 1-24, p. 75, lines 1-18. *See also* P-0888: T-123, p. 4, lines 9-21 (the witness agreed with the suggestion that also not necessarily members of the KNK or supporters of François Bozizé before the coup supported the return to constitutional order, i.e. the return of François Bozizé to power).

²⁸⁴¹ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4243, para. 28.

²⁸⁴² P-0808: T-070, p. 30, lines 17-19, p. 32, lines 5-17.

²⁸⁴³ D30-4848: T-297, p. 17, lines 11-25.

²⁸⁴⁴ *See* section IV.A.5 below.

1073. The evidence before the Chamber does not allow to conclude when or in which context the name ‘Anti-Balaka’ first appeared. It is clear from the evidence that this name was commonly used for the groups forming against the backdrop of the Seleka violence.

1074. Different witnesses provided different explanations for the meaning of the name, referring to it standing for ‘anti-machete’,²⁸⁴⁵ on the basis of ‘*balaka*’ being the Sango word for machete, or for ‘*anti-balles AK*’, in reference to them being protected against bullets.²⁸⁴⁶

1075. Several witnesses mentioned that self-defence groups organised to fight against the Seleka were called ‘*Siriri*’,²⁸⁴⁷ referring to the same phenomenon that eventually was generally known as the Anti-Balaka.

1076. The question of *gris-gris* – amulets – being used by Anti-Balaka is widely discussed in the evidence before the Chamber. While it is clear that also Seleka may have worn *gris-gris*,²⁸⁴⁸

²⁸⁴⁵ P-0975 Statement, CAR-OTP-2033-7885-R02, at 7889, para. 30; P-0287: T-021, p. 14, lines 2-15. See also P-0966 Statement, CAR-OTP-2031-0241-R03, at 0244, para. 22.

²⁸⁴⁶ P-0446 Interview Transcripts, CAR-OTP-2059-1523-R01, at 1536, lines 468-478; CAR-OTP-2059-1567-R01, at 1574, lines 248-264; P-2841 Statement, CAR-OTP-2127-4238-R01, at 4249, para. 60; P-0966 Statement, CAR-OTP-2031-0241-R03, at 0244, para. 22. See also P-2251 Statement, CAR-OTP-2093-0045-R01, at 0051, para. 39 (the witness stated that in ‘Ngobere’, he began to call himself an Anti-Balaka as well; as the group grew, everyone started referring to themselves as Anti-Balaka).

²⁸⁴⁷ P-0876 Interview Transcripts, CAR-OTP-2046-0249-R01, at 0257, lines 293-305; CAR-OTP-2046-0380-R01, at 0387, lines 231-252 (the witness stated that the Seleka violence pushed people to organise in self-defence groups and in May, this was taken over by the group of Bozizé under the banner of ‘*Siriri*’, with Levy Yakété as spokesperson, and this was what would evolve sooner or later into the Anti-Balaka and the like); P-2389 Statement, CAR-OTP-2104-0033-R03, at 0038, para. 28 (the witness heard before the Bangui Attack from some women traders at Pissa market that the ‘*Siriri*’ (meaning ‘peace’ in Sango) were coming, that they would chase the Seleka away and restore peace in the country, and later local youth started saying that the ‘*Siriri*’ were now called Anti-Balaka); P-1666: T-230, p. 38, line 19 – p. 39, line 2 (the witness testified that five or six months after the Seleka came to Mbaiki (in March), they heard people talking about the ‘*Siriri*’ group that was on the verge of coming to town, they did not know they were Anti-Balaka); P-0965 Interview Transcript, CAR-OTP-2046-0037-R02, at 0045, lines 272-274 (the witness stated that the name initially given to the Anti-Balaka was ‘*Siriri*’, meaning peace); P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0020, paras 55-56 (the witness stated that in 2013, he went twice to Yaoundé for professional activities and at the time rumours regarding ‘*Siriri*’ were everywhere; he heard that this was a group of military persons, but in fact it was FACA members organising themselves; sometimes they heard that they were based behind the hill of Bozoum-Bangui, but P-0808 did not know where exactly they were based); P-2422 Statement, CAR-OTP-2110-0801-R02, at 0811-12, para. 38 (the witness stated, in relation to Yaloké, that when people in the Christian and Muslim community talked about Christians preparing in the bush, they were originally referred to as ‘*siriri*’ (peace), but this later changed to Anti-Balaka); D30-4953 Statement, CAR-D30-0026-0001-R01, at 0003, para. 19 (the witness stated that the Anti-Balaka started during the Seleka violence against the Christians and were initially called ‘*Siriri*’ (meaning peace)).

²⁸⁴⁸ P-0475: T-091, p. 49, lines 7-15. See also P-2657: T-105, p. 12, lines 15-16; P-2049: T-102, p. 12, lines 5-21; D30-4608: T-291, p. 20, line 12 – p. 21, line 9; D30-4953 Statement, CAR-D30-0026-0001-R01, at 0003, para. 12.

as well as individuals not necessarily associated with the Anti-Balaka,²⁸⁴⁹ it is equally clear that *gris-gris* in the context of the conflict within the CAR and certainly following the Seleka takeover and the emergence of self-defence groups were commonly associated with the Anti-Balaka.²⁸⁵⁰ The evidence mentions the acquisition of *gris-gris* in Gobre and other areas.²⁸⁵¹ The evidence also indicates that not all Anti-Balaka elements necessarily wore *gris-gris*.²⁸⁵²

1077. In this context, the Chamber considers of lesser significance that certain rules may have attached to wearing *gris-gris*.²⁸⁵³ The fact that some people considered that breaking such rules may have impacted the protective capabilities of their *gris-gris* does not, in and of

²⁸⁴⁹ P-0475: T-091, p. 49, lines 16-18; P-0291: T-052, p. 16, line 24 – p. 17, line 5; T-052-ENG, p. 17, lines 6-10; T-052-FRA, p. 17, lines 7-10.

²⁸⁵⁰ The Chamber notes that P-1577 [REDACTED] photographs of individuals who identified themselves as Anti-Balaka and wore *gris-gris*, which could be placed at different parts of the body, visible and not, and they explained to P-1577 that these were their protection (see Photograph, CAR-OTP-2085-1991; Metadata, CAR-OTP-2085-1992; CAR-OTP-2085-2886; Photograph, CAR-OTP-2085-2001; Metadata, CAR-OTP-2085-2002; CAR-OTP-2085-2891; Photograph, CAR-OTP-2085-0171; Metadata, CAR-OTP-2085-0172; CAR-OTP-2085-2230; Photograph, CAR-OTP-2085-2011; Metadata, CAR-OTP-2085-2012; CAR-OTP-2085-2894; P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0778, para. 38; P-1577: T-027, p. 22, lines 10-19, p. 23, line 9 – p. 24, line 4). P-1577 described noticing differences between *gris-gris* worn by Seleka and *gris-gris* worn by individuals who self-identified as Anti-Balaka (see P-1577: T-028, p. 91, line 22 – p. 92, line 12). See also P-0965 Interview Transcript, CAR-OTP-2046-0150-R01, at 0164, lines 504-508 (the witness stated that the majority of Anti-Balaka had fetishes because many had no weapons, or only bladed ones, and to be able to advance, they had to be protected by the fetishes); P-0975 Statement, CAR-OTP-2033-7885-R02, at 7893, para. 58 (the witness stated that men from Berbérati, Bouar and Carnot went to Bangui to get *gris-gris* and then returned to their provinces to continue the revolt against the Seleka which had started in Ouham and Ombella-M'Poko); P-1838 Statement, CAR-OTP-2100-0252-R05, at 0268, para. 92 (the witness stated the Anti-Balaka had fetishes which protected them from bullets called '*gris-gris*', originating from Bossangoa); P-2050 Statement, CAR-OTP-2076-0911-R02, at 0927, para. 88 (the witness heard from [REDACTED] about the Anti-Balaka and their *gris-gris* when she visited Zongo); P-0287 Statement, CAR-OTP-2115-0239-R01, at 0256, para. 77 (the witness mentioned that Thierry Lebene, whom he interviewed in March 2014, wore discrete *gris-gris*); P-2251 Statement, CAR-OTP-2093-0045-R01, at 0049, paras 23-24; P-2251: T-044, p. 6, line 12 – p. 7, line 17, p. 30, line 24 – p. 31, line 3.

²⁸⁵¹ See paragraphs 1094, 1095, 1111 below. See also P-2841 Statement, CAR-OTP-2127-4238-R01, at 4273, para. 194.

²⁸⁵² See e.g. P-0567 Statement, CAR-OTP-2059-0084-R04, at 0103, para. 122 (the witness stated that 'traditional' Anti-Balaka wore *gris-gris*, whereas FACA members who were part of the Anti-Balaka did not).

²⁸⁵³ See P-0446 Interview Transcript, CAR-OTP-2105-0402-R02, at 0428-29, lines 917-959 (the witness explained that in Bangui or in the provinces where there was no war, if one heard of Anti-Balaka, this should be a mad person, a thief, because an Anti-Balaka does steal nor loot nor takes advantage of another person's suffering; when asked whether this was his personal definition of a true Anti-Balaka, coming from his own personal ideas, the witness stated that not only that, but long before being Anti-Balaka, people had an interest in wearing *gris-gris* and to swear on that *gris-gris* not to kill for nothing, not to harm anyone, not to steal, not to loot); P-0965 Interview Transcript, CAR-OTP-2046-0182-R01, at 0191-92, lines 325-375 (P-0965 explained that the Anti-Balaka did not rape Muslim women, they could only kill them, because they could not have sexual relations with women with their *gris-gris* on; they would first need to take their *gris-gris* off and after the physical relation, wash themselves to purify themselves before putting their *gris-gris* back on, a procedure which they could not follow in war time; [REDACTED] explained this to him when giving him *gris-gris*).

itself, exclude that individuals wearing *gris-gris* did not anyhow break such rules.²⁸⁵⁴ Importantly, the question of whether individuals who were involved in certain events were Anti-Balaka elements is discussed as relevant in other sections.

b. Self-defence groups in different localities

1078. Several witnesses, as further outlined below, testified to the formation of self-defence groups in specific localities, including in particular in the Ouham prefecture. At least some of these groups would eventually gather and join together in Gobre.²⁸⁵⁵

1079. For example, Jo-Brice Ouabiro Dana stated that he was the secretary-general of the Anti-Balaka in his village in the Bossangoa area, directing operations to attack the Seleka in the bush, with him having a hunting rifle and them making their hunting cartridges out of ammunition seized from the Seleka.²⁸⁵⁶ They also seized weapons from Seleka they defeated.²⁸⁵⁷ The witness also traced the origins of the group back to previous groups that had defended against road bandits and poachers,²⁸⁵⁸ stating that they started calling themselves Anti-Balaka when François Bozizé was still in power, when armed Peuhl acted as road bandits and they defended themselves.²⁸⁵⁹ Jo-Brice Ouabiro Dana thought there were other groups which fought against highway bandits; in fact, there were self-defence groups for each locality, for example, Godonam Richard was part of the self-defence group in Ouham, there was somebody else in Bogangolo and other localities close by.²⁸⁶⁰ He also indicated that on one side they were called Anti-Balaka while in another region they were called ‘Anti-Zarguina’.²⁸⁶¹

1080. Similarly, P-2269, who had initially crossed to Zongo,²⁸⁶² stated that when his mother was killed, he got very angry and wanted to avenge her death, so he crossed back to Bangui

²⁸⁵⁴ See also P-1577: T-028, p. 47, line 3 – p. 48, line 18 (the witness, [REDACTED] had not heard of *gris-gris* losing their protection if Anti-Balaka violated the principle not to loot, and reiterated that he saw in [REDACTED] compound what he thought were looted goods).

²⁸⁵⁵ See paragraphs 1107-1143 below.

²⁸⁵⁶ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0244, para. 18.

²⁸⁵⁷ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0244, para. 19.

²⁸⁵⁸ See paragraph 1069 above.

²⁸⁵⁹ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0244, para. 22.

²⁸⁶⁰ P-0966: T-118, p. 56, line 21 – p. 57, line 6.

²⁸⁶¹ P-0966: T-118, p. 57, lines 9-12.

²⁸⁶² See paragraph 958 above.

[REDACTED], going through the bush to Bossangoa.²⁸⁶³ P-2269 went to Bossangoa with his men ‘to prepare the rebellion’ – he knew some of the men [REDACTED], some were from Bangui, Bossangoa, and a mix of other areas, and they were all in the camp in Zongo with him.²⁸⁶⁴ According to P-2269, [REDACTED] told him to fight the Seleka, to help lead the rebellion.²⁸⁶⁵ His task was ‘to cross with the men and attack the Seleka’; [REDACTED] had knowledge of what could be useful for the movement and they could teach the youth who joined them.²⁸⁶⁶ P-2269 stated that [REDACTED] did not create the rebellion, he joined it like him; the person who created the rebellion was from Bossangoa.²⁸⁶⁷ In Bossangoa, men and women joined them.²⁸⁶⁸ The Anti-Balaka only had hunting weapons like sticks and machetes, and no support, and they did not want outsiders because they did not want politics to interfere.²⁸⁶⁹ They did not have the objective of taking the presidency, they (‘we’) just wanted to bring peace, felt abandoned and alone.²⁸⁷⁰ While in Zongo, [REDACTED] wanted to take power by force and be president, but they (‘we’) did not agree and he did not become their leader.²⁸⁷¹

1081. P-2602 stated that the overall leader of the movement in the Ouham area was Dedane, who was a chief corporal while the rest of them were only corporal, and that other Anti-Balaka in Dekoa, Sibut, Grimari, Ndjoukou defended those locations.²⁸⁷² He explained that if those in the other locations had their phone numbers, they would call in case they needed

²⁸⁶³ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0341, para. 35 (the witness mentioned that among the individuals with him there were [REDACTED]).

²⁸⁶⁴ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0341, para. 36. [REDACTED] The Chamber notes that List, CAR-OTP-2111-0365 appears to contain two lists of names, on the first page names listed between numbers 102 and 152, entitled ‘ABLK Agriculture’, and on the second page names listed between numbers 127 and 168, entitled ‘*Liste des candidats*’, with what appears to be a fax stamp indicating 19 November 2016. The Chamber further notes the evidence of P-0461, who stated that people in Bangui heard that some people started fighting back against the Seleka in Bossangoa and Bouca, and young people of the 4th arrondissement started to discretely organise themselves and arranged going to Bossangoa to join this self-defence movement, travelling in small groups of 3 to 4 persons – this movement became known as the Anti-Balaka (see P-0461 Statement, CAR-OTP-2031-0190-R01, at 0194-95, para. 25).

²⁸⁶⁵ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0341, para. 38.

²⁸⁶⁶ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0341, para. 39.

²⁸⁶⁷ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0342, para. 42.

²⁸⁶⁸ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0341, para. 40.

²⁸⁶⁹ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0342, para. 43.

²⁸⁷⁰ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0342, para. 44.

²⁸⁷¹ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0342, para. 45.

²⁸⁷² P-2602 Interview Transcript, CAR-OTP-2118-9545-R01, at 9548-49, lines 101-126.

reinforcement, and some of their men would leave through the bush to help them.²⁸⁷³ They would know who to call because in those various areas they had military who fled during the crisis and they would look for a way to be in contact with their colleagues, went from left to right.²⁸⁷⁴

1082.P-0306, [REDACTED] testified that when the Seleka killed [REDACTED], he decided to defend himself and started to fight against them.²⁸⁷⁵ He explained that the population spontaneously rose up to chase out the Seleka; they fought them and once the Seleka left, they recuperated their weapons, including AK-47 called ‘kalachs’, DKM, 10 weapons in total; eventually reconquering the locality.²⁸⁷⁶

1083.Significantly, P-0306 described how [REDACTED] passing on messages from Mr Ngaïssona and saying that ‘the authority’ asked them to go to Bangui to assist in chasing out the Seleka.²⁸⁷⁷ P-0306 further explained that before they started walking to Bangui, they were told to go and fight and that they would receive some assistance at the end for food and for buying things they needed, they were promised that some help would be given at the end of the operation.²⁸⁷⁸ He specified that they were promised to receive money when they reached Bangui and that ‘[t]hat is how [they] mobilised for [their] country with a view to chasing out the Seleka’.²⁸⁷⁹ P-0306 confirmed the suggestion that Mr Ngaïssona offered the money and the message came through [REDACTED].²⁸⁸⁰ He further specified that ‘they’ talked about a large amount of money, around 250 million or billion, P-0306 did not recall exactly; however, when they got to Bangui, they did not receive anything, the promise was not kept.²⁸⁸¹

²⁸⁷³ P-2602 Interview Transcript, CAR-OTP-2118-9545-R01, at 9549, lines 128-130.

²⁸⁷⁴ P-2602 Interview Transcript, CAR-OTP-2118-9545-R01, at 9549, lines 136-139.

²⁸⁷⁵ P-0306: T-064, p. 16, line 13 – p. 17, line 7, p. 22, line 22 – p. 23, line 12.

²⁸⁷⁶ P-0306: T-064, p. 17, line 8 – p. 18, line 6, p. 23, line 13 – p. 25, line 9, p. 25, line 19 – p. 26, line 14, p. 40, line 25 – p. 41, line 12; T-068, p. 3, line 11 – p. 5, line 4.

²⁸⁷⁷ P-0306: T-064, p. 26, line 15 – p. 34, line 10, p. 35, lines 4-13, p. 40, lines 7-14, p. 44, line 16 – p. 46, line 4, p. 49, line 11 – p. 50, line 1; T-066, p. 54, line 19 – p. 57, line 6. See paragraphs 2149-2160 below. [REDACTED] On this basis, and bearing in mind the overall testimony of P-0306 on this event, the Chamber does not consider the witness initially not making a relevant identification to render his account unreliable.

²⁸⁷⁸ P-0306: T-064, p. 55, lines 11-18.

²⁸⁷⁹ P-0306: T-064, p. 55, line 19 – p. 56, line 7.

²⁸⁸⁰ P-0306: T-064, p. 56, lines 8-12.

²⁸⁸¹ P-0306: T-064, p. 56, lines 13-19.

1084.P-2269 stated that he got his men to go to the bush near [REDACTED], as a person one could call who could do things.²⁸⁸² P-2269 took about 280 men and on the way some more joined them, and they gathered in the bush [REDACTED].²⁸⁸³ Thereafter, they went to Gobere.²⁸⁸⁴ P-2269 stated that they were organised by areas, even if they were all Anti-Balaka, each area had a chief, [REDACTED].²⁸⁸⁵

1085.On the other hand, away from the provinces, in Bangui itself, P-0889 and Brice Emotion Namsio [REDACTED].²⁸⁸⁶ They had three bows and two machetes, but did not use these weapons because they were concerned that when seeing them with those, the Seleka would use their ‘war weapons’ against them.²⁸⁸⁷ [REDACTED].²⁸⁸⁸ At the beginning, they only had [REDACTED] in their group.²⁸⁸⁹

1086.As further outlined below, also individuals who were not directly involved in any groups formed both in the provinces and in Bangui got to know of their formation.

1087.For example, P-2462 heard her neighbour [REDACTED], who had left Bossangoa and had gone to Bangui,²⁸⁹⁰ when he returned [REDACTED], that he had gone to attend a training to prepare the revenge against the Seleka because ‘they were foreigners who had come to destroy the country’.²⁸⁹¹

1088.Similarly, P-0475, [REDACTED] in Bangui at the time, explained that before the Anti-Balaka formally emerged in Bossangoa and Bangui, young people of Bossangoa formed defence groups, as the local population had no other way of protecting itself against the Seleka violence.²⁸⁹² In September 2013, [REDACTED] to try to persuade the young people

²⁸⁸² P-2269 Statement, CAR-OTP-2111-0336-R01, at 0343, paras 49-50.

²⁸⁸³ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0343, para. 50.

²⁸⁸⁴ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0343, para. 53.

²⁸⁸⁵ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0342, para. 47.

²⁸⁸⁶ P-0889 Statement, CAR-OTP-2027-2290-R02, at 2294, para. 24.

²⁸⁸⁷ P-0889 Statement, CAR-OTP-2027-2290-R02, at 2294, para. 24.

²⁸⁸⁸ P-0889 Statement, CAR-OTP-2027-2290-R02, at 2294, para. 24.

²⁸⁸⁹ P-0889 Statement, CAR-OTP-2027-2290-R02, at 2294, para. 24.

²⁸⁹⁰ P-2462: T-059, p. 12, line 12 – p. 14, line 9.

²⁸⁹¹ P-2462: T-059, p. 13, line 17 – p. 14, line 9, p. 14, line 23 – p. 15, line 1 (the witness stated that he did not explain if the group had a name, and the witness did not ask what type of training he was talking about).

²⁸⁹² P-0475 Statement, CAR-OTP-2104-0116-R03, at 0119, para. 23, at 0120, para. 25, at 0130, para. 115; P-0475: T-091, p. 41, lines 12-21.

to put down their weapons.²⁸⁹³ There, [REDACTED] a group of around 20 or more young people, including women, with amulets and *gris-gris*, hunting rifles, makeshift guns and machetes, who were adamant and determined about attempting to enter Bangui, taking over governmental power, and said that they wanted to overthrow the Seleka because they had done a lot of harm, killed their parents, destroyed their homes and markets.²⁸⁹⁴ P-0475 said there was tension because of [REDACTED] being Muslim.²⁸⁹⁵ In a photograph taken during the visit, P-0475 identified the young people who called themselves Anti-Balaka,²⁸⁹⁶ drawing a distinction with individuals in another photograph who, according to him, were civilians, not soldiers.²⁸⁹⁷

1089.P-1847, [REDACTED],²⁸⁹⁸ said that Achille Godonam was the leader of ‘the original Anti-Balaka’ that fought against road bandits on the Bossangoa-Bouca-Batangafu axis, and that Andjilo was another Anti-Balaka leader who was part of this ‘original Anti-Balaka’ and under command of Achille Godonam at that time.²⁸⁹⁹ Achille Godonam fled to Garam-Boulai and was in contact via telephone with several of his elements on the ground.²⁹⁰⁰ P-1847 considered that at the beginning, the Anti-Balaka were not ordered nor organised.²⁹⁰¹

1090. When P-1577 [REDACTED] travelled to Bossangoa and its surroundings in early November 2013, he encountered individuals that identified themselves as Anti-Balaka.²⁹⁰² The majority of weapons that P-1577 saw at that time were artisanal, fabricated in local villages, machetes

²⁸⁹³ P-0475 Statement, CAR-OTP-2104-0116-R03, at 0119, para. 23, at 0130, para. 114, at 0130-0131, para. 116; P-0475: T-091, p. 39, line 23 – p. 40, line 23, p. 44, lines 16-25. *See also* paragraphs 1350-1354 below.

²⁸⁹⁴ P-0475 Statement, CAR-OTP-2104-0116-R03, at 0120, para. 24, at 0131, paras 117-118, 121; P-0475: T-090, p. 27, lines 6-10; T-091, p. 41, line 22 – p. 42, line 7.

²⁸⁹⁵ P-0475 Statement, CAR-OTP-2104-0116-R03, at 0131, paras 119-120.

²⁸⁹⁶ P-0475: T-091, p. 50, lines 1 – p. 51, line 20, p. 52, line 14 – p. 53, line 5 *referring to* Photograph, CAR-OTP-2073-0107. *See also* P-2657: T-105, p. 35, line 9 – p. 36, line 5; P-2049: T-103, p. 78, line 24 – p. 79, line 17.

²⁸⁹⁷ P-0475: T-091, p. 53, lines 10-21 *referring to* Photograph, CAR-OTP-2073-0097. *See also* P-2657: T-105, p. 34, line 19 – p. 35, line 4; P-2049: T-103, p. 78, lines 5-23.

²⁸⁹⁸ P-1847 Second Statement, CAR-OTP-2122-8251-R01, at 8253, para. 18.

²⁸⁹⁹ P-1847 First Statement, CAR-OTP-2061-1534, at 1549-50, para. 103; P-1847 Second Statement, CAR-OTP-2122-8251-R01, at 8253, paras 11-12.

²⁹⁰⁰ P-1847 Second Statement, CAR-OTP-2122-8251-R01, at 8253, paras 15, 17.

²⁹⁰¹ P-1847 Second Statement, CAR-OTP-2122-8251-R01, at 8253, para. 11.

²⁹⁰² P-1577: T-027, p. 19, lines 2-4, p. 20, line 18 – p. 21, line 19. *See* Photograph, CAR-OTP-2085-0491; Metadata, CAR-OTP-2085-0492; CAR-OTP-2085-2342; Photograph, CAR-OTP-2085-0511; Metadata, CAR-OTP-2085-0512; CAR-OTP-2085-2352; Photograph, CAR-OTP-2085-0561; Metadata, CAR-OTP-2085-0562; CAR-OTP-2085-2369; Photograph, CAR-OTP-2085-1041; Metadata, CAR-OTP-2085-1042; CAR-OTP-2085-2547; Photograph, CAR-OTP-2085-1991; Metadata, CAR-OTP-2085-1992; CAR-OTP-2085-2886; Photograph, CAR-OTP-2085-2011; Metadata, CAR-OTP-2085-2012; CAR-OTP-2085-2894.

carried in a sleeve, and a few Kalashnikovs.²⁹⁰³ When they met the local population, it was clear there was some hierarchy because they were always taken to a spokesperson or chief of the Anti-Balaka, who identified as such, they were in charge, there was a clear hierarchy on who they would speak to and who not.²⁹⁰⁴ P-1577 heard that the local groups were in communication with each other, for example they heard on a number of occasions that if there was a fear of an attack, or a military or Anti-Balaka event to take place, they would summon the other Anti-Balaka groups from other villages, sometimes quite some distance away, and then come together as multiple Anti-Balaka groups to carry out that particular mission.²⁹⁰⁵

1091. The Chamber notes in this regard that this observation made by P-1577 is indeed borne out by the evidence on the advance of Anti-Balaka groups towards Bangui and attacks in Bangui and Bossangoa.²⁹⁰⁶

1092. Further witnesses talked about the Anti-Balaka movement starting to organise in particular in Bossangoa and its surroundings, including in Benzambé.²⁹⁰⁷

²⁹⁰³ P-1577: T-027, p. 24, lines 5-12.

²⁹⁰⁴ P-1577: T-027, p. 24, line 20 – p. 25, line 8.

²⁹⁰⁵ P-1577: T-027, p. 25, lines 9-17.

²⁹⁰⁶ See sections IV.A.6, IV.B.1, IV.C.1 below.

²⁹⁰⁷ P-2325 Statement, CAR-OTP-2100-2386-R02, at 2403, para. 70 (the witness heard from [REDACTED], who was travelling between Bossangoa and Paoua during the conflict, that the Anti-Balaka movement started organising in Bossangoa and that after François Bozizé was overthrown, most of his loyal guards infiltrated these self-defence groups to lead revenge against the Muslims whom they accused of supporting the Seleka); P-2133 Statement, CAR-OTP-2093-0267-R02, at 0270, para. 24, at 0276, paras 70-73, at 0276-77, paras 75-77 (the witness, posted to Bossangoa as from end of September or early October 2013, heard rumours that an Anti-Balaka rebellion was forming in the bush, wanting to take revenge against the Seleka because of their crimes and of overthrowing François Bozizé; he heard they manufactured their own weapons and got fetishes from marabouts; the Seleka also talked about being attacked every time they went on patrol; the witness learned that the objective of the Anti-Balaka was to chase away the Seleka and Michel Djotodia since it was the Muslims who overthrew François Bozizé; he heard the Anti-Balaka rebellion emerged very fast because most of the Anti-Balaka were ex-liberators); P-2657: T-104, p. 13, line 8 – p. 14, line 5, p. 15, lines 3-12, p. 16, lines 7-8, p. 17, lines 4-14 (the witness heard that [REDACTED] became one of the Anti-Balaka leaders operating on the Bangui road, providing training for young people, giving them ‘medication’; the witness knew ‘Achille’ as civilian and later saw him in Bossangoa with a red motorbike and weapon which was said to have been given to him by Bozizé); P-2453 Statement, CAR-OTP-2111-0415-R04, at 0419-20, paras 23-26; P-2453: T-137, p. 27, line 22 – p. 29, line 3, p. 30, lines 12-18 (the witness described an incident before September 2013 in which a group of rebels took the cattle of a group of Peuhl cattle herders, from which day on they heard the name Anti-Balaka, learning it was a coalition of groups that emerged from youth of Zere, Bossangoa, Benzambé, Bowaye and other villages in the area, joining former self-defence groups, with the original leaders ‘Achille’ from Bowaye, ‘Janot’ from Ouham-Bac; the witness said they were mainly armed with makeshift traditional weapons; he heard the movement was joined by some FACA, including Florent Kema and former PG Charlie Tola-Ngaya); P-2049: T-100,

1093. The Chamber notes in this context that Benzambé, in the wider Bossangoa area and Ouham prefecture, is the native village of François Bozizé.²⁹⁰⁸

1094. Jacob Mokpem-Bionli, a former member of the Anti-Balaka coordination, similarly stated that the youths from Bozoum, Bossangoa, Bouca and Batangafo formed a resistance, the group that came to be called the Anti-Balaka.²⁹⁰⁹ They looked at traditional ways to fight, got amulets from traditional elders, and was traditionally referred to as ‘*Anti-balle – AK*’.²⁹¹⁰ According to the witness, the resistance worked very well if the young people respected the traditional rites.²⁹¹¹ He also explained that throughout Ouham, there were not only Gbayas; for example, in Bouca there were also Banga and Mandja.²⁹¹² He further explained that it was not a matter of politics, it was about the onslaught of the Seleka and the youth rising up because their parents and relatives had been killed; they could not let foreigners – people who came from Chad, Niger, Sudan – ‘have their [own] way’.²⁹¹³

1095. According to P-0974, a former Anti-Balaka member, the second resistance to Seleka took place in villages around Bossangoa, in Zere, and in Bozizé’s native village of Benzambé, and the resistance movement became widespread, larger operations were carried out, and many Seleka were killed, as P-0974 heard on RFI.²⁹¹⁴ Each of these resistance groups had their own *gris-gris*, and the group in the south led by ‘Rombhot’, Cœur de Lion and ‘Habib’ crossed the river with *gris-gris* from the DRC.²⁹¹⁵ The largest area with *gris-gris* was Bouca-Batangafo, led by Andjilo who was the most powerful marabout-fighter in the area; and Damara was led by 12 Puissances, who took his power from DRC.²⁹¹⁶ In the west, Anti-

p. 11, line 18 – p. 13, line 6, p. 13, lines 14-25, p. 14, line 24 – p. 16, line 7, p. 16, lines 19-23, p. 17, lines 6-8; T-102, p. 7, line 17 – p. 8, line 5 (the witness heard about the Anti-Balaka before the conflict, with ‘Jano’, former mayor of Ouham-Bac, recruiting with *gris-gris* and potions; the witness heard of Achille Godonam from Bowaye being given a red Apache motorcycle from Bozizé at the time they started hearing about the Seleka invading certain locations).

²⁹⁰⁸ P-0974 Statement, CAR-OTP-2058-0165-R01, at 0171, para. 35; P-2084 Statement, CAR-OTP-2094-0968-R02, at 0972, para. 26; P-2200 Statement, CAR-OTP-2088-2146-R04, at 2151, para. 27; P-0965 Interview Transcript, CAR-OTP-2046-0108-R01, at 0113, lines 153-156; P-2625: T-191, p. 54, lines 1-5; P-2841 Statement, CAR-OTP-2127-4238-R01, at 4248, para. 58.

²⁹⁰⁹ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0054-55, para. 33.

²⁹¹⁰ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0054-55, para. 33.

²⁹¹¹ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0054-55, para. 33.

²⁹¹² P-0992: T-093, p. 11, lines 9-22.

²⁹¹³ P-0992: T-093-ENG, p. 11, line 23 – p. 13, line 5; T-093-FRA, p. 11, line 21 – p. 12, line 28.

²⁹¹⁴ P-0974 Statement, CAR-OTP-2058-0165-R01, at 0171, para. 35.

²⁹¹⁵ P-0974 Statement, CAR-OTP-2058-0165-R01, at 0171, para. 36.

²⁹¹⁶ P-0974 Statement, CAR-OTP-2058-0165-R01, at 0171, para. 36.

Balaka in Ouham-Pende prefecture used *gris-gris*; and in Bouar, the Anti-Balaka – as the resistance became known later –, was led by three Ndales, General Ndale, Colonel Ibrahim Ndale, and Adamou Ndale.²⁹¹⁷ Belo was another Anti-Balaka first active on the Bouar-Bohon axis, then based in Abba.²⁹¹⁸ After General Souleyman was killed, the Seleka retreated north from Berberati, Carnot, Baoro, Bouar, Bocaranga, facing resistance the whole way from the Anti-Balaka, in Ndale, Belo.²⁹¹⁹

1096.D30-4914, a gendarme [REDACTED] the border with Cameroon [REDACTED] in October 2013, stated that the self-defence group in Bouar was led by the Ndale family, including Adamou Ndale and Ibrahim Ndale; and that Armel Emtenou was also part of this group, seconded by Jules Pessere.²⁹²⁰ In 2013, Adamou Ndale did not go to Cameroon, he stayed in Bouar; the population in Bouar donated for the resistance [REDACTED].²⁹²¹

1097.P-2232, a former Anti-Balaka member, testified that Dedane went into the bush in the north and started fights in Bozoum together with Richard Bejouane, with numbers gradually growing; General Mauri, Hippolyte Côme Azounou, Corporal Inga joined and fought against the Seleka.²⁹²² Following Ndjo,²⁹²³ the movement started growing in strength.²⁹²⁴ They had hunting weapons and machetes in the beginning and retrieved some weapons from the Seleka during their attacks.²⁹²⁵ Andjilo and 12 Puissances joined the movement and all of them together went to Bangui.²⁹²⁶ Groups were created in Bossangoa and the initiator of the first group was the leader and would immediately become the elements' ComZone, who gave them orders, took them all the way, contacted the coordination to inform about all those movements, provided guidance and leadership for the troops on the ground.²⁹²⁷ They

²⁹¹⁷ P-0974 Statement, CAR-OTP-2058-0165-R01, at 0171, para. 37.

²⁹¹⁸ P-0974 Statement, CAR-OTP-2058-0165-R01, at 0171, para. 38.

²⁹¹⁹ P-0974 Statement, CAR-OTP-2058-0165-R01, at 0171, para. 40.

²⁹²⁰ D30-4914 Statement, CAR-D30-0024-0001-R01, at 0014, lines 538-546.

²⁹²¹ D30-4914 Statement, CAR-D30-0024-0001-R01, at 0014-15, lines 557-561.

²⁹²² P-2232: T-075, p. 45, lines 2-9.

²⁹²³ See paragraphs 1430-1435 below.

²⁹²⁴ P-2232: T-075, p. 45, lines 10-18.

²⁹²⁵ P-2232: T-075, p. 45, lines 15-18.

²⁹²⁶ P-2232: T-075, p. 45, lines 18-20.

²⁹²⁷ P-2232: T-078, p. 43, lines 6-18.

borrowed the word ‘ComZone’ from the army, it is a military term, a region commander for the north, east, any other area.²⁹²⁸

1098.P-2393, a resident of Carnot, stated that since mid-2013, they heard persistent rumours that some Christians were forming a group named Anti-Balaka, gathering in the bush, and were going to attack Carnot; they also heard that some of these Anti-Balaka were from Carnot but that they would also be assisted by Anti-Balaka coming from different areas.²⁹²⁹

1099.Zenaba Oumar, a resident of Yaloké, was told by some Christian friends that Christian men and adults who fled Yaloké got together in the bush and trained to fight the Seleka.²⁹³⁰ The witness stated that there was fear within the Muslim community that the Christians were forming groups for a revenge attack on the Muslim community in Yaloké and surrounding towns and villages.²⁹³¹ When those in the Christian and Muslim community were talking about these Christians preparing in the bush, they were originally referred to as ‘*Siriri*’ (peace), but this later changed to Anti-Balaka.²⁹³²

1100.D30-4848 heard that youth in Boy-Rabe organised themselves with a view to protecting themselves since that neighbourhood was particularly targeted by the Seleka because it was a stronghold of the presidential family, the Gbaya ethnic group.²⁹³³

c. Gobere

1101.With self-defence groups forming in various localities in the CAR provinces, various groups and individuals, including from the mentioned self-defence groups in particular within the Ouham prefecture, gathered in Gobere, a locality north-east of Bossangoa. The Chamber received the evidence of witnesses who were present at Gobere and thus in a position to describe the situation, including Jo-Brice Ouabiro Dana, P-0975, P-2658 and P-2602. As further outlined below, these witnesses explained how they arrived to Gobere and their

²⁹²⁸ P-2232: T-078, p. 45, line 7 – p. 46, line 6.

²⁹²⁹ P-2393 Statement, CAR-OTP-2108-0140-R03, at 0146, paras 37-38.

²⁹³⁰ P-2422 Statement, CAR-OTP-2110-0801-R02, at 0808, para. 25.

²⁹³¹ P-2422 Statement, CAR-OTP-2110-0801-R02, at 0811-12, para. 38.

²⁹³² P-2422 Statement, CAR-OTP-2110-0801-R02, at 0811-12, para. 38.

²⁹³³ D30-4848: T-297, p. 17, line 11 – p. 19, line 1 *referring to* [REDACTED].

reasons for going there, which groups and individuals were present, which activities they engaged in, and which plans were made with a view to eventually descending onto Bangui.

1102. The Prosecution submits that the FACA and the PG gathered the pre-existing self-defence groups and new recruits in Gobere and Benzambe, where they prepared them for combat, administered rituals and/or fetishes, provided rudimentary training, organising them into a military-like structure and arming them.²⁹³⁴ The Prosecution submits FACA, PG, and non-military chiefs assumed and/or shared command over approximately 2,000 elements in Gobere and that Maxime Mokom coordinated them.²⁹³⁵ The Prosecution argues that, as a consequence, the number of elements, their strength and military capabilities grew over the next months.²⁹³⁶

1103. The Yekatom Defence submits that the Gobere group was formed by FACA soldiers that fled to Gobere during the Seleka takeover to resist Seleka exactions and that Maxime Mokom was in contact with them and other self-defence groups in the provinces prior to 5 December 2013, and that individuals ‘associated’ with the ‘Gobere Group’ included, *inter alia*, Dedane, P-2269, Denamganai, Bejouane, Houronti, P-2602, Bama, P-0306, Lebene, Mazimbelet, Yadjoungou, Mokpem, Kema, Konaté, Danfei and Brice Emotion Namsio.²⁹³⁷

1104. The Ngaïssona Defence submits that the Prosecution failed to present coherent and corroborative evidence on the location of Gobere, the group’s organisation and composition, and subsequent movements.²⁹³⁸ Specifically, it argues that (i) information on the location of the Gobere camp is confusing and inconsistent; (ii) the evidence is inconclusive on the origins of the ‘Gobere group’; (iii) the Prosecution failed to present corroborative evidence concerning the organisation of the group; (iv) witnesses do not corroborate each other on any training in Gobere; (v) witnesses did not unequivocally identify the leaders of the group and did not confirm that FACA ‘assumed or shared command over self-defence groups’; (vi) the evidence is inconclusive on the identities of group members; (vii) the group had ‘very limited’ logistical capacity, with no access to funding or weapons; and (viii) evidence is

²⁹³⁴ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 64.

²⁹³⁵ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, paras 64-69.

²⁹³⁶ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 70.

²⁹³⁷ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 172.

²⁹³⁸ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 210.

inconsistent on the group's progression out of Gobere and subsequent attacks in the region.²⁹³⁹

1105. The Ngaïssona Defence further argues that Mr Ngaïssona did not assist Anti-Balaka and FACA elements in Gobere,²⁹⁴⁰ and had no role in financing the individuals gathered at Gobere.²⁹⁴¹

1106. The evidence before the Chamber as further outlined below shows that members of the FACA and civilians, including those who had already organised in self-defence groups, gathered in Gobere, administered traditional rituals, organised and structured the groups, trained in handling weapons, and strategised with a view to advancing through the provinces towards Bangui in order to drive Michel Djotodia and the Seleka from power. The Chamber further recalls the evidence of P-2269 as outlined above, according to which while he was in Gobere, he received financial assistance from Mr Ngaïssona.²⁹⁴²

i. Arrival to Gobere and reasons for going there

1107. Several witnesses testified about the circumstances in which they decided to go to Gobere, and how they reached the location.

1108. At the outset, the Chamber notes the Ngaïssona Defence's submission that '[i]nformation on the location of G[obéré] camp is confusing and inconsistent'.²⁹⁴³ The Chamber considers that the evidence of three witnesses who were at Gobere and provided sketches or marked maps with a view to indicating the location in fact largely overlaps. Indeed, P-2602, Jo-Brice Ouabiro Dana and P-2658 all located Gobere to the north, north-east of Bossangoa,²⁹⁴⁴ with maps also showing 'Bonguere' as a separate location south thereof.²⁹⁴⁵ That the location

²⁹³⁹ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 211-221.

²⁹⁴⁰ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 447-454.

²⁹⁴¹ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 491-497.

²⁹⁴² See paragraph 836 above.

²⁹⁴³ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 211.

²⁹⁴⁴ See P-2658 Sketch, CAR-REG-0001-0007; Map (annotated by P-2602), CAR-OTP-2120-0261; Map (annotated by P-0966), CAR-OTP-2031-0266-R01. The Chamber considers this not to be negated by P-0966 providing a sketch which does not align with his annotation on the map (see Sketch, CAR-OTP-2031-0267).

²⁹⁴⁵ See Map, CAR-OTP-2075-1375. See also Annex A.14 to Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA.14.

indicated by these three witnesses is not exactly the same is, in the Chamber's view, immaterial for reaching a conclusion on the approximate location. Indeed, the Chamber considers it reasonable for individuals walking in areas otherwise unfamiliar to them to not subsequently pinpointing the locations of these areas on maps or aerial imagery shown to them. This is with the exception of the information provided by P-2251, who located Gobere further south-east of Bossangoa.²⁹⁴⁶ In light of the other evidence before it, the Chamber does not rely on P-2251's evidence concerning the location of Gobere.

1109.[REDACTED].²⁹⁴⁷ P-2602 stated that he fled into the bush [REDACTED], and they constituted themselves into groups to prevent more mercenaries from entering.²⁹⁴⁸ [REDACTED] their base was at 43 kilometres from Bossangoa, in the bush, called Gobere.²⁹⁴⁹

1110. According to P-2602, Danboy Dedane decided for Gobere to be chosen as base because he was born in Bowaye and knew the forest, the area very well.²⁹⁵⁰ On the way there, P-2602 told the former self-defence group in each village and hunters they met in the bush that he was going to Gobere and people could join if they felt like defending the country, and the hunters would pass on the message.²⁹⁵¹ P-2602 was in communication with [REDACTED] along the way, asking if they met with the mercenaries on the way, if anything happened to them, and then told them they would meet in Gobere.²⁹⁵² While in Gobere, they sent messages to the small villages around, to the chiefs, self-defence groups, to tell them, that they were children of the country, would like to defend, and asking them to supply food, and to let children who thought they were strong come to join in Gobere and defend the country.²⁹⁵³ P-2602 had heard about Gobere [REDACTED], though he had never been to the

²⁹⁴⁶ Map (annotated by P-2251), CAR-OTP-2093-0083.

²⁹⁴⁷ P-2602 Interview Transcript, CAR-OTP-2118-9579-R01, at 9594, lines 493-500. *See also* Map (annotated by P-2602), CAR-OTP-2120-0261.

²⁹⁴⁸ P-2602 Interview Transcript, CAR-OTP-2118-9500-R01, at 9517-20, lines 575-693.

²⁹⁴⁹ P-2602 Interview Transcripts, CAR-OTP-2118-9500-R01, at 9521-22, lines 731-743; CAR-OTP-2118-9579-R01, at 9580, lines 18-28.

²⁹⁵⁰ P-2602 Interview Transcript, CAR-OTP-2118-9579-R01, at 9591, lines 391-398.

²⁹⁵¹ P-2602 Interview Transcript, CAR-OTP-2118-9579-R01, at 9591-92, lines 409-426.

²⁹⁵² P-2602 Interview Transcript, CAR-OTP-2118-9579-R01, at 9592, lines 427-438.

²⁹⁵³ P-2602 Interview Transcripts, CAR-OTP-2118-9579-R01, at 9593, lines 463-479; CAR-OTP-2118-9598-R01, at 9608-10, lines 329-412.

place specifically; [REDACTED] but Dedane, who was born in Bowaye, [REDACTED] knew a bit about Gobere and decided they should stay there.²⁹⁵⁴

1111.P-0975 had heard about men gathering in Gobere to prepare *gris-gris* and revolt against the Seleka, so he walked with others through the villages of Bogangolo, Ndjo, Bossangoa to join the men in Gobere, arriving there in [REDACTED] 2013.²⁹⁵⁵ According to P-0975, Gobere was remote so that the Seleka would not see that they were gathering and training.²⁹⁵⁶

1112.Jo-Brice Ouabiro Dana similarly heard that men were gathering in Gobere, north of Bossangoa, with planes, weapons, tanks, and that white people would give them weapons – they were told to go there by word of mouth, it spread all over the provinces.²⁹⁵⁷ The witness heard from a fetish seller called ‘Benjamin’, a zone commander who later also went to Bangui, that they ‘had to go to Gobere to defend [their] country against the Sudanese and Chadian mercenaries’, who did not even speak Sango or French but only Arabic.²⁹⁵⁸ Jo-Brice Ouabiro Dana stated that ‘men from Bozoum, Bossembélé, Bouar, Baoro, Berbérati, Carnot’ came to Gobere to get their fetishes from the ‘marabout’ and then returned to their villages, recruit in their localities and share fetishes, which helped the whole Anti-Balaka movement spread in the CAR.²⁹⁵⁹ Those who had been close to François Bozizé fled to Gobere and were planning to go back to Bangui to force out the Seleka.²⁹⁶⁰

1113.Indeed, Jo-Brice Ouabiro Dana explained that after François Bozizé’s and Godonam’s departure, the soldiers surrounding François Bozizé decided to go to Gobere to set up a group.²⁹⁶¹ On their way, they met Modibo Lundi who also took Mauri, and once they had reached Benzambe and Gobere, they set up a group which was called ‘Anti-Zarguina’, but later called ‘Anti-Balaka’.²⁹⁶² The witness left his village of [REDACTED] in June 2013, in a group of 67 who were joined by others along the way, of which he was chosen to be the

²⁹⁵⁴ P-2602 Interview Transcript, CAR-OTP-2118-9579-R01, at 9594-95, lines 506-524.

²⁹⁵⁵ P-0975 Statement, CAR-OTP-2033-7885-R02, at 7888-89, paras 25-26.

²⁹⁵⁶ P-0975 Statement, CAR-OTP-2033-7885-R02, at 7889, para. 26.

²⁹⁵⁷ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0245, para. 23.

²⁹⁵⁸ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0245, para. 23; P-0966: T-116, p. 8, lines 1-18.

²⁹⁵⁹ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0246, para. 30.

²⁹⁶⁰ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0245, para. 23.

²⁹⁶¹ P-0966: T-118, p. 57, lines 13-21.

²⁹⁶² P-0966: T-118, p. 57, line 21 – p. 58, line 1.

leader walking to Gobere, [REDACTED] then crossing Bossangoa, the Ouham river, and reaching Gobere.²⁹⁶³ According to Jo-Brice Ouabiro Dana, Gobere is in the bush between Yourouba (where François Bozizé had his house) and Benzambe.²⁹⁶⁴

1114. Jo-Brice Ouabiro Dana testified that they thought the international community would see them fight the Seleka with wooden sticks against weapons and would come help.²⁹⁶⁵ They also heard that ‘Marabouts’ would bring fetishes to Gobere.²⁹⁶⁶ The witness went to Gobere to defend his country, but he was also motivated by the promises, they were told that the former president would provide them with weapons so they could liberate the country.²⁹⁶⁷ Jo-Brice Ouabiro Dana heard from ‘Benjamin’ from Ndjo, who sold fetishes, and from others who were at Ndjo that weapons and fetishes would be provided.²⁹⁶⁸

1115. Jo-Brice Ouabiro Dana stated that the formation of the group was something many people knew about and they did not ask people to come, but no one would have known there was a gathering if it had been done in a random way: the ‘modibo’, Mauri, Benjamin, Bien from Boali, Honoré, Bengue sold fetishes and people who bought them returned to their locations and re-sold them to men who wanted to protect themselves against attacks.²⁹⁶⁹ When they were in the bush, Jo-Brice Ouabiro Dana heard the name Mokom, who was still on the other side of the river later when the witness was in Bangui and Mr Ngaïssona was the first person to return.²⁹⁷⁰

1116. P-2658, who was taken by an Anti-Balaka group [REDACTED] and eventually moved along with an Anti-Balaka group [REDACTED],²⁹⁷¹ drew a distinction between ‘Gobere’ and ‘Gbonguere’,²⁹⁷² and testified that Gobere is in the bush, one could see very far, there were no mountains or hills, it was really in the bush with very few spare huts.²⁹⁷³ According to P-

²⁹⁶³ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0245, paras 25-26. *See also* Map, CAR-OTP-2031-0266-R01.

²⁹⁶⁴ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0245, para. 26. *See also* Sketch, CAR-OTP-2031-0267-R01.

²⁹⁶⁵ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0245, para. 24.

²⁹⁶⁶ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0245, para. 24.

²⁹⁶⁷ P-0966: T-117, p. 4, line 25 – p. 5, line 12.

²⁹⁶⁸ P-0966: T-117, p. 6, lines 12-23.

²⁹⁶⁹ P-0966: T-117, p. 16, line 9 – p. 19, line 9, p. 21, lines 2-20.

²⁹⁷⁰ P-0966: T-117, p. 22, line 20 – p. 23, line 14.

²⁹⁷¹ *See* P-2658 Statement, CAR-OTP-2126-0012-R02, at 0016-17, para. 22. *See also* paragraphs 1392-1395 below.

²⁹⁷² *See* P-2658: T-134, p. 30, line 8 – p. 32, line 1.

²⁹⁷³ P-2658: T-135, p. 31, line 20 – p. 32, line 18, p. 34, lines 15-18, p. 38, lines 3-5.

2658, the hill [REDACTED] was near Gbonguere, and he moved about from that hill because it was easier to have the telephone network from there.²⁹⁷⁴ P-2658 did not see any civilians when he was there, only Anti-Balaka.²⁹⁷⁵

1117. The Chamber notes in this regard that Jo-Brice Ouabiro Dana described the area of Gobere as mountainous,²⁹⁷⁶ and further stated that the only place they spent a lot of time at was Gobere, and once they left, they moved forward heading in the direction indicated to them.²⁹⁷⁷ On the first point, and recalling that Jo-Brice Ouabiro Dana and P-2658 placed Gobere in similar areas towards the north-west of Bossangoa, the Chamber considers this discrepancy concerning its description as mountainous to be immaterial. On the second point, and noting that no other witness specifically mentioned a group staying in ‘Gbonguere’, the Chamber recalls the specific circumstances of P-2658’s stay with the groups around Gobere, that he was with them for some weeks [REDACTED] and therefore likely not informed of all details of the group’s workings, while at the same time noting Jo-Brice Ouabiro Dana’s evidence that at some point, the group split up.²⁹⁷⁸ In light of this, the Chamber does not consider the witnesses’ accounts to be contradictory on its face, and relies on their descriptions of the groups and their activities accordingly.

1118. Also witnesses who did not go to Gobere themselves had information on the groups gathering there. Specifically, Jacob Mokpem-Bionli stated that Gobere and Kpalanboa were villages of their ancestors, well known by all Central Africans, and in light of the Seleka atrocities, the youth of the provinces grouped together to resist, following in the traces of their ancestors to Gobere to ask their blessings, so in Gobere, the ‘Anti-Balaka was born’.²⁹⁷⁹ The same explanation holds for Kpalanboa, about 35 kilometres from Bossangoa on the road leading to Benzambe and Nana.²⁹⁸⁰ According to the witness, the youth from Ouham-Pende

²⁹⁷⁴ P-2658: T-134, p. 19, lines 12-17.

²⁹⁷⁵ P-2658: T-135, p. 32, lines 10-12.

²⁹⁷⁶ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0245, para. 26.

²⁹⁷⁷ P-0966: T-118, p. 61, lines 9-15.

²⁹⁷⁸ See P-0966 Statement, CAR-OTP-2031-0241-R03, at 0248, para. 38; P-0966: T-119, p. 11, lines 2-22.

²⁹⁷⁹ P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0301-02, paras 89-90.

²⁹⁸⁰ P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0302, para. 90.

and Ouham started the resistance because their home country was in danger and one needed to react.²⁹⁸¹

1119. Brice Emotion Namsio, who was in Bangui at the time,²⁹⁸² stated that Gobere was a village in Ouham, behind Bossangoa, where ‘they’ regrouped to start opposing the Seleka.²⁹⁸³ The witness also mentioned a marabout called ‘Maury’ who started out at Gobere, towards Batangafo.²⁹⁸⁴

1120. Roger de Martial Yagao, who was in Bossangoa from September or October 2013 onwards, heard that there was an Anti-Balaka base at Gobere, 70 kilometres from Bossangoa on the road to Bouca, where the Anti-Balaka were getting their fetishes to be protected; the witness himself never went there and did not know who the Anti-Balaka chief was there.²⁹⁸⁵

1121. P-2673, who was in Cameroon at the time, heard about Gobere [REDACTED],²⁹⁸⁶ stated that Bama was there, describing it as a little village where the Anti-Balaka came from, and that often one would hear them say, ‘I’m a real Anti-Balaka, I came from G[obere]’.²⁹⁸⁷ P-2673 stated that Bama was there already before the Seleka coup.²⁹⁸⁸ P-2673 did not know if the FACA in Cameroon were talking to the FACA in Gobere.²⁹⁸⁹

1122. P-0965, [REDACTED] before the attack in Bangui on 5 December 2013,²⁹⁹⁰ stated that the Anti-Balaka movement in Bossangoa started in Gobere, then they came all the way to Bangui.²⁹⁹¹ P-0965 said that the original name was ‘Siriri’ and everybody knew the group by that name, their objective was to bring peace.²⁹⁹²

1123. Alfred Legrand Ngaya heard rumour that the Anti-Balaka started in Gobere where they got their fetishes, which were also used by FACA elements, though the witness did not know if

²⁹⁸¹ P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0302, para. 91.

²⁹⁸² See paragraph 955 above.

²⁹⁸³ P-0446 Interview Transcript, CAR-OTP-2059-1567-R01, at 1576, lines 332-344.

²⁹⁸⁴ P-0446 Interview Transcript, CAR-OTP-2105-0462-R02, at 0471, lines 280-295.

²⁹⁸⁵ P-2133 Statement, CAR-OTP-2093-0267-R02, at 0279, para. 90.

²⁹⁸⁶ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6456, para. 138.

²⁹⁸⁷ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6456-57, para. 139.

²⁹⁸⁸ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6457, para. 139.

²⁹⁸⁹ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6457, para. 140.

²⁹⁹⁰ See P-0965: T-061, p. 11, lines 14-17.

²⁹⁹¹ P-0965: T-061, p. 12, lines 1-6.

²⁹⁹² P-0965: T-061, p. 17, lines 17-24.

they also got them from Gobere.²⁹⁹³ According to Alfred Legrand Ngaya, it was due to the fetishes that the Anti-Balaka, once they got angry, became ‘uncontrollable’.²⁹⁹⁴

1124. Odette Namsona testified that young people gathered at Gobere for initiation purposes to learn about fighting techniques from ancestors.²⁹⁹⁵ According to the witness, Mr Ngaïssona did not know what they did there, he did not live with them, he did not know the ancestral traditions, as a Gbaya city person who grew up in Bangui.²⁹⁹⁶ According to the witness, she heard from her father how they were initiated.²⁹⁹⁷ Odette Namsona said that the young people came together well before 5 December 2013, the Anti-Balaka movement emerged before that, in 2013 young Muslims attacked these young people and they decided to gather at this ancestral location to be trained and learn the ancestral warrior rites.²⁹⁹⁸

1125. Nestor Wiabona stated that the Anti-Balaka formed in a dry place called Gobere, had only traditional weapons, and the witness did not hear of any authority or any support they would have received.²⁹⁹⁹ Jeannot was the leader of the Anti-Balaka during the events, he made traditional ‘soins’ (‘treatment’).³⁰⁰⁰ The goal of the Anti-Balaka was not to have Bozizé return to power, but rather to have peace return, because the Muslims in town wanted to convert all Christians.³⁰⁰¹

ii. Individuals and leaders in Gobere

1126. According to the evidence before the Chamber, several FACA members were present in Gobere, in addition to civilians.

1127. For instance, Jo-Brice Ouabiro Dana testified that there were initially 15 FACA members, mostly from the PG, and one policeman, among the civilians, with more FACA members progressively joining over time.³⁰⁰² Initially the FACA members and police officers were

²⁹⁹³ P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0020, para. 57.

²⁹⁹⁴ P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0028, para. 99.

²⁹⁹⁵ D30-4496: T-290, p. 7, lines 3-20.

²⁹⁹⁶ D30-4496: T-290, p. 7, lines 3-20.

²⁹⁹⁷ D30-4496: T-290, p. 7, line 21 – p. 8, line 3.

²⁹⁹⁸ D30-4496: T-290, p. 8, lines 4-18.

²⁹⁹⁹ D30-4953 Statement, CAR-D30-0026-0001-R01, at 0003, para. 20.

³⁰⁰⁰ D30-4953 Statement, CAR-D30-0026-0001-R01, at 0004, para. 21.

³⁰⁰¹ D30-4953 Statement, CAR-D30-0026-0001-R01, at 0005, para. 34.

³⁰⁰² P-0966 Statement, CAR-OTP-2031-0241-R03, at 0246, para. 28.

not in command, but they took more power with time.³⁰⁰³ According to the witness, the FACA and police members were not liked because they were not courageous and had failed to protect them against the Seleka, while the civilians had to defend themselves instead.³⁰⁰⁴ Jo-Brice Ouabiro Dana specified that they did respect the FACA they had begun the movement with, like Dedane Romain, Valo, the aide-de-camp of Mr Ngaïssona in Bangui, but they did not respect those who joined them as they moved forward.³⁰⁰⁵

1128. Jo-Brice Ouabiro Dana recalled the following FACA members: Dedane; Kema; Sol-Sol, name Mandago; Ndangba Pissidi Théophile; John Rambo, nicknamed ‘Rambo’ (different to Mr Yekatom); Houronti; Bama Clément; Romain; Kpa Thibaut; Benchui; Guederan; and a corporal from Gonyi who was living right next to Mr Ngaïssona’s house in Bangui.³⁰⁰⁶ The witness was welcomed by Dedane when he arrived, but after a quarrel, Dedane no longer stayed in that place, left and returned, trying to find network for calls and to collect information.³⁰⁰⁷ Andjilo in Gobere was not really known and not respected, he was just an element like Jo-Brice Ouabiro Dana, and it was only when he was given power to fight in Bouca and succeeded, that his name and reputation gained and he became more important.³⁰⁰⁸

1129. Jo-Brice Ouabiro Dana explained that the Anti-Balaka in Gobere were led by Dedane, a chief corporal in the PG, and Maxime Mokom, a police officer under François Bozizé.³⁰⁰⁹ Maxime

³⁰⁰³ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0246, para. 28.

³⁰⁰⁴ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0246, para. 28.

³⁰⁰⁵ P-0966: T-117, p. 25, line 10 – p. 26, line 16.

³⁰⁰⁶ P-0966: T-116, p. 8, line 19 – p. 9, line 18. *See also* P-0966: T-116, p. 9, line 19 – p. 12, line 4 *referring to* List, CAR-OTP-2046-0628 (the witness explained as follows: (1) Andjilo, civilian; (2) Youdjoungou Gustav, joined CPC, civilian and appointed commander of the military police when he arrived in Bangui; (3) Lebene Thierry, also known as 12 Puissances, civilian; (4) Inga Gabin, soldier, deceased; (5) Ouapoutou Benjamin, civilian, also sold fetishes as mentioned; (9) Kems, civilian, also sold fetishes alongside Moribo; (10) Bezouane, in Bossembélé, towards Yaloké; (11) Deholo Marcelin, civilian; (14) Konaté Yvon, soldier, but not in Gobere when he was there, he came later; (15) Mokpem, soldier, joined them later after Bossangoa, was not in Gobere; Ngremangou, officer; Yekatom, known as Rambo, he was not in Gobere, he was part of the Boeing contingent; Venezoui, from Boeing; Yagouzou Sylvestre, deceased, member of Rambo’s group; Mazimbele, FACA, not in Gobere, joined them later on the way, deceased; Ganazoui, lieutenant, never in Gobere, P-0966 discovered him in Bangui). The Chamber notes the Ngaïssona Defence’s observations suggesting a limited probative value and relevance of the list in light of P-0966’s testimony (*see* email from the Ngaïssona Defence, 8 April 2022, at 17:33). In light of the Chamber referring to this list only in the specific context of P-0966’s testimony, the Chamber does not consider it necessary to address this further. *See also* footnotes 5707-5709 below.

³⁰⁰⁷ P-0966: T-117, p. 42, line 12 – p. 43, line 7.

³⁰⁰⁸ P-0966: T-117, p. 41, lines 14-20.

³⁰⁰⁹ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0246, para. 31.

Mokom sought refuge in Zongo, while Dedane fled to Gobere,³⁰¹⁰ but they knew each other from the time they were serving in the defence and security forces.³⁰¹¹ When the witness reached Gobere, Dedane had already created his command structure, with deputy Thierry Lebene aka ‘12 Puissances’, ComZone Kema, a FACA, and Maxime Mokom in Zongo coordinating operations with Dedane, who reported to Maxime Mokom and received orders from him during their attacks.³⁰¹² Dedane, his deputy and the ComZones told them to be calm, wait, and get ready with their fetishes until the moment they would be sent to the prefectures where the Seleka were.³⁰¹³

1130. It is clear from the evidence before the Chamber that individuals and groups in Gobere were communicating with Maxime Mokom, in Zongo at the time, who was considered to be part of the leadership structure.

1131. Jo-Brice Ouabiro Dana stated in this context that Maxime Mokom in Zongo coordinated operations with Dedane, who reported to Maxime Mokom and received orders from him during their attacks.³⁰¹⁴ Dedane communicated with Maxime Mokom by mobile phone, but the witness was not present when they spoke; Dedane called the chiefs of companies together to give instructions he had received from Maxime Mokom.³⁰¹⁵ P-2269 stated that while he was in the bush, he kept in contact with ‘Mokom’ and other chiefs, they informed each other of the situation, location and where to move next,³⁰¹⁶ and [REDACTED].³⁰¹⁷

1132. The Chamber recalls further the evidence from witnesses who were present with Maxime Mokom in Zongo according to which the latter was in constant communication with individuals in the provinces, including with Dedane.³⁰¹⁸

³⁰¹⁰ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0246, para. 31.

³⁰¹¹ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0247, para. 32.

³⁰¹² P-0966 Statement, CAR-OTP-2031-0241-R03, at 0247, para. 33.

³⁰¹³ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0247, para. 34.

³⁰¹⁴ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0247, paras 33-34. *See also* P-2027 Statement, CAR-OTP-2078-0059-R03, at 0075, para. 93, at 0076, para. 102.

³⁰¹⁵ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0247, para. 34.

³⁰¹⁶ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0343, para. 54.

³⁰¹⁷ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0347, para. 79.

³⁰¹⁸ *See* paragraphs IV.A.2.ii.b above.

1133. Jo-Brice Ouabiro Dana stated that he knew the names of those in Gobere since he was responsible for drawing up the lists of the companies: there were Honoré who sold them fetish, became a group chief and mostly handled the Boali road once they got to Bangui; ‘Modibo’, a generic name for fetish sellers, sold fetishes, but the witness could not know each of the names.³⁰¹⁹ Commenting on another list,³⁰²⁰ the witness explained further that chief corporal Mokpem Guy Gervais, Dedane, Ndangba, Guederan, Danfei, while Namdanga joined them after the first battle in Bossangoa, Mandago Alexis, Yandjiki Brice met them in Benzambe during the first battle, and the witness did not know Feigan Youwana Anicent or Ndomaté Dieu Beni.³⁰²¹ Jo-Brice Ouabiro Dana discovered during at a meeting at the Azimut hotel that Konaté had drawn up a list of FACA who had joined up in Gobere ever since June, and he made a statement with Mr Ngaïssona present, saying that he never saw anyone carrying the rank of lieutenant and others in Gobere, and he also spoke to Ndangba about it and asked how it was possible that in the bush they did not see the soldiers and afterwards they joined and had a list during the meeting with coordinator Mr Ngaïssona and deputy minister Ndomaté.³⁰²² Jo-Brice Ouabiro Dana did not recognise another list which he thought was a list of elements based in Boeing, and clarified that Sylvestre Yagouzou was never in Gobere, but in the sector of Combattant and Boeing.³⁰²³

1134. The Chamber has before it a number of different lists of names, one of which is entitled ‘*Liste des FACA ralies depuis juin a Gobere*’, mentioning, *inter alia*, Mokpem Guy Gervais, Yanoue Aubin, Mokpem Danboy Brice, Mazimbele Guy, Dangba Pissidi and Mandago Alexis.³⁰²⁴ Another typed document entitled ‘*1^{ère} Compagnie Gobere chef de Compagnie Nganafio Honoré Liste des éléments Gobere 1 (Bossangoa)*’ lists 841 names.³⁰²⁵ Another handwritten list entitled ‘*Liste des Anti Balaka Gobere 2 le coordonateur Yangouzou*

³⁰¹⁹ P-0966: T-116, p. 21, line 9 – p. 22, line 3, p. 22, line 22 – p. 23, line 5, p. 23, line 16 – p. 24, line 3, p. 29, line 16 – p. 30, line 2. See List, CAR-OTP-2041-0783.

³⁰²⁰ List, CAR-OTP-2068-0118.

³⁰²¹ P-0966: T-116, p. 25, line 15 – p. 26, line 17, p. 28, line 17 – p. 29, line 9.

³⁰²² P-0966: T-116, p. 27, line 14 – p. 28, line 16.

³⁰²³ P-0966: T-116, p. 24, line 17 – p. 25, line 14 referring to List, CAR-OTP-2041-0802. The Chamber notes the Ngaïssona Defence’s observations suggesting a limited probative value and relevance of the list in light of P-0966’s testimony (see email from the Ngaïssona Defence, 8 April 2022, at 17:33). In light of the Chamber referring to this list only in the specific context of specific witnesses’ testimony without reaching any conclusions on the basis of this list itself, the Chamber does not consider it necessary to address this further.

³⁰²⁴ List, CAR-OTP-2068-0118.

³⁰²⁵ List, CAR-OTP-2041-0783.

Sylvestre chef des campagnes Danboy Zepherin Les elements’ lists 224 names.³⁰²⁶ On the basis of the evidence before it, the Chamber is unable to conclude that these lists reflected exclusively individuals present in Gobere at the relevant time. At the same time, they clearly included persons specifically mentioned by witnesses as having been present there.

1135. The Chamber also has before it a video showing Sylvestre Yagouzou who, when asked where his men came from, explains that ‘we’ come from Gobere, where many FACA met them, and then they distributed over the four corners of the CAR, with marabouts everywhere.³⁰²⁷

1136. P-0975 explained that Dedane, a FACA member who was later killed [REDACTED], was their commander-in-chief in Gobere and appointed Andjilo as zone commander (‘ComZone’) for Ombella-M’Poko prefecture, [REDACTED].³⁰²⁸ Andjilo and other ComZones reported directly to Dedane, while P-0975 reported to his chief of battalion [REDACTED].³⁰²⁹ P-0975 recalled there were sections and battalions, a section might consist of 20 to 30 men and a battalion of 40 to 60 men.³⁰³⁰ The ‘Youngsters’ in Gobere ranged in age from 17 to 60 years.³⁰³¹ P-0975 did not know other Anti-Balaka leaders [REDACTED] before the ‘revolution’.³⁰³²

1137. P-2602 stated that the group in Gobere included [REDACTED] militaries and for the rest civilians, from various villages.³⁰³³ P-2602 [REDACTED] had a person above him, a chief corporal, Danboy Dedane.³⁰³⁴ [REDACTED], all natives from Bossangoa, had communicated with them through phone and joined them in Gobere,³⁰³⁵ [REDACTED].³⁰³⁶ The people they registered were about 3,676, but there were still other people joining

³⁰²⁶ List, CAR-OTP-2041-0802.

³⁰²⁷ Video, CAR-OTP-2065-5470; Transcript, CAR-OTP-2107-1559. The Chamber does not consider that Sylvestre Yagouzou, with this answer, meant to imply that he was in Gobere himself.

³⁰²⁸ P-0975 Statement, CAR-OTP-2033-7885-R02, at 7889, para. 29.

³⁰²⁹ P-0975 Statement, CAR-OTP-2033-7885-R02, at 7889, para. 29.

³⁰³⁰ P-0975 Statement, CAR-OTP-2033-7889-R02, at 7889, para. 29.

³⁰³¹ P-0975 Statement, CAR-OTP-2033-7885-R02, at 7889, para. 26.

³⁰³² P-0975 Statement, CAR-OTP-2033-7885-R02, at 7889, para. 29.

³⁰³³ P-2602 Interview Transcripts, CAR-OTP-2118-9500-R01, at 9522, lines 745-759; CAR-OTP-2118-9579-R01, at 9580-81, lines 29-39.

³⁰³⁴ P-2602 Interview Transcript, CAR-OTP-2118-9500-R01, at 9522-23, lines 765-773.

³⁰³⁵ P-2602 Interview Transcript, CAR-OTP-2118-9579-R01, at 9581, lines 42-67, at 9583-84, lines 138-164.

³⁰³⁶ P-2602 Interview Transcript, CAR-OTP-2118-9579-R01, at 9581, lines 42-67.

them.³⁰³⁷ [REDACTED] was the one who had the list of all the men who were at the base at the time.³⁰³⁸ The number of [REDACTED] militaries increased when some of their colleagues heard about and joined them [REDACTED].³⁰³⁹

1138.P-2602 explained, commenting on a list,³⁰⁴⁰ that the following people were in Gobere: [REDACTED].³⁰⁴¹ Guy Mazimbele, a native from Batangafo, came with his team to Gobere and from there to Bangui, he joined the group at Mborouba, passed through Gobere to go there; Thierry Lebene was at Gobere, at the time they were going out to attack he was a member of Dedane's staff, a small team with Guederan as only military; Benjamin Ouapoutou, Gobere, marabout; Gustav Yadjoungou, Gobere, he was part of the Bouca team; Richard Bejouane from Bozoum was in Gobere, he was like an advisor and in charge of Mborouba's base.³⁰⁴²

1139.P-2602 explained that some FACA joined them along the way [REDACTED].³⁰⁴³ They met Yvon Konaté at 120 kilometres from Bangui, he did not come to Gobere; [REDACTED] joined them at Mborouba, 30 kilometres from Damara.³⁰⁴⁴ They did not know Sylvestre Yagouzou in Gobere, they heard about him when he arrived in the capital, P-2602 met him when they were fighting the mercenaries at the airport; Richard Bejouane was not at Gobere, they were only sending people to support them in Bossembélé, he was in Yaloké; P-2602 did not see Sylvain Beorofei.³⁰⁴⁵

1140.P-2658 recalled [REDACTED] among the Anti-Balaka gathered in Gobere.³⁰⁴⁶ The elements were divided into six groups, led by Andjilo, corporal Dangba, 12 Puissances, Nambozouina

³⁰³⁷ P-2602 Interview Transcript, CAR-OTP-2118-9500-R01, at 9523, lines 774-803.

³⁰³⁸ P-2602 Interview Transcript, CAR-OTP-2118-9579-R01, at 9596-97, lines 572-590.

³⁰³⁹ P-2602 Interview Transcript, CAR-OTP-2118-9525-R01, at 9531-32, lines 194-211.

³⁰⁴⁰ List, CAR-OTP-2068-0118.

³⁰⁴¹ P-2602 Interview Transcript, CAR-OTP-2118-9617-R01, at 9622-33, lines 142-535, at 9639-40, lines 710-765.

³⁰⁴² P-2602 Interview Transcript, CAR-OTP-2118-9641-R01, at 9642-47, lines 8-197, at 9649-51, lines 248-330. *See also* P-2251 Statement, CAR-OTP-2093-0045-R01, at 0048, para. 18, at 0050, para. 32.

³⁰⁴³ P-2602 Interview Transcript, CAR-OTP-2118-9617-R01, at 9622-33, lines 142-535, at 9639-40, lines 710-765.

³⁰⁴⁴ P-2602 Interview Transcript, CAR-OTP-2118-9617-R01, at 9622-33, lines 142-535, at 9639-40, lines 710-765.

³⁰⁴⁵ P-2602 Interview Transcript, CAR-OTP-2118-9641-R01, at 9642-47, lines 8-197, at 9649-51, lines 248-330.

³⁰⁴⁶ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0024, para. 77, at 0025, paras 83-84; P-2658: T-134, p. 47, lines 15-24, p. 48, lines 10-16.

and Akim.³⁰⁴⁷ Dedane met with the group leaders every morning in Gobere.³⁰⁴⁸ The group leaders joined during the exercises with the elements at Gbonguere, where Nambozouina, 12 Puissances and Akim came every morning to greet Dedane as chief on the hill, at which time Andjilo was no longer there.³⁰⁴⁹ Andjilo had already gone to Bouca and Dedane was in the habit of calling him over the telephone.³⁰⁵⁰ P-2658 saw Andjilo in Gobere two days after [REDACTED].³⁰⁵¹ Dangba was a chief corporal in the army and had many elements,³⁰⁵² Nambozouina, a FACA [REDACTED],³⁰⁵³ [REDACTED].³⁰⁵⁴ When P-2658 was [REDACTED] said in Sango that they did not have to keep [REDACTED], but 12 Puissances said the commander had given instruction to keep P-2658 alive.³⁰⁵⁵ Moundjou (meaning in Sango ‘light skin’) was an Anti-Balaka element, not a commander, he was working under 12 Puissances.³⁰⁵⁶ 12 Puissances was an Anti-Balaka commander; Dedane told P-2658 that 12 Puissances was a hunter.³⁰⁵⁷ P-2658 did not know the names of Ndomaté, Alfred Ngaya, Wenezoui, Yvon Konaté, Modibo³⁰⁵⁸ and did not hear the names of Houronti Dieudonné,³⁰⁵⁹ Richard Bejouane³⁰⁶⁰ or Modibo.³⁰⁶¹ P-2658 had heard the name of Marabout Lundi, but did not recall his real name, everyone would call him marabout.³⁰⁶²

1141. In a video interview of Dieudonné Houronti, the latter described that they started ‘the movement’ in Bossangoa, walking through the bush to get there, where they then also

³⁰⁴⁷ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0027, para. 97. The Chamber notes in this regard that P-2658 did not recognise [REDACTED], as depicted in Photograph, CAR-D30-0011-0002 (see P-2658: T-135, p. 54, line 23 – p. 55, line 5). Given the specific circumstances of the witness at the time, who was in the area and moving with Dedane’s group [REDACTED], the Chamber considers this not to distract from the detailed testimony provided by the witness. The same holds true for P-2658 not recognising what appears to be [REDACTED] in Photograph, CAR-OTP-2031-1252 (see P-2658: T-135, p. 54, lines 4-11, p. 69, lines 20-25).

³⁰⁴⁸ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0027, para. 97.

³⁰⁴⁹ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0027, para. 97; P-2658: T-135, p. 42, line 6 – p. 43, line 24, p. 44, line 6 – p. 45, line 15.

³⁰⁵⁰ P-2658: T-135, p. 45, lines 3-8.

³⁰⁵¹ P-2658: T-135, p. 45, lines 16-25, p. 46, line 1 – p. 47, line 22, p. 48, lines 1-8.

³⁰⁵² P-2658 Statement, CAR-OTP-2126-0012-R02, at 0027, para. 99.

³⁰⁵³ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0027, para. 101.

³⁰⁵⁴ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0028, para. 102.

³⁰⁵⁵ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0028, para. 102.

³⁰⁵⁶ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0028, para. 103.

³⁰⁵⁷ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0024, para. 76.

³⁰⁵⁸ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0038, paras 170-174.

³⁰⁵⁹ P-2658: T-134, p. 35, lines 17-20.

³⁰⁶⁰ P-2658: T-134, p. 35, lines 21-22.

³⁰⁶¹ P-2658: T-134, p. 36, lines 3-4.

³⁰⁶² P-2658: T-134, p. 35, line 23 – p. 36, line 2.

encountered military who had gone there from Bangui, 16 in total; that they created their Anti-Balaka base in the bush, at around 40 kilometres from Bossangoa and 15 kilometres from Benzambe, called Gobere; that there were about 2,000 people there, which would be trained by the soldiers in tactics, combat, how to advance and fight; that they also had ‘marabouts’; and that they fought even though they did not have any weapons, only machetes.³⁰⁶³

1142. Individuals who were not present in Gobere themselves also provided information on the persons who were there. For example, P-2232 testified that Gobere was a village where Dedane went for the first attack to Bozoum, they regarded this village as the ‘password’ for the Anti-Balaka and from Gobere, they regrouped to go to other villages and organise other attacks.³⁰⁶⁴ Other individuals in Gobere included Mauri, Azounou, Marabout, Richard Bezouane, Corporal Inga; Konaté was not yet with them during the first attack, he joined them afterwards.³⁰⁶⁵ These people were like ComZones, they commanded troops, supervised them, were in the front and also looked at how they should attack the villages.³⁰⁶⁶ Asked whether any ammunition was brought to Gobere, P-2232 denied, stating when they left Bozoum to go to Gobere, they did not have any support, they started receiving support after the fight in Ndjo, so their used their own means to fight, recovered arms and ammunition on the ground.³⁰⁶⁷ P-2232 stated that everybody who belonged to this group were former hunters, others were highway bandits, they were used to handle hunting guns, machetes, arrows, but did not really teach someone how to use a machete, you learn that by yourself.³⁰⁶⁸

1143. P-0884 heard that when the Seleka were advancing to take over the country, Gbaya soldiers went to Gobere and were in contact with Maxime Mokom.³⁰⁶⁹ There were 17 of them, they started using the term Anti-Balaka, taking advantage of pre-existing groups that fought against the Peuhl’s cattle, destroying fields and against road bandits, and that used traditional training to reinforce them to lead them to fight – going into towns, they trained other people,

³⁰⁶³ Video, CAR-OTP-2084-1263; Metadata, CAR-OTP-2084-1264; Transcript, CAR-OTP-2107-1565.

³⁰⁶⁴ P-2232: T-076, p. 3, lines 11-18, p. 4, lines 4-8.

³⁰⁶⁵ P-2232: T-076, p. 3, line 19 – p. 4, line 3.

³⁰⁶⁶ P-2232: T-076, p. 4, lines 12-18.

³⁰⁶⁷ P-2232: T-076, p. 4, line 24 – p. 5, line 5.

³⁰⁶⁸ P-2232: T-076, p. 5, lines 6-9.

³⁰⁶⁹ P-0884: T-055, p. 23, lines 6-19.

until they arrived in Bangui.³⁰⁷⁰ All the Central Africans talked about it; when they went there it was to protect themselves with the supernatural powers so as to become invulnerable.³⁰⁷¹ Dieudonné Houronti, a gendarme, was among the 17,³⁰⁷² as were Bama Clement, Mokpem, Dangba.³⁰⁷³ P-0884 confirmed that Ouapoutou Benjamin (civilian), Thierry Lebene aka 12 Puissances (civilian), Guy Mazimbelet (military), Yadjoungou, Mokpem (military), Donoh (military), and Houronti were all in Gobere.³⁰⁷⁴ The military themselves told P-0884 that they were in Gobere when they came to Bangui in December, saying that when the situation was difficult, 17 soldiers went to Gobere to create the Anti-Balaka movement with Maxime Mokom as coordinator.³⁰⁷⁵ P-0884 did not know how long they were in Gobere.³⁰⁷⁶

iii. Activities in Gobere and plan to advance

1144. The evidence outlined below shows that the Anti-Balaka in Gobere were organised. The individuals present in Gobere were registered on arrival and organised into various groups.

1145. Jo-Brice Ouabiro Dana testified that he was in charge of registering new recruits and informing them about the principles to be respected: ‘do not steal, do not attack civilians’, if an Anti-Balaka was caught stealing, the thief would be tied up and beaten [REDACTED].³⁰⁷⁷ His men respected his orders and would be punished if not, by whipping them and making them stand up all night.³⁰⁷⁸ The instructions given to those who joined were, ‘don’t kill or steal, don’t touch the Muslim women. And if the Seleka attack, you can defend yourself’.³⁰⁷⁹

1146. Jo-Brice Ouabiro Dana described that they were divided into 14 companies, each company with between 500 and 1,000 persons and divided into four sectors, dispatched to areas

³⁰⁷⁰ P-0884: T-055-ENG, p. 23, line 6 – p. 24, line 3; T-055-FRA, p. 23, line 8 – p. 24, line 8.

³⁰⁷¹ P-0884: T-055, p. 24, lines 4-9.

³⁰⁷² P-0884: T-055, p. 24, lines 13-14.

³⁰⁷³ P-0884: T-055, p. 28, lines 9-21.

³⁰⁷⁴ P-0884: T-055, p. 26, line 7 – p. 27, line 12, p. 29, lines 8-23 *referring to* Declaration, CAR-OTP-2060-0590. The Chamber notes that the witness seemed unclear on whether he knew of Bejouane Richard from Boali, Bozando Richard from Bossangoa, or Andjilo Ngaïbona, a civilian from Bouca, being in Gobere (see P-0884: T-055, p. 24, line 23 – p. 26, line 3 *referring to* Press statement, CAR-OTP-2060-0596).

³⁰⁷⁵ P-0884: T-055, p. 32, line 9 – p. 33, line 12, p. 34, lines 2-8.

³⁰⁷⁶ P-0884: T-055, p. 33, lines 2-4.

³⁰⁷⁷ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0247, para. 35.

³⁰⁷⁸ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0247, para. 35.

³⁰⁷⁹ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0248, para. 38.

according to the province of origin of their elements,³⁰⁸⁰ and he was a deputy chief before becoming a chief of company.³⁰⁸¹ The witness gave a list of elements in Gobere to ComZone Kema³⁰⁸² since as one of the few literate men, he was asked to keep the register of companies and their members, with Kema then forwarding the lists to Maxime Mokom.³⁰⁸³ It appears from Jo-Brice Ouabiro Dana's testimony that lists were more or less regularly updated as the various groups moved around.³⁰⁸⁴ ComZone Kema kept the list of all elements in Bossangoa and forwarded them to the leader, Kema told them that once he found some coverage, he would give the names of the people.³⁰⁸⁵ Each group had a secretary, and the witness re-transcribed all lists and prepared a clean copy before forwarding.³⁰⁸⁶ Dedane was responsible for communicating the lists, but at one point the group split up and Kema would send the information to Dedane, who would send it on.³⁰⁸⁷ It was a matter of recruiting them into the army later and people who were not on one of the lists were not considered to be part of the movement: it appears from Jo-Brice Ouabiro Dana's testimony that integration into the army was considered to be the reward for protecting the country,³⁰⁸⁸ while the soldiers in the movement, in case of victory, might get one rank higher.³⁰⁸⁹

1147.P-2602 explained that they divided the group, organised according to the various chiefs, [REDACTED] within which the leader was to teach his men how to shoot, dismantle or assemble a weapon; each camp had a military as a chief, always FACA, [REDACTED].³⁰⁹⁰ Dedane was their chief and P-2602 did not know if he had someone above him, but he was communicating always on the phone.³⁰⁹¹ The camps were called companies and divided further into sections with chiefs who were civilians; a company could be 200 or more, [REDACTED].³⁰⁹² Each company had a secretary whose work was to register all newcomers

³⁰⁸⁰ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0246, para. 29.

³⁰⁸¹ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0247, para. 34.

³⁰⁸² P-0966: T-116, p. 30, lines 5-22.

³⁰⁸³ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0247, para. 36, at 0248, paras 38-39; P-0966: T-116, p. 14, line 23 – p. 15, line 13, p. 19, lines 1-10. *See also* P-0966: T-118, p. 35, line 2 – p. 36, line 6.

³⁰⁸⁴ P-0966: T-119, p. 5, line 21 – p. 8, line 25.

³⁰⁸⁵ P-0966: T-116, p. 18, lines 5-25; T-119, p. 9, lines 1-21.

³⁰⁸⁶ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0248, para. 38; P-0966: T-119, p. 4, line 17 – p. 5, line 9.

³⁰⁸⁷ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0248, para. 38; P-0966: T-119, p. 11, line 2 – p. 11, line 22.

³⁰⁸⁸ P-0966: T-116, p. 15, line 14 – p. 17, line 12, p. 20, line 17 – p. 21, line 5, p. 24, lines 7-16.

³⁰⁸⁹ P-0966: T-116, p. 19, line 11 – p. 20, line 12.

³⁰⁹⁰ P-2602 Interview Transcript, CAR-OTP-2118-9598-R01, at 9610-13, lines 414-501.

³⁰⁹¹ P-2602 Interview Transcript, CAR-OTP-2118-9598-R01, at 9613, lines 504-517.

³⁰⁹² P-2602 Interview Transcript, CAR-OTP-2118-9617-R01, at 9618-19, lines 23-52.

to make a list of all the men who were there, where they were coming from, to then tell them their rules not to steal; [REDACTED] their rules were that each person joining should be registered because if not, they could not perform traditional rites on him.³⁰⁹³ Some had performed the rites in their own customs and villages where they were, but registered when joining and then could not go back to their village.³⁰⁹⁴

1148. Jo-Brice Ouabiro Dana testified that when they arrived at Gobere, there were no weapons, it had ‘all been a lie’, and had he known, he would have stayed in his village to fight.³⁰⁹⁵ The witness did not leave because, according to him, once one joined the movement, one could not go out freely and leave until authorisation was given,³⁰⁹⁶ but then he stated it was no longer possible for him to find his way back to his village.³⁰⁹⁷ When they left Bossala, the objective was to get weapons and ammunition in Bossembélé, so they could go to Bossangoa with weapons, yet they left Bossangoa without weapons and in Bossembélé they received a fresh supply of weapons, ammunition, grenades to head to Bossangoa a second time.³⁰⁹⁸ There were rumours about tanks and war arsenal, but when they reached Gobere they did not see any; at Ndjo, they saw people had ‘DKN’ and AK-47s, but at Gobere they did not see any tanks or arsenal, while they had one DKN and a ‘*lance-roquettes*’, and the soldiers had AK-47s; once they arrived in Benzambé, they started to have some conventional weapons, gradually as they advanced they retrieved those.³⁰⁹⁹

1149. Jo-Brice Ouabiro Dana further stated that few people had mobile phones, no one in his company had one.³¹⁰⁰ Only chiefs could use them and an element who was caught with a mobile phone would be suspected of betrayal and regarded as traitor, since some could use

³⁰⁹³ P-2602 Interview Transcript, CAR-OTP-2118-9617-R01, at 9620, lines 72-99.

³⁰⁹⁴ P-2602 Interview Transcript, CAR-OTP-2118-9617-R01, at 9620-21, lines 100-116.

³⁰⁹⁵ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0245, para. 24.

³⁰⁹⁶ P-0966: T-117, p. 4, lines 7-24.

³⁰⁹⁷ P-0966: T-117, p. 64, line 167– p. 67, line 4.

³⁰⁹⁸ P-0966: T-117, p. 7, line 3 – p. 8, line 10.

³⁰⁹⁹ P-0966: T-118-ENG, p. 58, lines 2-18; T-118-FRA, p. 60, line 19 – p. 61, line 13.

³¹⁰⁰ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0248, para. 40.

a phone to give their location.³¹⁰¹ Only the chiefs knew where the network was, so they looked for spots with coverage.³¹⁰²

1150. P-0975 stated that in Gobere they survived on wild fruits.³¹⁰³ P-2602 stated that in Gobere, they were being brought food by the small surrounding villages, Bozoum, Paoua, because their relatives informed them about the location, [REDACTED].³¹⁰⁴ Jo-Brice Ouabiro Dana stated that there were no buildings, just saw straw places, they had very few possessions, could not change clothing, had insects and no shelter when it rained, except for the leaders who used tarp to protect themselves.³¹⁰⁵

1151. The evidence before the Chamber, as discussed below, shows that training on how to handle weapons was provided by the former FACA elements to the civilians. While they were low on weapons and living conditions overall were challenging, civilians in the groups received some training on handling weapons by the FACA members present. With discussions being had on how to move the groups' activities forward, as further outlined also below,³¹⁰⁶ Gobere was in essence a regrouping and vantage point for groups to coordinate and discuss their further steps to be taken for them to be able to advance to Bangui and eventually remove Michel Djotodia and the Seleka from power.

1152. Jo-Brice Ouabiro Dana stated that there were training and exercises in Gobere, they did simulations with sticks.³¹⁰⁷

³¹⁰¹ P-0966: T-118, p. 59, line 14 – p. 15, line 1. The Chamber notes in this regard that elements not being allowed to carry mobile phones is also reflected in the context of Mr Yekatom's group (*see* paragraph 2473 below).

³¹⁰² P-0966: T-118, p. 60, lines 2-10.

³¹⁰³ P-0975 Statement, CAR-OTP-2033-7885-R02, at 7889, para. 30. In this context, the Chamber notes that there appears to be a discrepancy between the evidence of P-2658 (*see* P-2658 Statement, CAR-OTP-2126-0012-R02, at 0024-25, para. 78, at 0026, para. 90; P-2658: T-134, p. 29, lines 22-25 p. 47, line 25 – p. 48, line 3; T-135, p. 52, line 8 – p. 53, line 2) and P-0966 (P-0966: T-117, p. 13, line 22 – p. 14, line 6; *see also* P-2251 Statement, CAR-OTP-2093-0045-R01, at 0050, paras 32-33, at 0050-51, para. 35; P-2251: T-043, p. 11, lines 3-21) on how much food was available in Gobere. Considering that also P-2658 stated that it was difficult to find food in Gobere, that some Anti-Balaka had problems to eat, and that he in fact never saw the cows (*see* P-2658: T-135, p. 53, lines 3-23), the Chamber considers this discrepancy to be immaterial, and in any event insufficient to render the evidence of P-2658 unreliable as a whole.

³¹⁰⁴ P-2602 Interview Transcript, CAR-OTP-2118-9598-R01, at 9607-08, lines 309-331.

³¹⁰⁵ P-0966: T-117, p. 42, line 12 – p. 43, line 7; T-118, p. 60, line 11 – p. 61, line 7.

³¹⁰⁶ *See also* section IV.A.6.i below.

³¹⁰⁷ P-0966: T-116, p. 27, lines 5-11.

1153.P-0975 described Gobere as a place of refuge, training, regrouping for youngsters to fight the Seleka, who were a scourge on the country.³¹⁰⁸ P-0975 spent [REDACTED] months in Gobere receiving training from FACA members who had fled into the bush, including on self-defence techniques, the use and assembly of weapons, for those who had any; they mainly used traditional hunting rifles, ‘*saguets*’ and machetes, and did not have automatic weapons; they were also taught how to differentiate the different sounds of weapons and protect themselves.³¹⁰⁹ According to P-0975, there were only about four to five FACA members who trained them in Gobere, their overall objective was to ‘free [their] brothers and sisters’ from the Seleka.³¹¹⁰

1154.P-2232 testified, asked if the ComZones in Gobere also provided training, that the Anti-Balaka movement did not really have any training as such, or did not have a centre for training; in the field, they learned how to shoot, how to get and put ammunition into the gun, they learned as they were going along.³¹¹¹

1155.P-2269 stated that they practised some rituals and traditions in Gobere, he trained his men how to shoot a gun and the other chiefs did as well.³¹¹²

1156.P-2602 stated that they were training the civilians in Gobere.³¹¹³ After training the civilians, they divided so each was to be in a group and they had a common agreement on which group would attack which location, so that they could chase away the mercenaries.³¹¹⁴ While at Gobere, the plan was to defend the district and attack the mercenaries there, the strategy was that while in their area, nothing could happen to them, they could use their customs and traditional methods to attack them.³¹¹⁵ They stayed for one month in Gobere, going to the second, before they decided to leave.³¹¹⁶ During that month, P-2602 used the time to teach the civilians who did not know how to manage automatic weapons; they were seven

³¹⁰⁸ P-0975 Statement, CAR-OTP-2033-7885-R02, at 7889, para. 26.

³¹⁰⁹ P-0975 Statement, CAR-OTP-2033-7885-R02, at 7889, para. 28.

³¹¹⁰ P-0975 Statement, CAR-OTP-2033-7885-R02, at 7889, para. 29.

³¹¹¹ P-2232: T-076, p. 4, lines 19-23.

³¹¹² P-2269 Statement, CAR-OTP-2111-0336-R01, at 0343, para. 53.

³¹¹³ P-2602 Interview Transcript, CAR-OTP-2118-9525-R01, at 9531-32, lines 194-211.

³¹¹⁴ P-2602 Interview Transcript, CAR-OTP-2118-9525-R01, at 9532, lines 215-218.

³¹¹⁵ P-2602 Interview Transcript, CAR-OTP-2118-9598-R01, at 9614, lines 536-553.

³¹¹⁶ P-2602 Interview Transcript, CAR-OTP-2118-9598-R01, at 9599, lines 21-30.

militaries with five automatic weapons at the time; later there was one civilian who had an automatic weapon; they taught how to fire, dismantle and assemble the weapon.³¹¹⁷ Dedane decided that they were militaries and should organise themselves, so they organised to control their men so that someone should not misbehave.³¹¹⁸ [REDACTED].³¹¹⁹

1157.P-2658 testified that Gobere was a big training place for the Anti-Balaka; Gobere is near Boukatou, in the bush; there were no proper buildings but there were about 17 huts; he saw many people being trained there and he also saw more people coming for training.³¹²⁰ P-2658 did not spend much time in Gobere, the base existed before he was there.³¹²¹ Only subsequently the Anti-Balaka group divided into two, one went to Bouca and the Dedane group, including P-2658, set up in Gbonguere, before they went to Bossangoa.³¹²² Two weeks after [REDACTED], Dedane gathered all his men at Gbonguere when he returned from Bossangoa.³¹²³ In Gbonguere, P-2658 saw training; there was a former FACA by the name of Kokofere who had two weapons in his hands, shot and wanted to kill everybody, which created confusion and he was killed.³¹²⁴ The largest base was in Gbonguere.³¹²⁵ They went to Gobere on a regular basis because Dedane was a chief; they might go in the morning and then come back.³¹²⁶ The elements stayed with their leaders and around the main camp of Gobere, meeting at one place during training or for the group meeting; a river called Gobere was running through the camp.³¹²⁷ The training was like a military training; they were divided into two groups, each with a leader or commander, and P-2658 could see them running, walking around; some wore military uniform; after the training, their commander

³¹¹⁷ P-2602 Interview Transcript, CAR-OTP-2118-9598-R01, at 9606-07, lines 282-308. *See also* P-0965 Interview Transcripts, CAR-OTP-2046-0037-R02, at 0044, lines 248-256; CAR-OTP-2046-0072-R02, at 0089, lines 567-573; P-0965: T-061, p. 36, line 20 – p. 37, line 11, p. 38, lines 15-23 (the witness explained that from the Gobere days onwards, they were taught also by soldiers how to handle weapons, how to defend themselves, how to partake in combat, and that Mokpem was amongst those who were in Gobere and took care of training the Anti-Balaka fighters).

³¹¹⁸ P-2602 Interview Transcript, CAR-OTP-2118-9617-R01, at 9621, lines 117-141.

³¹¹⁹ P-2602 Interview Transcript, CAR-OTP-2118-9641-R01, at 9647-49, lines 198-243.

³¹²⁰ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0024-25, para. 78; P-2658: T-134, p. 29, lines 22-25, p. 47, line 25 – p. 68, line 3; T-135, p. 31, line 20 – p. 32, line 18, p. 51, lines 14-16.

³¹²¹ P-2658: T-134, p. 34, lines 5-17.

³¹²² P-2658: T-134, p. 34, lines 5-17, p. 35, lines 1-6.

³¹²³ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0023, para. 64, at 0028, para. 104; P-2658 Corrections, CAR-OTP-2135-3476-R01, at 3479, para. 64, at 3484, para. 104; P-2658: T-134, p. 47, lines 8-14, p. 49, lines 3-5.

³¹²⁴ P-2658: T-134, p. 13, lines 10-18, p. 34, lines 5-17.

³¹²⁵ P-2658: T-134, p. 13, lines 4-9.

³¹²⁶ P-2658: T-134, p. 35, lines 7-10.

³¹²⁷ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0025, para. 79.

Dedane gave them practical instructions, but P-2658 was too far to know which.³¹²⁸ They were taught how to handle weapons, shown what being a soldier was all about, they did sports.³¹²⁹ P-2658 did hear Dedane give instructions to the elements, mainly those in charge of the training, on how to train them regarding some military tactics and how to attack.³¹³⁰ P-2658 could also see former soldiers – those who wore military uniform during training, staying away from the other elements that were being trained, and seemingly leading other elements – carrying guns.³¹³¹ In Gbonguere, the soldiers gathered in the morning and chat, with P-2658 remaining at a respectful distance.³¹³² As for training, they gathered together, on occasion did some sporting activities and went running together, but P-2658 was not close enough to know exactly what kind of training they were doing.³¹³³

1158. P-2658 explained that Dedane used to communicate on the phone when he was at the hill at Gbonguere, communications during which he would hear three names: Charli, Kommas, Yongo.³¹³⁴ Dedane always complained about the lack of ammunitions, said that his elements and him were ready to get out for the attack; Charli, Kommas, Yongo were putting pressure on Dedane and asked him what he was waiting for; Dedane responded that he wanted to divide his elements into different groups so he could deploy them but he did not have enough ammunitions and weapons; he said he would go to Bossangoa to look for more ammunition and on return would proceed to divide the Anti-Balaka elements into three groups.³¹³⁵

³¹²⁸ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0026, para. 92.

³¹²⁹ P-2658: T-134, p. 35, lines 11-16.

³¹³⁰ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0027, para. 96.

³¹³¹ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0026, para. 93, at 0027, para. 95; P-2658 Corrections, CAR-OTP-2135-3476-R01, at 3483, para. 95; P-2658: T-134, p. 48, lines 22-23.

³¹³² P-2658: T-135, p. 43, lines 13-24.

³¹³³ P-2658: T-135, p. 43, line 25 – p. 44, line 5.

³¹³⁴ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0024, para. 72, at 0037, para. 167; P-2658 Corrections, CAR-OTP-2135-3476-R01, at 3480, para. 72, at 3489, para. 167; P-2658: T-134, p. 37, lines 2-23, p. 46, lines 19-25, p. 50, lines 17-22, p. 53, line 10 – p. 54, line 4, p. 55, lines 5-24, p. 56, line 17 – p. 57, line 5; T-135, p. 57, line 22 – p. 60, line 25. The Chamber notes in this regard the statement of Josué Nampessa, who indicated that he was the only one in Bossangoa with nickname ‘Yongo’, that he fled from Bossangoa to Bangui after his shop was pillaged by the Seleka, and that he does not personally know Dedane Danboy or Mr Ngaïssona, or anyone by the name of Hissène Abdoulaye aka Hissène Balaka (see D30-4551 Statement, CAR-D30-0021-0001-R01, at 0002-03, paras 7, 9, 12-14). The Chamber considers this information to be incapable of raising doubts as to the information provided by P-2658. P-2658 was clear in hearing the mentioned names in the context of Dedane’s phone communications, clearly did not know these individuals himself, and did not provide any other details regarding them which would allow the Chamber to conclude that P-2658’s evidence is contradicted by that of Josué Nampessa.

³¹³⁵ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0024, para. 72.

1159. According to P-2658, Dedane went to Bossangoa at least three times.³¹³⁶ The first time he went for ammunition [REDACTED], but they were not successful in getting ammunition.³¹³⁷ It appears that Dedane split the group for purposes of attack after the third trip to Bossangoa.³¹³⁸ Dedane talked about his elements on the phone; he spoke to Andjilo whom he sent to Bouca.³¹³⁹ Dedane transmitted the information about the location of his elements to someone else, village per village.³¹⁴⁰ Dedane provided information to Charli,³¹⁴¹ P-2658 did not know the other people Dedane spoke to.³¹⁴² P-2658 denied that Dedane transmitted lists of elements to someone over the phone, he did not hear him talk about a list.³¹⁴³ According to P-2658, the chiefs who spoke about lists were not next to Dedane; in Gbonguere, the team was divided into groups and each group had their own list.³¹⁴⁴

1160. In light of various witnesses mentioning at least Dedane, and some other leaders, being in a position to communicate through telephone, the Chamber disregards P-2251's indication that he did not know if the chiefs in 'Ngobere' communicated with others as he never saw anyone speaking on their phone while they were there.³¹⁴⁵ In any event, the Chamber notes that P-2251 does support other evidence when stating that at 'Ngobere', they organised, with elements from each town sleeping together in their own zone, leaders staying in the centre of the different zones and exchanging ideas and strategies.³¹⁴⁶ P-2251 also recalled some gatherings at 'Ngobere' where they all stood in front of the chiefs such as Konaté, Lebene, Dangba, Dedane and Andjilo, and they spoke to them, telling them to stay calm and not be afraid, that God would help them exit the bush, that they had no choice but to have fled to

³¹³⁶ P-2658: T-134, p. 58, line 18 – p. 59, line 4, p. 63, lines 3-6; T-135, p. 10, lines 1-14, p. 22, line 16 – p. 23, line 20, p. 24, lines 9-25.

³¹³⁷ P-2658: T-134, p. 63, lines 14-20; T-135, p. 6, lines 4-18.

³¹³⁸ P-2658: T-134, p. 63, line 21 – p. 64, line 2; T-135, p. 6, lines 19-22, p. 7, lines 4-11.

³¹³⁹ P-2658: T-134, p. 59, lines 7-11.

³¹⁴⁰ P-2658: T-134, p. 59, lines 12-15.

³¹⁴¹ P-2658: T-134, p. 59, lines 16-17.

³¹⁴² P-2658: T-134, p. 59, lines 18-22.

³¹⁴³ P-2658: T-134, p. 59, lines 23-25.

³¹⁴⁴ P-2658: T-134, p. 60, lines 1-7.

³¹⁴⁵ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0051, para. 40; P-2251: T-043, p. 15, lines 1-8; T-044, p. 29, line 25 – p. 30, line 11.

³¹⁴⁶ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0050, para. 34.

‘Ngobere’ to save themselves, but that a time would come when they would be able to exit the bush and drive the Seleka away.³¹⁴⁷

1161. At Gobere, also plans were made as to how to proceed further. Indeed, P-0975 stated that the plan was for them to go back to their original areas in Oaham/Ouham and OmbellaM’Poko to drive out the Seleka and then regroup to revolt in Bangui.³¹⁴⁸ There were no Anti-Balaka in Bangui, they all came from the provinces; the strategy was to control the provinces first and then go to Bangui.³¹⁴⁹

1162. P-2269 stated that the chiefs of the rebellion met to think and discuss what to do, they discussed the Seleka violence and disorder and decided to chase Djotodia from power and restore peace, they decided to go to Bangui.³¹⁵⁰ Informants [REDACTED] had been giving them information from Bangui and they were listening to the radio; they discussed tactics, but P-2269 did not want to provide details.³¹⁵¹ They told people to gather in Gobere, they would call or pass the message in person.³¹⁵² They went to Gobere because it is a big village and they set up a base there; people from Bouca, Bogangolo, Batangafo and nearby villages also joined, each chief came with their own group.³¹⁵³ P-2269 stated that when one is in the rebellion and walking in the bush, one has to be in contact with the other groups and communicate; [REDACTED] groups were constantly in contact with one another.³¹⁵⁴

1163. P-2602 explained that Dedane called for a meeting at which they discussed which localities to attack; [REDACTED] led the discussions because they were the elders, with the aim of the meeting seeing how to attack, and they agreed that they were going to attack at the same time, at 05:00, discussing the aim of pushing the mercenaries to Bossangoa.³¹⁵⁵ P-2602 was

³¹⁴⁷ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0077-78, para. 213.

³¹⁴⁸ P-0975 Statement, CAR-OTP-2033-7885-R02, at 7889, para. 30.

³¹⁴⁹ P-0975 Statement, CAR-OTP-2033-7885-R02, at 7889, para. 31.

³¹⁵⁰ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0343, para. 51.

³¹⁵¹ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0343, para. 52.

³¹⁵² P-2269 Statement, CAR-OTP-2111-0336-R01, at 0343, para. 53.

³¹⁵³ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0343, para. 53.

³¹⁵⁴ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0343, para. 55.

³¹⁵⁵ P-2602 Interview Transcript, CAR-OTP-2118-9641-R01, at 9654-56, lines 427-499. *See also* P-2251 Statement, CAR-OTP-2093-0045-R01, at 0052, paras 42-43; P-2251: T-043, p. 14, lines 2-20; T-044, p. 34, line 15 – p. 35, line 2 (the witness recalled one meeting at which they decided to leave, with the chiefs deciding that the only option was to fight the Seleka and drive them away from their villages; the chiefs said they were now the guardians of Bossangoa, Bouca, Bogangolo; usually Tex, Bawa and Kolongo conveyed such messages, they told them that they needed to drive

not in contact with any person in Cameroon or in Zongo, but was in contact with [REDACTED].³¹⁵⁶

1164. How this plan was eventually put into practice is discussed further below.³¹⁵⁷

1165. P-2658 testified that he stayed with the Anti-Balaka at Gbonguere for some weeks and during his entire stay there, the elements constantly told him that they did not want the Seleka and Muslims around; they said the Seleka and Muslims were the same and that they want to deal with the Muslims and the Seleka.³¹⁵⁸

ii. Groups mainly based around FACA and/or PG

1166. In addition to self-defence groups centred around civilians forming in the provinces, a number of former FACA and PG elements also gathered individuals around them. Importantly, it is clear from the evidence as outlined that in the same vein as self-defence groups which formed in different localities and eventually pursued the same cause, also these groups, while initially founded separately, communicated and found together on the basis of pursuing one goal. The evidence before the Chamber shows that the various groups operated in conjunction with other groups and were eventually all associated with the Anti-Balaka.

1167. One of these groups was the '*Front de resistance pour l'alternance pour le peuple Centrafricain*' (FRAPPE). [REDACTED] explained in this regard that [REDACTED] started out of a group of around 10 serving FACA in June 2013 with purpose of protecting themselves and the civilians, and many civilians joined them, [REDACTED] also implying to defend its citizens from the attack of foreign Seleka and strangers.³¹⁵⁹ P-0954's evidence suggests that this group evolved and grew over time, including with civilians joining who

the Seleka away from these villages so they could live in peace and that they would first attack Bossangoa, after which they should attack Bouca and then Bogangolo).

³¹⁵⁶ P-2602 Interview Transcript, CAR-OTP-2118-9714-R01, at 9724-26, lines 325-415.

³¹⁵⁷ See section IV.A.6.i below.

³¹⁵⁸ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0028, para. 104; P-2658 Corrections, CAR-OTP-2135-3476-R01, at 3484, para. 104; P-2658: T-134, p. 49, lines 3-5.

³¹⁵⁹ [REDACTED]

were part of autonomous self-defence groups,³¹⁶⁰ [REDACTED].³¹⁶¹ The group had a clear structure, with [REDACTED] communicating clearly that they were to protect the population and not create disorder, and had Bonaventure Guiyegba as secretary-general, Léopold Bara as spokesperson and Lieutenant Kengwa as chief of staff.³¹⁶² [REDACTED] had gone into the bush with the aim of identifying Seleka and kicking them out of his area, he wanted to protect Bimbo, and as ComZone later, when Djotodia left, he wanted to protect the entire community, including Muslims, and to avoid armed robberies, pillaging, people settling scores.³¹⁶³ P-0954 agreed that [REDACTED] took action because (i) there were still Seleka in the area, (ii) there was still general chaos, and (iii) there were no domestic and not enough international forces to manage these problems.³¹⁶⁴

1168.[REDACTED] stated that Léopold Bara learned about their activities and contacted them; [REDACTED] wanted to know if they had weapons, suggesting to raise funds to get weapons to resist properly.³¹⁶⁵ Bara had promised to see if ‘the French’ would help, but in the end ‘the French’ did not give them weapons.³¹⁶⁶ By the end of November 2013, things started to move, Bara told them that ‘the French’ had called upon all Anti-Balaka groups to circle Bangui to build pressure and remove Djotodia, so many Anti-Balaka came from rural areas to Bangui, Mr Yekatom moved to ‘Gnawara school’, and some Anti-Balaka from the rural areas that looked for bases joined Basile Mbomon.³¹⁶⁷

1169.P-0876 rejected the proposition that [REDACTED].³¹⁶⁸

1170.[REDACTED] stated that the group was a politico-military organisation created by Basile Mbomon and Léopold Bara-Dessi between the end of March and September 2013, with the objective to overthrow the Djotodia government.³¹⁶⁹ When Bara came to visit, they discussed

³¹⁶⁰ P-0954 Statement, CAR-OTP-2048-0171-R03, at 0174, paras 19-20, 23; P-0954: T-167, p. 7, lines 9-17, p. 10, lines 9-25, p. 25, line 21 – p. 26, line 15. *See also* P-1858 Statement, CAR-OTP-2063-0050-R04, at 0055, paras 28-32; P-1858: T-185, p. 9, lines 6-9, p. 80, lines 18-22; T-186, p. 32, line 21 – p. 34, line 19.

³¹⁶¹ [REDACTED]

³¹⁶² [REDACTED]

³¹⁶³ [REDACTED]

³¹⁶⁴ P-0954: T-167, p. 13, lines 4-17.

³¹⁶⁵ [REDACTED]

³¹⁶⁶ [REDACTED]

³¹⁶⁷ [REDACTED]

³¹⁶⁸ P-0876: T-086, p. 47, line 20 – p. 48, line 4.

³¹⁶⁹ [REDACTED]

how the different groups could come together; at that time FRAPPE was not part of the Anti-Balaka yet; they heard about different Anti-Balaka groups but they were all located in different areas; this was during the period between September and November 2013.³¹⁷⁰ [REDACTED] agreed with the suggestion that the name ‘FRAPPE’ was not known, and everybody from the outside was referring to them as Anti-Balaka.³¹⁷¹ From September to November 2013, they stayed in the bush preparing to overthrow the Seleka; the FACA in the group trained the civilians in combat strategies and on how to use weapons – involving to call them, align them, show them discipline, teach them how to behave, to say ‘on your guard’.³¹⁷² The elements of the group were using traditional weapons while the FACA of the group had automatic weapons, some also had grenades.³¹⁷³ [REDACTED] agreed with the suggestion that he and others felt an obligation to defend the country.³¹⁷⁴ There was another group that came from Pissa on foot and they set up a base at ‘Yanwara’ school in Boeing; these were the elements of Rombhot, whose ‘full name is Alfred Y[ekatom]’, and ‘real name is Alfred S[aragba]’.³¹⁷⁵

1171. Another formation discussed by witnesses is the CLPC (*‘Combattants pour la libération du peuple Centrafricain’*).

1172. Alfred Legrand Ngaya stated that the initial formation of the *‘Combattants pour la Libération du peuple Centrafricain’* (CLPC) was created by FACA members before December 2013 and they had fled to Zongo; the leader was [REDACTED].³¹⁷⁶ The official CLPC was formed after the election of Samba-Panza; they were named Anti-Balaka instead by the end of January or beginning of February 2014 – CLPC and Anti-Balaka were one and the same.³¹⁷⁷ Mr Ngaïssona did not have a role as such in the CLCP, but he was a high-ranking dignitary of the Bozizé regime who was in exile, and since they (‘we’) were hoping

³¹⁷⁰ [REDACTED]

³¹⁷¹ [REDACTED]

³¹⁷² [REDACTED]

³¹⁷³ [REDACTED]

³¹⁷⁴ [REDACTED]

³¹⁷⁵ [REDACTED]

³¹⁷⁶ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0336, paras 80-81.

³¹⁷⁷ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0336, para. 81. *See also* P-0808: T-069, p. 47, line 21 – p. 48, line 2.

for salvation, this was someone who was abroad.³¹⁷⁸ They heard ‘Siriri’ was a group of military persons, but in fact it was FACA who organised themselves, led by Konaté and Abel Denamganai.³¹⁷⁹

1173. The Chamber notes in this regard that the name ‘CLPC’ and ‘Anti-Balaka’ was indeed used in parallel in documents at an earlier stage, but after the attacks of 5 December 2013. Specifically, one document of 9 or 10 January 2014 is entitled ‘*Procès Verbal de la Réunion de concertation entre les Responsables du Mouvement des “Combattants de libération du Peuple Centrafricain” (CLPC) dénommé “Antibalaka” relative à la Session extraordinaire des Etats membres de la CEEAC. CEEAC du 09-10 janvier 2014*’ and mentions several individuals present, including Sébastien Wenezoui and Charles Ngremangou, further outlined the discussion points broached during this meeting, which led to the following demands: (i) withdrawal of Michel Djotodia, Nicolas Tiangaye, Alexandre Nguendet; (ii) return to constitutional order or transitional college; (iii) either way designation of new leaders for transition in consensual manner; (iv) organisation of free and transparent elections ‘dans un délai de six (5)’.³¹⁸⁰

1174. The Chamber further notes in this regard that Alfred Legrand Ngaya transmitted various CLPC-related documents to Mr Ngaïssona at the end of December 2013, as further discussed below.³¹⁸¹ The abbreviation ‘CLPC’ also appears in later documents attributed to the Anti-Balaka in 2014.³¹⁸²

1175. P-0889 stated that in response to the Seleka violence, young Christians organised self-defence groups in the neighbourhoods and provinces occupied by the Seleka with the goal to defend against the Seleka attacks, not to take power.³¹⁸³ In the beginning, the self-defence groups belonged to the CLPC (‘*Combattants pour la Libération du Peuple Centrafricain*’),

³¹⁷⁸ P-0808: T-069, p. 47, line 21 – p. 48, line 2.

³¹⁷⁹ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0331-32, para. 50; P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0020, para. 57; P-0808: T-070, p. 19, lines 3-8.

³¹⁸⁰ Minutes, CAR-OTP-2124-0516, at 0516-17.

³¹⁸¹ See paragraphs 1529-1538 below.

³¹⁸² See e.g. Statement, CAR-OTP-2084-0111, at 0111; Wishes, CAR-OTP-2087-9024, at 9024; Statement, CAR-OTP-2084-0146, at 0146; Statement, CAR-OTP-2084-0148, at 0148.

³¹⁸³ P-0889 Statement, CAR-OTP-2027-2290-R02, at 2293, para. 22.

later they called themselves ‘Anti-Balaka’; these self-defence groups were created at different moments, depending on the neighbourhoods or provinces.³¹⁸⁴

1176. Brice Emotion Namsio stated that at some point the Seleka started tracking down the FACA and to save their lives, these were obliged to join the Balaka they had heard of, and Balaka leaders gave them also *gris-gris* to protect themselves and the peaceful population.³¹⁸⁵ This was a tight collaboration, with armed forces being under control of either Captain Gremangou or of Lieutenant Konaté who was more in the hinterland and for the advance to Bangui – they organised in collaboration.³¹⁸⁶ The FACA soldiers within the Anti-Balaka would wait for orders from Gremangou or also civilian leaders before acting.³¹⁸⁷ Brice Emotion Namsio stated that CLPC (*‘Combattants de libération du peuple centrafricain’*) was the name of the movement before it was called Anti-Balaka, it was initiated by Maxime Mokom from Zongo, and after the attack the leaders met and had from then on talk of Anti-Balaka rather than CLPC: Maxime Mokom had called Andjilo from Zongo, somewhere in December, January, and told him they should work under the name CLPC.³¹⁸⁸ The witness stated that Konaté had also said he was spokesperson of the ‘*Siriri*’, meaning peace, and that he and his elements were leaving Bangassou to move to Bangui to liberate the Central African people.³¹⁸⁹ Others were called ‘Anti-Balaka’ from the hinterland, before the Bangui Attack was the CLPC was demanded by Maxime Mokom, and after that attack, ‘they’ insisted to change the name from Anti-Balaka to CLPC, but that did not work, so it was dropped and they continued under the name Anti-Balaka.³¹⁹⁰

1177. In addition to these groupings which appeared before 5 December 2013, P-0974 also testified about, thereafter, [REDACTED] with former FACA members, civilians from the provinces, the 8th arrondissement, Combattants, roughly a few hundred people [REDACTED].³¹⁹¹ P-

³¹⁸⁴ P-0889 Statement, CAR-OTP-2027-2290-R02, at 2293, para. 23.

³¹⁸⁵ P-0446 Interview Transcript, CAR-OTP-2059-1546-R02, at 1564, lines 632-639.

³¹⁸⁶ P-0446 Interview Transcript, CAR-OTP-2059-1546-R02, at 1564, lines 641-646.

³¹⁸⁷ P-0446 Interview Transcript, CAR-OTP-2059-1546-R02, at 1564, lines 647-653.

³¹⁸⁸ P-0446 Interview Transcript, CAR-OTP-2059-1567-R01, at 1573-74, lines 209-247, at 1577, lines 360-363; P-0446: T-096, p. 50, line 19 – p. 51, line 10; T-099, p. 5, lines 8-21.

³¹⁸⁹ P-0446 Interview Transcripts, CAR-OTP-2059-1567-R01, at 1578, lines 397-403; CAR-OTP-2059-1626-R01, at 1645, lines 708-728.

³¹⁹⁰ P-0446 Interview Transcript, CAR-OTP-2059-1567-R01, at 1578, lines 395-409.

³¹⁹¹ P-0974 Statement, CAR-OTP-2058-0165-R01, at 0172, para. 48; P-0974: T-244, p. 10, lines 7-12.

0974 [REDACTED] sections [REDACTED] with about 50-60 men each, with a former FACA as leader of which section and a civilian who had proven himself capable of fighting as his deputy, and each section organising its own training, including in the use of weapons, how to take cover, how to behave [REDACTED].³¹⁹² They made their base [REDACTED].³¹⁹³ Their objective was to prevent the Seleka from making excursions into their area; they could attack from [REDACTED], so they put military outposts at all the exits.³¹⁹⁴ [REDACTED].³¹⁹⁵ [REDACTED] they would have gotten in trouble for that with the other zone, if they needed to go into another zone, they would tell the ComZone before and enter without weapons.³¹⁹⁶ They obtained weapons and ammunition in the context of fighting – according to P-0974, senior officials of the Seleka had many arms and ammunition stocked at their residences, which they had pillaged from arms depots.³¹⁹⁷ When the Anti-Balaka entered Bangui, they attacked houses belonging to Muslims and who were of the Seleka, who had fled and abandoned their weapons and ammunition – there was no other way to obtain ammunition for P-0974's group.³¹⁹⁸ According to P-0974, they tried not to communicate via mobile phones at the time because they knew they were tapped, so they sent messages through people.³¹⁹⁹ [REDACTED] for example, in the 8th arrondissement, the Anti-Balaka from Boy-Rabe and from Combattants attacked at different times, believing that the Seleka chiefs who lived there hid weapons in their homes.³²⁰⁰ P-0974 [REDACTED].³²⁰¹ [REDACTED].³²⁰² [REDACTED].³²⁰³ [REDACTED].³²⁰⁴

³¹⁹² P-0974 Statement, CAR-OTP-2058-0165-R01, at 0172-73, para. 49, at 0173, para. 52; P-0974: T-244, p. 9, lines 16-24, p. 10, lines 13-23.

³¹⁹³ P-0974 Statement, CAR-OTP-2058-0165-R01, at 0173, para. 50.

³¹⁹⁴ P-0974 Statement, CAR-OTP-2058-0165-R01, at 0173, para. 51.

³¹⁹⁵ P-0974 Statement, CAR-OTP-2058-0165-R01, at 0173, para. 52; P-0974: T-244, p. 11, lines 7-17.

³¹⁹⁶ P-0974 Statement, CAR-OTP-2058-0165-R01, at 0173, para. 52.

³¹⁹⁷ P-0974: T-243, p. 19, lines 3-16.

³¹⁹⁸ P-0974: T-243, p. 19, line 20 – p. 20, line 4.

³¹⁹⁹ P-0974 Statement, CAR-OTP-2058-0165-R01, at 0173, para. 53.

³²⁰⁰ P-0974 Statement, CAR-OTP-2058-0165-R01, at 0173-74, para. 54.

³²⁰¹ P-0974 Statement, CAR-OTP-2058-0165-R01, at 0174, para. 59.

³²⁰² P-0974 Statement, CAR-OTP-2058-0165-R01, at 0174, para. 60.

³²⁰³ P-0974: T-244, p. 18, lines 7-11, p. 19, lines 12-20.

³²⁰⁴ P-0974: T-244, p. 18, lines 12-17.

1178. In addition to the above description of concrete groupings, the Chamber has also received information on involvement of FACA members more generally, including on the role of Charles Ngremangou more specifically, as outlined below.

1179. P-0884 testified he was not in the field to know how Mr Ngaïssona, Maxime Mokom and Bernard Mokom organised combat in the field, but the person coordinating attacks was Maxime Mokom, and P-0884 knew they were advancing.³²⁰⁵ Captain Ngremangou was the head of the military in the Anti-Balaka, they used to call him chief of staff.³²⁰⁶

1180. The Chamber has before it an email from ‘Charles Ngremangou’ to ‘[REDACTED]’ of 29 May 2013, which appears to include an attachment called ‘*liste provisoire des éléments des FACA du quartier Boeing et Katin*’.³²⁰⁷ The text of the email states that this is hopefully sending the last list updated on that day, that he did not contact Lieutenant Ngbonga Mbongo, so the name would need to be deleted, and further asks whether the addressee can send the list which was sent to help in the verification and deleting of certain doubtful elements, and how they can have ‘les matos’.³²⁰⁸ In a typed document entitled ‘*Liste définitive des éléments des FACA du quartier Boeing*’ including also a list entitled ‘*Éléments Katin*’, the names include *inter alia* Ngremangou Charles, Feikeram Guy Mathurin, Mokpem Guy, ‘Yekatom’, several Danboy, in total 170 for Boeing, and 52 for ‘Katin’.³²⁰⁹

1181. Another email of 19 July 2013 from ‘Charles Ngremangou’ to ‘[REDACTED]’ appears to include an attachment called ‘Expresssion [sic] de besoins’, and states that sending in attachment the ‘needs’, further informs that the tension in town seems to be related to an attempted coup by Nourredine, and that ‘[n]ous sommes toujours dans l’attente d’une éventuelle Instruction de l’Autorité’.³²¹⁰ A typed document entitled ‘Expresssion [sic] de besoins’ indicates four battalions divided over Boeing, Boy-Rabe, Combattant, Fouh and Gobongo, PK12 and Bimbo, listing the number of elements for each location, and continues

³²⁰⁵ P-0884: T-055, p. 69, lines 5-14.

³²⁰⁶ P-0884: T-056, p. 41, lines 6-11.

³²⁰⁷ Email, CAR-OTP-2126-2619, at 2619.

³²⁰⁸ Email, CAR-OTP-2126-2619, at 2619.

³²⁰⁹ List, CAR-OTP-2126-2620, at 2620-25.

³²¹⁰ Email, CAR-OTP-2126-2629, at 2629.

to list the needs in terms of weaponry and ammunition, as well as health, communication, and food items.³²¹¹

1182. According to P-2841, ‘Commander’ Ngremangou played a very big role in the idea of the FACA joining the civilian Anti-Balaka, and the FACA chiefs and Anti-Balaka chiefs had telephone contact to organise the resistance, though P-2841 did not know how they organised everything practically speaking.³²¹² In each zone there was a commander, such as Kema, Andjilo, Douze Puissances; from Bangui, Ngremangou would have been in contact with the Anti-Balaka chiefs.³²¹³ Regrouping took place where the military had means available, but finally they failed; this officer did play a role in the mobilisation of the military in that particular fight.³²¹⁴ Soldiers are trained, organised, disciplined, but the Anti-Balaka were mostly people who relied on mystical powers with *gris-gris*.³²¹⁵ P-2841 agreed with the suggestion that from the perspective of the FACA, it was necessary to protect the population.³²¹⁶ According to P-2841, in 2013 the Anti-Balaka were all mixed up and not very well structured, but used mystical powers and in a way were more powerful than the military and often led, instead of being led by, the military men amongst them.³²¹⁷ There were various groups and each one tried to defend itself as best it could, but within each group there was some hierarchy – but it was the coordination at the general level which did not exist.³²¹⁸ P-2841 stated that it was clear that officers may have been mobilising people, but at the same time foot soldiers had fled Bangui and it was easy for them to join the traditional Anti-Balaka groups which were already beginning to be active in the villages; looking at the Anti-Balaka who fought on the ground, liberating villages, these were the villagers themselves who were then subsequently joined by foot and rank soldiers and not officers; that is why the officers were involved in some other kind of development.³²¹⁹

³²¹¹ List, CAR-OTP-2126-2630, at 2630.

³²¹² P-2841 Statement, CAR-OTP-2127-4238-R01, at 4273-74, para. 199.

³²¹³ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4273-74, para. 199.

³²¹⁴ P-2841: T-030, p. 32, line 15 – p. 33, line 2.

³²¹⁵ P-2841: T-029, p. 68, line 22 – p. 69, line 23.

³²¹⁶ P-2841: T-030, p. 30, lines 3-16.

³²¹⁷ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4270, para. 176.

³²¹⁸ P-2841: T-029, p. 68, lines 9-21.

³²¹⁹ P-2841: T-030, p. 39, lines 13-24.

1183. Jean-Jacques Demafouth testified that he first became aware of the Anti-Balaka becoming operational in terms of military capacity around the months of June, July 2013.³²²⁰ He had an informant known as [REDACTED] and also had some informants in Cameroon who provided them with information – Jean-Jacques Demafouth was convinced that the Anti-Balaka were putting in place a military-type structure for the purpose of recapturing power; all the soldiers at Camp M’Poko and FACA soldiers close to François Bozizé had left, were no longer visible, and the understanding was that they had gathered at a location to reorganise themselves.³²²¹

1184. P-2602 stated that the movement of the military started in light of the Seleka advance and takeover, [REDACTED] created because the Seleka killed military.³²²² Those from the Ouham area agreed to go back to protect their area, [REDACTED] went into the bush.³²²³ P-2602 briefly joined the Seleka, went to [REDACTED] and stole a vehicle and weapons, which was how they got some materiel, then going to meet those who were waiting for him in the bush; [REDACTED] was part of the plan but got arrested and was detained [REDACTED], after which he escaped and joined them; [REDACTED].³²²⁴ The plan of the group was to chase away the mercenaries because they killed a lot of militaries, they never had a plan to take over the country; when people say they were killing their brother Muslims, it is not true.³²²⁵ When their weapons were taken, they thought of attacking them in the capital, but saw that they were equipped, so they withdrew back [REDACTED] and started chasing them from that area.³²²⁶

1185. The report of P-2926 concluded that some self-defence groups were organised and coordinated by FACA members to march to Bangui and engage in the attack of 5 December

³²²⁰ P-2328: T-047, p. 59, line 24 – p. 60, line 2.

³²²¹ P-2328: T-047, p. 59, line 24 – p. 60, line 13.

³²²² P-2602 Interview Transcript, CAR-OTP-2118-9560-R01, at 9572-73, lines 414-450.

³²²³ P-2602 Interview Transcript, CAR-OTP-2118-9560-R01, at 9574, lines 453-481.

³²²⁴ P-2602 Interview Transcripts, CAR-OTP-2118-9560-R01, at 9574-77, lines 483-572; CAR-OTP-2118-9579-R01, at 9582-83, lines 100-117.

³²²⁵ P-2602 Interview Transcript, CAR-OTP-2118-9560-R01, at 9577-78, lines 587-609.

³²²⁶ P-2602 Interview Transcript, CAR-OTP-2118-9560-R01, at 9578, lines 610-620.

2013, some soldiers infiltrated the west of the CAR from Cameroon and emerged as Anti-Balaka fighters at the beginning of 2014.³²²⁷

iii. Links between self-defence groups and members of regular forces

1186. It is clear from the above discussion that various self-defence groups in different localities, including in Gobere, were also joined by or integrated with members of the FACA or PG who led, trained and helped developing organisational structures. The Chamber has received additional evidence in this regard, which is outlined below.

1187. For instance, Catherine Samba-Panza testified that as head of the transition government, she received information that the Anti-Balaka were at some point structured by the FACA members who joined the movement, and most of the army members who fled the military during ‘the events’ went back and joined the Anti-Balaka, training and structuring them, making their organisation more logical.³²²⁸

1188. Jacob Mokpem-Bionli stated that the Anti-Balaka included FACA members, in particular in Boy-Rabe and Boeig and some also in the provinces, including Lt Yvon Konaté, Lt Herve, Corporal Lucien Kossi, Guy Mazimbelet, all in Boy-Rabe, led by Herve and Kossi, while Mr Yekatom and his elements were on the Mbaïki axis.³²²⁹ He further stated that the FACA members who joined the Anti-Balaka were all of the regime of Bozizé, who is from Bossangoa – a region from which several FACA members were from.³²³⁰

1189. P-0306 testified that the delegation of intermediaries from Bangui included soldiers who were fleeing the Seleka as well as civilians; [REDACTED] were accompanied by military and civilians.³²³¹ [REDACTED].³²³² [REDACTED].³²³³

1190. P-2232 explained that Ngaikosset was taken to Kinshasa after ‘DGM’ discovered that he organised the distribution of leaflets against the Seleka violence, and Ngaikosset contacted

³²²⁷ P-2926 Report, CAR-OTP-2127-4289, at 4316-17, para. 60.

³²²⁸ P-0952: T-249, p. 38, lines 4-8.

³²²⁹ P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0310, paras 140-141.

³²³⁰ P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0311, para. 144.

³²³¹ P-0306: T-064, p. 37, line 22 – p. 38, line 13, p. 40, lines 17-24. *See also* [REDACTED].

³²³² P-0306: T-064, p. 61, lines 14-23.

³²³³ P-0306: T-064, p. 61, lines 17-19.

‘Mokom’ from there; during the advance of the movement, ‘Mokom’ was coordinator of operations, Dedane, who was ‘the core or the beginning’, was still in town and they sometimes communicated, and ‘Rambo’ carried out manoeuvres from his side until and up to 5 December 2013.³²³⁴ When Andjilo and ‘the others’ got together, they made Maxime Mokom coordinator, some people got to know Maxime through Dedane, and thereafter Mokom organised everything, though P-2232 was not with him then and did not know details.³²³⁵ Whenever Dedane heard that a group had been formed in a village, he would try to contact their leader to organise the members and link them up with Mokom.³²³⁶ People such as ‘Abel Dingan’’, Emtenu Euzebe, his younger brother Edya all crossed the river and linked up with the teams on the hill; these career soldiers were there to train the civilians with a view to winning the battle.³²³⁷ Other FACA members who were never in Zongo also joined the movement, including Corporal Inga, Dedane, Andjizékané Tchakpa Blaise.³²³⁸ At some point the Seleka were looking for soldiers; these soldiers fled and joined the movement in Damara and wherever else possible, some crossing the river and later returning to Bangui to join.³²³⁹ The soldiers took their own weapons and were taken in as leaders when joining the movement.³²⁴⁰

1191. Thierry Tribunal Ndokobanda, a military himself, described how approximately two weeks after his arrival to Zongo, which he put in approximately September 2013,³²⁴¹ they heard the news about an ambush against the Seleka in Ouham-Bac, close to Bossangoa according to Maxime Mokom.³²⁴² Maxime Mokom said that he would find out who was behind the ambush and get in contact to help them, and he called relatives from Bossangoa to find out what was happening.³²⁴³ As Maxime Mokom found out that those behind the ambush were civilians, he asked the witness as military officer to advise them on how to progress and set

³²³⁴ P-2232: T-075, p. 41, line 22 – p. 43, line 23.

³²³⁵ P-2232: T-075, p. 53, lines 10-24.

³²³⁶ P-2232: T-075, p. 54, lines 14-23.

³²³⁷ P-2232: T-075, p. 70, line 10 – p. 71, line 7.

³²³⁸ P-2232: T-075, p. 71, lines 8-19.

³²³⁹ P-2232: T-075, p. 71, line 20 – p. 72, line 1.

³²⁴⁰ P-2232: T-075, p. 72, lines 2-12.

³²⁴¹ P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1060-61, para. 15.

³²⁴² P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1063, para. 29.

³²⁴³ P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1063, para. 29.

up a military ambush.³²⁴⁴ Maxime Mokom came to Thierry Tribunal Ndokobanda's house and asked on behalf of the civilians that staged the ambush for advice, and what they could do to help 'the children'.³²⁴⁵ As they were following the situation in the country through the news, Maxime Mokom sought more advice from the witness.³²⁴⁶ Maxime Mokom told the witness when they were in Zongo that he was in contact with the leaders of the groups, Kemba in Bossangoa, Andjilo in Bouca, 'Douze-Puissance' in Bokangolo.³²⁴⁷ According to Thierry Tribunal Ndokobanda, Maxime Mokom was also looking for contact details of military in Bangui willing to join the Anti-Balaka groups in the provinces, whom Mokom would introduce so the military would not be attacked by the groups; the witness only knew Konaté as an example.³²⁴⁸ The witness did not know by which means Yvon Konaté was in contact with all these people.³²⁴⁹ Thierry Tribunal Ndokobanda described how, after the military from Bangui joined the movement, Maxime Mokom no longer sought his advice, which the witness thought was because the military that joined the different groups could lead and advise them.³²⁵⁰ Thierry Tribunal Ndokobanda inquired with Maxime Mokom about how things were progressing, and he told the witness about particular attacks that had taken place and particular Seleka positions they would be attacking, but the witness did not recall which attacks were mentioned.³²⁵¹

1192.P-0974 stated that the Anti-Balaka who were FACA from Bouar divided, some going to Carnot, others to Berbérati, and that chief corporal Seregaza proclaimed himself captain in Berbérati and sometimes went to Carnot.³²⁵² P-0974 heard that when the Seleka arrived, some of the FACA elements had gone to Bangui, some hid around Bouar and joined the Anti-Balaka, working with Ndale, others like the PG went to Cameroon.³²⁵³ P-0974 testified that FACA elements spread across the country started joining the forming Anti-Balaka

³²⁴⁴ P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1063, para. 29.

³²⁴⁵ P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1063, para. 30.

³²⁴⁶ P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1063, para. 32.

³²⁴⁷ P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1064, para. 33.

³²⁴⁸ P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1064, para. 33.

³²⁴⁹ P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1064, para. 33.

³²⁵⁰ P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1064, para. 34.

³²⁵¹ P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1064, para. 34.

³²⁵² P-0974 Statement, CAR-OTP-2058-0165-R01, at 0171, para. 39.

³²⁵³ P-0974 Statement, CAR-OTP-2058-0165-R01, at 0171, paras 41-42.

movement which started in the provinces, and that he also joined through his own motivation.³²⁵⁴

1193. P-1847 testified that [REDACTED] had been in contact with Bernard Mokom who was going to take over all the activities in the area to counter-attack the Seleka.³²⁵⁵ He went to meet Mokom and later also went with the Anti-Balaka coordinator Ndale to Bouar to meet Danzoumi.³²⁵⁶ On their way back, [REDACTED] that they had been given a little bit of money and he was going back to see how things would be organised in Ngaoundaye, Bozoum, to sensitise the Anti-Balaka who were in the area so that they could start the attacks; [REDACTED] came back to Garam-Boulai, the base, and [REDACTED] Col Daz and his troops were now dealing directly with ‘Rambo’, former FACA on the other side of the river towards Zongo, and that they were getting ready to attack the Seleka.³²⁵⁷ The former PG who were in Bossangoa and Bouar were under the command of Dedane, [REDACTED] they had received orders from François Bozizé to descend on Bangui and attack, and that was how they started to attack the towns from Bossangoa, then Ndjo, Bossembélé and other locations.³²⁵⁸

1194. The Chamber recalls its observations regarding the prior recorded testimony of P-1847, introduced pursuant to Rule 68(2)(d) of the Rules,³²⁵⁹ and has considered P-1847’s evidence on this topic in the context of the other evidence before it. P-1847 stated that certain FACA officers, in particular of the PG in Bossangoa, joined the Anti-Balaka, for example Florent Kema, Bama Clément, Dedane.³²⁶⁰ He stated that there were FACA officers in Douala, Anatole Ngaya and Lamtague, with the Anti-Balaka financed by Marcelin, they participated in the meetings with Marius and Yvon Songuet, with the aim of supporting the Anti-Balaka on the ground [REDACTED].³²⁶¹ P-1847 heard from [REDACTED] Pascal Koyagbele, that the latter held meetings with Anatole Ngaya and some young FACA elements who were in Douala, bought food and provisions for the Anti-Balaka in Bozoum, and [REDACTED] also

³²⁵⁴ P-0974 Statement, CAR-OTP-2058-0165-R01, at 0172, para. 43; P-0974: T-244, p. 9, lines 1-15.

³²⁵⁵ P-1847: T-023-ENG, p. 32, line 22 – p. 33, line 1; T-023-FRA, p. 33, lines 2-6.

³²⁵⁶ P-1847: T-023-ENG, p. 33, lines 2-4; T-023-FRA, p. 33, lines 7-9.

³²⁵⁷ P-1847: T-023, p. 32, line 22 – p. 33, line 14.

³²⁵⁸ P-1847: T-023, p. 33, line 23 – p. 34, line 7.

³²⁵⁹ See paragraphs 843-846 above.

³²⁶⁰ P-1847 Second Statement, CAR-OTP-2122-8251-R01, at 8253, para. 14.

³²⁶¹ P-1847 First Statement, CAR-OTP-2061-1534, at 1554, para. 127.

accompanied a woman who said she was [REDACTED] to the border to bring supplies.³²⁶² The meetings in Douala took place at restaurant Balet or the Meridien hotel where Yvon Songuet, Marius and Goke Boston usually stayed.³²⁶³

1195. Barthélémy Namsenmo stated that since the Seleka treated FACA, gendarmerie, police as their enemies and wanted to kill them, these were forced to follow the civilians and take the ‘*remède*’ to defend their property, while wise men from the village would recruit youth to initiate them.³²⁶⁴ FACA, gendarmerie, police in Carnot all fled from death and entered Carnot thanks to the Anti-Balaka.³²⁶⁵ Seregaza, a FACA, was an Anti-Balaka ComZone, he followed Rocca Mokom who was also FACA in Amadagaza and going to Abba, ‘Gamboula’, because Rocca knew the border area well and led the fighting against the Seleka fleeing towards Cameroon.³²⁶⁶

1196. P-2841 stated that on the one hand, military who were humiliated by the Seleka and forced to flee the country were organising themselves to take back control, while on the other hand people such as those in previously existing self-defence groups could no longer stand the Seleka violence and tried to defend themselves – and later, the two groups began working together.³²⁶⁷ However, the organisation of the military around that time, mid-July 2013, was an issue and nothing was really happening yet.³²⁶⁸ P-2841 further testified that Anti-Balaka and military, against whom the Seleka also committed violence, joined together to drive out their common enemy.³²⁶⁹ According to P-2841, the military had to establish order, save their honour, and to do that, they had to fight the Seleka; at the same time a ‘willingness to take over’, could not be excluded.³²⁷⁰ P-2841 did not know when and how the decision to join the Anti-Balaka was made, but the Anti-Balaka were already resisting at the level of villages and towns and as they were progressing, the idea of chasing out the Seleka was taking shape,

³²⁶² P-1847 First Statement, CAR-OTP-2061-1534, at 1554, para. 128.

³²⁶³ P-1847 First Statement, CAR-OTP-2061-1534, at 1554, para. 129.

³²⁶⁴ P-1042 Interview Transcript, CAR-OTP-2107-0554-R01, at 0567-68, lines 438-480.

³²⁶⁵ P-1042 Interview Transcript, CAR-OTP-2107-0554-R01, at 0573, lines 622-649.

³²⁶⁶ P-1042 Interview Transcript, CAR-OTP-2107-0554-R01, at 0576-78, lines 751-813, at 0581, lines 897-914.

³²⁶⁷ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4248, para. 54 *referring to* [REDACTED].

³²⁶⁸ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4248, para. 54.

³²⁶⁹ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4273, para. 193.

³²⁷⁰ P-2841: T-030, p. 34, line 14 – p. 35, line 3.

even within the army; naturally, the two had a common enemy and coming together was not a very difficult proposition.³²⁷¹

1197. Adrien Poussou testified that the self-defence groups started to become organised by former soldiers of the PG and FACA, and he concluded that as long as François Bozizé and his supporters had not decided to regain power through violence, the self-defence groups did not have sophisticated weapons, but from the moment there was this idea of regaining power through violence, professional soldiers started leading them.³²⁷² Adrien Poussou specified that he knew this because he was part of FROCCA, and it was public knowledge in the CAR that Koudemon Olivier alias Gbangouna, Semdiro and others, who were said to be leading the Anti-Balaka, were close to Bozizé.³²⁷³ Adrien Poussou did not know how they procured weapons³²⁷⁴ or anything about contacts between people close to François Bozizé and any of the self-defence groups in the time frame of April, summer 2013.³²⁷⁵ Adrien Poussou explained that in her interview, Ghislaine Dupont had put a question on Eugène Ngaikosset, one of François Bozizé's close entourage and former officer of the PG, who had found refuge on the other side of the river, and that might have led people to believe that those close to Bozizé were on the other side of the river.³²⁷⁶

1198. Adrien Poussou testified that after his return to France, he was in constant contact with Socrate Bozizé and in touch with Joachim Kokaté, and between his stay in Yaoundé and the arrival of François Bozizé in France, the Anti-Balaka came into being.³²⁷⁷ According to Adrien Poussou, Levy Yakété, Mr Ngaïssona, Joachim Kokaté were very close and spoke to each other on a regular basis, so he supposed they had been in contact.³²⁷⁸ According to Adrien Poussou, he did not take very seriously what Kokaté was telling him, due to his 'tendency to tell lies and fabulate', but Kokaté claimed he was heading an organisation by

³²⁷¹ P-2841: T-030, p. 38, lines 5-16.

³²⁷² P-2625: T-189, p. 33, line 16 – p. 34, line 5; T-192, p. 59, line 6 – p. 60, line 14.

³²⁷³ P-2625: T-192, p. 70, line 1 – p. 71, line 18.

³²⁷⁴ P-2625: T-192, p. 60, line 15 – p. 61, line 4.

³²⁷⁵ P-2625: T-192, p. 61, line 25 – p. 62, line 3.

³²⁷⁶ P-2625: T-189, p. 33, line 16 – p. 34, line 5.

³²⁷⁷ P-2625: T-189, p. 20, line 16 – p. 21, line 20; T-192, p. 48, line 25 – p. 49, line 19, p. 49, line 20 – p. 50, line 2.

³²⁷⁸ P-2625: T-189, p. 22, lines 1-7. The witness explained that they had regular meetings in the context of setting up FROCCA, as example they would regularly speak among themselves, but he was not part of these smaller meetings (see P-2625: T-192, p. 62, line 4 – p. 64, line 12).

the name of free officers who were ‘hell-bent’, had enough equipment to launch an attack and only lacked financial means to pay for things like food.³²⁷⁹ Socrate Bozizé did not discuss military matters with Adrien Poussou; as Socrate was not a military man himself, the witness thought he was not associated with anything of that, and military matters were also not very interesting for Adrien Poussou as he was in favour of a political process.³²⁸⁰

1199. Alfred Legrand Ngaya stated that he knew FACA members such as Konaté, Mazimbelet and Herve Ganazoui were among the Anti-Balaka, but apart from that he did not know the connection between FACA and Anti-Balaka.³²⁸¹ ‘Major Gremandou’ did not appear in the organisational structure of the Anti-Balaka, but was very influential in their operations and reported directly to Mr Ngaïssona and Maxime Mokom.³²⁸² Alfred Legrand Ngaya agreed with the suggestion that ‘one of the preoccupations and motivations for FACA’ to join the popular movement of self-defence was that they had been ‘persecuted and humiliated by the Seleka’; adding that FACA were ‘particularly targeted’.³²⁸³

1200. Nicolas Tiangaye identified three specific individuals that belonged to the PG and were Anti-Balaka elements, namely Ngaïkosset, Vianney Semdiro and Olivier Koudemon.³²⁸⁴

1201. The Chamber notes that outside observers also concluded on links between (former) members of regular forces and self-defence groups. For instance, the CAR Panel heard from multiple sources, including Anti-Balaka and institutional contacts, that FACA members and gendarmes loyal to François Bozizé were recruiting youths from local communities from the Baya area (Ouham and Ombella-M’Poko provinces), some of whom were already part of hunting groups or self-defence militias called ‘archers’, as well as in the region of ‘Garoua

³²⁷⁹ P-2625: T-189, p. 22, lines 8-24; T-192, p. 50, line 3 – p. 51, line 1.

³²⁸⁰ P-2625: T-189, p. 22, lines 8-24.

³²⁸¹ P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0021, para. 59.

³²⁸² P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0347, para. 144.

³²⁸³ P-0808: T-070, p. 32, line 18 – p. 33, line 5.

³²⁸⁴ P-0291 Statement, CAR-OTP-2024-0036-R05, at 0044, para. 48. The Chamber notes in this regard the evidence of P-2027, who stated that there were some FACA who were commanded by civilians in the Anti-Balaka groups, but that Vianin Semdiro, Lieutenant Betikoudou and Lieutenant Tribunal were ‘also’ neutral FACA members who never got involved in anything (see P-2027 Statement, CAR-OTP-2078-0059-R03, at 0083, para. 143; see also at 0086-87, paras 163-170). Bearing in mind its assessment of P-2027’s credibility, and also considering the evidence available on Ngaïkosset’s and Olivier Koudemon’s activities, the Chamber does not consider this part of P-2027’s evidence reliable.

Boulai’ and Zongo.³²⁸⁵ Similarly, an NGO report concluded that soldiers from the former army quickly joined the Anti-Balaka, bringing military skills and weapons, and that the Anti-Balaka professionalised and acquired more advanced weapons.³²⁸⁶ When P-1577 was travelling within the CAR in early November 2013, he heard about members of the FACA or PG being involved with local Anti-Balaka groups, saw people in military clothes, some carrying Kalashnikovs, and heard on several occasions that the groups that were attacking were mixed, some including personnel that were identified as having a history with FACA.³²⁸⁷

iv. Emergence of the Anti-Balaka

1202. The Chamber notes the Ngaïssona Defence’s argument that rather than being a ‘top-down organisation’, the Anti-Balaka was a ‘myriad of self-defence groups that spontaneously rose out of the Seleka’s heinous and continues crimes against the civilian population’.³²⁸⁸

1203. In this regard, the Chamber further notes that the CAR Panel concluded at the time of its 2014 interim report that the Anti-Balaka was not an armed group with a centralised structure and effective command and control over its elements, but a ‘myriad [of] different militias that either identify themselves as part of the movement or are or were associated to it by default’.³²⁸⁹

1204. However, Aurélien Llorca explained that while this was the starting point, it gradually, through the use of emissaries, formed into some structure.³²⁹⁰ Indeed, as the 2014 interim report also made clear: ‘The re-emergence in the second half of 2013 of what was initially a self-defence group with the aim of protecting civilians and communities against the perceived State-sponsored oppression of non-Muslims culminated in a wider, better-structured and organised movement against the Séléka. It also gave an opportunity to former

³²⁸⁵ Annex 5 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0875, para. 2. *See also* P-2926 Report, CAR-OTP-2127-4289, at 4325-26; P-2926: T-032, p. 84, lines 4-13.

³²⁸⁶ Report ‘Behind the Headlines’, CAR-OTP-2001-2564, at 2570, 2578; P-2012 Statement, CAR-OTP-2091-0127-R01, at 0136, para. 45.

³²⁸⁷ P-1577: T-027, p. 25, line 19 – p. 26, line 19.

³²⁸⁸ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 163.

³²⁸⁹ CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0848, para. 45.

³²⁹⁰ P-0287: T-021, p. 85, lines 7-25.

elements of the Central African armed forces to take much-awaited revenge against those who had defeated them during the March 2013 coup'.³²⁹¹

1205. Jean-Jacques Demafouth testified that the resistance he heard about already had a structure which could be used: the first what they called self-defence in the hinterland, young people, usually KNK militants, recruited by mayors of local communes, with first mobilisation started by those in the prefecture in Ouham, M'Poko, Ouham-Pendé and Lobaye, who would then be joined by COCORA militia and Bozizé's PG who would flee Bangui on foot to join them.³²⁹² They started to have meetings in Cameroon with others who had joined him there or were already outside the country, and he started to set up an organisation.³²⁹³ Ngaikosset fled to the DRC and set up a structure of military nature there, and also in Landja, a place in Central Africa a bit upstream, they started to set up a structure and create the command links between them.³²⁹⁴ Some people that Jean-Jacques Demafouth spoke with at Camp M'Poko after the coup and that had been contacted to join the organisation talked to him about the organisational parts.³²⁹⁵ The witness's understanding from the information he received while at M'Poko was that the organisation of the Anti-Balaka started shortly after the coup.³²⁹⁶ When Jean-Jacques Demafouth heard talk about it, the priority was to recuperate weapons, wherever they were, go to the training centres, and try to find a way of feeding the troops, meaning the Anti-Balaka.³²⁹⁷

1206. The report of P-2926 concluded that initially a self-defence reaction of Gbaya from the Bossangoa area armed with a mixture of makeshift arms and arms recovered during combat, the Anti-Balaka knew a long history of self-defence and popular resistance, not escaping the traditional political and popular violence instrumentalisation.³²⁹⁸ According to this report, the first Anti-Balaka combatant groups were formed by victims of Seleka attacks against Gbaya villages, such as 'colonel 12 puissance'.³²⁹⁹ Young rural victims were soon organised

³²⁹¹ CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0845, para. 28.

³²⁹² P-2328: T-046, p. 77, line 15 – p. 78, line 3.

³²⁹³ P-2328: T-046, p. 78, lines 10-12.

³²⁹⁴ P-2328: T-046, p. 78, lines 12-16.

³²⁹⁵ P-2328: T-046, p. 79, lines 7-22. *See also* P-2328: T-046, p. 79, line 25 – p. 81, line 18.

³²⁹⁶ P-2328: T-046, p. 79, lines 3-6.

³²⁹⁷ P-2328: T-046-ENG, p. 78, line 17 – p. 79, line 2; T-046-FRA, p. 79, line 25 – p. 80, line 4.

³²⁹⁸ P-2926 Report, CAR-OTP-2127-4289, at 4316, para. 59.

³²⁹⁹ P-2926 Report, CAR-OTP-2127-4289, at 4316, para. 60.

by village sorcerers and soldiers close to Bozizé that had fled the Seleka advance to the west of the CAR and Cameroon, with the former providing amulets and initiation, and the latter training the youth in handling weapons.³³⁰⁰

1207. The Chamber is of the view that the illustration of the Anti-Balaka as ‘myriad’ of different groups is only partially accurate. Indeed, the Chamber agrees, as the evidence above and below also shows, that self-defence groups were formed in various localities across the CAR. The Chamber further agrees that their objectives included rising against the atrocities committed by the Seleka and removing Michel Djotodia as well as the Seleka from power, and that such objectives evolved over time. The Chamber notes in this regard also its discussion on the efforts to structure the Anti-Balaka as a whole further following the attacks of 5 December 2013.³³⁰¹

1208. However, the Chamber disagrees that the various self-defence groups pursued their objectives in isolation and without coordination. The Chamber also disagrees with the suggestion that the Anti-Balaka would have been divided into separate ‘clusters’.³³⁰² The evidence before the Chamber clearly shows that self-defence groups in various localities communicated, with each other and also with individuals in other localities in the CAR and abroad, and coordinated with a view to descending towards Bangui and eventually launching the coordinated attacks against Bangui and Bossangoa on 5 December 2013. Further, in the Chamber’s view, and as is also clear from a holistic assessment of the evidence before it, the fact that groups initially started out separately does not exclude their coordinated action thereafter. On the contrary, the evidence on record is unequivocal in showing that these various groups, in sharing a common enemy, set aside whatever individual motivation may have existed – whether of political, financial, or otherwise opportunistic nature – and through coordinated efforts acted towards the same goals.

³³⁰⁰ P-2926 Report, CAR-OTP-2127-4289, at 4316-17, para. 60.

³³⁰¹ See section IV.A.7 below.

³³⁰² See Report ‘Behind the Headlines’, CAR-OTP-2001-2564, at 2570, 2578; Report ‘Warlord Business’, CAR-OTP-2091-0202, at 0215; P-2012: T-025, p. 40, line 9 – p. 41, line 9, p. 43, line 16 – p. 45, line 7; T-026, p. 22, line 13 – p. 23, line 19; Press article, CAR-D29-0002-0031, at 0033. See also P-2012 Interview notes, CAR-OTP-2091-0264-R01, at 0284.

1209. As discussed in detail below, this is further exemplified by the various super-imposed interests coming into play especially following the resignation of Michel Djotodia in early January 2014: while such interests informed the discussions and activities as well as tussles for leadership when it came to being considered by the transitional government, in the end, the various streams within the Anti-Balaka continued to cooperate, coordinate and align during the period relevant to the charges.

5. *Objectives and policies of the Anti-Balaka*

The self-defence groups initially forming in the provinces aimed at defending against the abuses and violence committed by the Seleka, within which framework some considered necessary to remove Michel Djotodia and the Seleka from power. Due to the religious and ethnic commonalities between the Muslims in the CAR and the Seleka, the Anti-Balaka perceived the former as collectively responsible for, complicit in, or supportive of the violence and abuses committed by the Seleka. On this basis, as the Anti-Balaka emerged and coalesced in pursuit of its core objective, its elements targeted the Muslim civilian population, specifically in the west of the CAR, killing and dislocating them.

The implementation and execution of the Anti-Balaka's core objective was primed by anti-foreign sentiments and inflammatory rhetoric openly expressed by François Bozizé and others, which incited vigilance against those perceived to support the Seleka, in particular Muslim civilians.

Such rhetoric was reflected in meetings of François Bozizé, Mr Ngaïssona and others in Cameroon and repeated in a radio statement issued by FROCCA on 5 December 2013 in relation to the attack on Bangui, which referred to the attack as '*[l]e rétablissement de l'ordre fonctionnel*' and further stated that the Anti-Balaka '*sont des Centrafricains pour aller libérer leur pays des jougs des djihadistes venus du D[arfour], du T[chad], du S[oudan]*'.

Mr Yekatom knew that the Anti-Balaka perceived, and himself perceived, the Muslims in the CAR as collectively responsible for, complicit in, or supportive of the violence and abuses committed by the Seleka and that the Anti-Balaka targeted the Muslim civilian population, specifically in the west of the CAR, on this basis.

Mr Ngaïssona knew that the Anti-Balaka perceived, and himself perceived, the Muslims in the CAR as collectively responsible for, complicit in, or supportive of the violence and abuses committed by the Seleka and that the Anti-Balaka targeted the Muslim civilian population, specifically in the west of the CAR, on this basis. Mr Ngaïssona made his contributions fully aware that the Anti-Balaka would violently target the Muslim civilian population in the west of the CAR, committing the widespread attack that ultimately took place from September

2013 through February 2014, including the seminal coordinated Anti-Balaka attacks of Bangui and Bossangoa on 5 December 2013.

1210. The evidence before the Chamber as outlined above shows that the Anti-Balaka emerged from self-defence groups that formed with a view to defending against the Seleka violence, and started coordinating and organising in order to remove Michel Djotodia and the Seleka from power.³³⁰³ Individuals like François Bozizé, Mr Ngaïssona and others instrumentalised these Anti-Balaka groups to ensure that the removal of the Seleka from power would be followed by the return of François Bozizé to power.³³⁰⁴

1211. The evidence before the Chamber as outlined below shows that in the pursuit of its core objective the Anti-Balaka targeted the Muslim civilian population specifically in the west of the CAR in the context of hostilities they engaged in during their advance towards Bangui from September 2013 onwards,³³⁰⁵ and continued to do so in hostilities until the end of February 2014.³³⁰⁶ This was because the Anti-Balaka perceived the Muslim civilian population, due to their perceived religious or ethnic affiliation, as collectively responsible for the violence and abuses committed by the Seleka, or as complicit with, or supportive of, the Seleka. Super-imposed on this core objective, which remained static, rested various political and personal interests that evolved over time.

1212. In assessing the objectives and policies of the Anti-Balaka, the Chamber has examined factors that cumulatively played a role in its evolution. This includes events of the end of 2012 and early 2013 which, in the view of the Chamber, set the stage on which the Anti-Balaka objectives and policies could exist and be implemented at least as of September 2013. These factors are discussed below.

1213. At the outset, the evidence before the Chamber shows that the various self-defence groups started out to defend themselves against the abuses committed by the Seleka.³³⁰⁷ For some

³³⁰³ See section IV.A.4 above.

³³⁰⁴ See section IV.A.6 below.

³³⁰⁵ See section IV.A.6 below.

³³⁰⁶ See section IV.A.8.ii below.

³³⁰⁷ P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1064, para. 35 (the witness thought the movement was established so people could defend themselves because the Seleka were doing harm even in the small villages); P-1647 Statement, CAR-OTP-2050-0654-R02, at 0658, para. 28; P-1647: T-194, p. 8, lines 16-21, p. 16, lines 10-19

individuals who joined such groups this was also based on suffering personal loss at the hands of the Seleka.³³⁰⁸ Such defence against Seleka atrocities also meant, according to some witnesses, to remove Michel Djotodia and the Seleka from power.³³⁰⁹

1214. It appears from the evidence that while the above were among the initial motives, this did not include, in the early stages, advocating for the return of François Bozizé to power, or indeed having wider political ambitions. For example, P-1193 explained that after the collapse of the ‘Seleka government’, the population expected a change, a return to peace, to constitutional order.³³¹⁰ Vivien Beina stated that initially, the goal was to get rid of the

(the witness decided to join the Anti-Balaka after the Bangui Attack to save his country and protect his family); T-195, p. 12, lines 6-21 (the witness confirmed that it was a question of saving the people from the Seleka, ‘foreign mercenaries who were committing crimes and atrocities’); P-0801: T-036, p. 75, line 15 – p. 76, line 25, p. 78, line 10 – p. 79, line 10 (the witness stated that a feeling of rejection of the population towards the Seleka coalition led to the spontaneous emergence of a self-defence movement; as the Seleka attacked peaceful citizens, religious groups and persons, this created a sense of general discontent which caused young people to come together to defend themselves); P-0291: T-053, p. 8, line 25 – p. 9, lines 20 (the witness agreed with the suggestion that the situation in 2013 was unsupportable, with Seleka committing so many crimes against civilians, that many people felt they had no other choice but to try to chase out Seleka using their own resources, which was how gradually the Anti-Balaka was formed and created); P-1838: T-216, p. 17, lines 11-16 (the witness indicated that at the very start of the movement, the objective was to protect the population because the army had ‘given up’); P-0888 First Statement, CAR-OTP-2031-0217-R03, at 0221, para. 29 (the witness stated that people felt helpless under the Seleka, triggering the creation of the Anti-Balaka, which came from everywhere; and that initially people only gathered to protect themselves and ‘get rid’ of the Seleka); P-2841 Statement, CAR-OTP-2127-4238-R01, at 4242-43, para. 25; P-2841: T-029, p. 64, lines 14-17, p. 67, lines 2-19 (the witness stated that when the Seleka took power, they ended up in a situation where everyone simply had to defend themselves and the population tried to provide security for themselves); P-0884: T-055, p. 51, line 17 – p. 52, line 2; T-057, p. 7, line 14 – p. 8, line 15 (the witness testified that people mobilised themselves to chase out the Seleka, specifically the Chadian and Sudanese mercenaries, who ‘committed a lot of harm [and] abuses’ *referring to* Video, CAR-D29-0008-0003, at 00:01:43-00:02:13; Transcript, CAR-D29-0006-0227, at 0227, lines 21-24); P-0888: T-121, p. 7, lines 6-21 (the witness indicated that the Anti-Balaka were a spontaneous movement to defend themselves; to say that they were recruited or called by somebody who was in Bangui is incorrect); Audio, CAR-OTP-2118-4151, at 00:00:00-00:03:40; Transcript, CAR-OTP-2135-0915, at 0916, lines 1-38; CAR Panel 2014 Interim Report, CAR-OTP-2001-0835, at 0845, para. 28; P-0287 Statement, CAR-OTP-2115-0239-R01, at 0256, para. 79.

³³⁰⁸ See section IV.A.4.i.b above.

³³⁰⁹ P-1193: T-126, p. 7, line 13 – p. 10, line 2 (the witness explained that ‘[t]he country was not doing well because President Djotodia was surrounded by mercenaries’ and that the Anti-Balaka were people rising up to ‘get rid of the Seleka government’ *referring to* Video, CAR-OTP-2042-4677, at 00:05:37-00:06:24; Transcript, CAR-OTP-2122-8957; Translation, CAR-OTP-2122-8916, at 8920, lines 50-59); P-0888: T-120, p. 72, lines 1-24, p. 75, lines 1-18 (the witness testified that ‘the main objective’ of the Anti-Balaka was to put pressure on the Seleka and ‘prompt the international community to react in such a way that Djotodia should be pushed to resign in N’Djamena’, further indicating that ‘[t]he point was not to take power’); P-2133 Statement, CAR-OTP-2093-0267-R02, at 0276, para. 72 (the witness learned that the objective of the Anti-Balaka was to chase away the Seleka and Michel Djotodia since it was the Muslims who overthrew François Bozizé); Video, CAR-OTP-2076-0825, at 00:00:00-00:02:40; Transcript, CAR-OTP-2122-7403, at 7404, lines 1-36; CAR Panel 2014 Interim Report, CAR-OTP-2001-0835, at 0845, para. 28; P-0287 Statement, CAR-OTP-2115-0239-R01, at 0265, para. 131; P-0287: T-020, p. 27, line 12 – p. 28, line 5. See also P-0966: T-117, p. 39, line 21 – p. 40, line 23; D30-4496: T-289, p. 66, lines 9-19.

³³¹⁰ P-1193: T-126, p. 7, line 13 – p. 10, line 2.

Seleka, they had no political ambition and the idea of taking Bangui came later.³³¹¹ Similarly, P-2841 stated that the Anti-Balaka was not created to ‘take power’, it was a spontaneous self-defence movement at first, politics came later.³³¹² Alfred Legrand Ngaya confirmed that the objective of the Anti-Balaka groups was to defend themselves against the Seleka and that these groups were not set up with the aim of bringing Bozizé back to power – indicating that, at that moment, they were not thinking of Bozizé because he had ‘abandoned’ them.³³¹³ D30-4848 testified that the Seleka was a danger for the country and that it was necessary for them to leave, so everyone was making efforts to ‘drive them out by all means possible’.³³¹⁴

1215. At the same time, and as outlined above, the Chamber received evidence according to which individuals, especially those gathered in Cameroon, started using the self-defence groups forming in the provinces with a view to pursuing a super-imposed political goal, in particular the ‘return of the constitutional order’, meaning the return of François Bozizé to power, by all means.³³¹⁵

1216. The Chamber is of the view that it is immaterial for purposes of its determinations whether the reinstatement into power of François Bozizé was the agreed aim of some or all Anti-Balaka groups, at one time or another. Indeed, as stated below, the Chamber does not consider that the Anti-Balaka had to be a monolithic entity and/or ideologically homogeneous at any stage of the events. It remains that the express and overriding aim upon which all the self-defence groups that then coalesced as the Anti-Balaka were united was the expulsion of Michel Djotodia and the Seleka from power in the CAR.

1217. In the view of the Chamber, of crucial importance for the current discussion is how this aim was understood and implemented in practice. On the basis of the evidence before it, as

³³¹¹ P-0888 First Statement, CAR-OTP-2031-0217-R03, at 0221, para. 29; P-0888: T-120, p. 72, lines 1-24, p. 75, lines 1-18. *See also* P-0888: T-123, p. 4, lines 9-21 (the witness agreed with the suggestion that also not necessarily members of the KNK or supporters of François Bozizé before the coup supported the return to constitutional order, *i.e.* the return of François Bozizé to power).

³³¹² P-2841 Statement, CAR-OTP-2127-4238-R01, at 4243, para. 28.

³³¹³ P-0808: T-070, p. 30, lines 17-19, p. 32, lines 5-17.

³³¹⁴ D30-4848: T-297, p. 17, lines 11-25.

³³¹⁵ *See* sections IV.A.2, IV.A.3 above. *See also* P-0952: T-249, p. 55, line 13 – p. 56, line 6; T-251, p. 114, lines 20-23; P-0876: T-085, p. 63, line 15 – p. 64, line 7; T-086, p. 62, line 16 – p. 63, line 22, p. 68, line 10 – p. 70, line 13, p. 72, line 16 – p. 73, line 21, p. 77, line 23 – p. 78, line 8; T-088, p. 62, line 16 – p. 63, line 22; P-0876 Interview Transcript, CAR-OTP-2046-0473-R02, at 0477, lines 143-159; P-0965 Interview Transcripts, CAR-OTP-2046-0037-R02, at 0044-45, lines 242-285; CAR-OTP-2046-0182-R01, at 0187, lines 159-165.

outlined below, the Chamber concludes that, against the backdrop of the violence committed by the Seleka in particular against the non-Muslim population and the perceptions this created, the Anti-Balaka equated the Muslim civilian population with the Seleka and its actions, and targeted it accordingly.

1218. At the outset, the Chamber recalls its discussion of the violence committed by the Seleka, in particular against the non-Muslim population, of the composition of the Seleka, which included Chadian and Sudanese mercenaries, and of the perceptions the aforementioned created among the non-Muslim population.³³¹⁶ The Chamber considered this as one of the factors that cumulatively played into the evolution of the Anti-Balaka and its objectives and policies. Concretely, the Chamber considers that the abuses and violence committed by the Seleka following its coup not only confirmed the fears forewarned by François Bozizé, as discussed below, but also reinforced communal distrust, grief and feelings of revenge among the common population against the at that stage known ‘enemy’, the Seleka.

1219. As the evidence outlined below shows, several witnesses testified as to how, within this context, the Anti-Balaka started targeting the Muslim civilian population, describing how the latter were seen as accomplices of the Seleka and responsible for the violence and human rights abuses reportedly perpetrated by the Seleka. In this overall framework of Seleka violence and resulting perceptions, the Anti-Balaka equated the Muslim civilian population with the Seleka and its acts, targeting it accordingly.³³¹⁷ This was another factor considered by the Chamber that cumulatively played into the evolution of the Anti-Balaka and its objectives and policies.

1220. Catherine Samba-Panza testified that ‘generally speaking, [the Anti-Balaka] wanted retaliation, reprisals against the Seleka and those in favour of the Seleka, and the Muslims who had helped the Seleka to take power and those who had committed all those crimes which we all deplore’, testifying that ‘the majority of the Anti-Balaka, they were moved in this spirit of revenge’ and ‘above all’ wanted to ensure that the Seleka, who were responsible for crimes, would no longer hold power.³³¹⁸ She also stated that the Peuhls were targeted by

³³¹⁶ See section IV.A.1.iv above.

³³¹⁷ See also sections IV.A.6, IV.A.8.ii below.

³³¹⁸ P-0952: T-249, p. 55, line 13 – p. 56, line 6.

the Anti-Balaka because the Anti-Balaka considered the Muslim civilian population to have welcomed and helped the Seleka and that they were also accomplices in some of the violence, describing the situation as revenge on the population.³³¹⁹

1221. Catherine Samba-Panza explained further that '[g]enerally, there was an assimilation of all Muslim populations to the Seleka, so the attacks [of the Anti-Balaka] weren't just directed against the combatants of the Seleka, but against the Muslim and Peuhl population'.³³²⁰ The witness stated that the population 'thought that the Chadians, the Muslims were all one',³³²¹ and that the Anti-Balaka committed acts 'against the civilian population which was meant to have supported the Seleka, or having protected the Seleka or having been close to the Seleka regime'.³³²²

1222. Several witnesses who were elements of, or associated with, the Anti-Balaka at the relevant time testified accordingly. Specifically, P-2232, who was in Zongo [REDACTED] at the time, testified that during this period, 'people were scared. We were frightened of our Muslim brothers who were in our country. And therefore everybody was suspicious of our Muslim brothers. So the youth increased their vigilance as regards their Muslim brothers because it is through them that the Seleka elements were able to enter the town of Bangui'.³³²³ He further stated that 'it is when the Seleka started killing and committing acts of violence that hatred set in, because the Seleka used their Muslim identity to attack the population'.³³²⁴ P-2232 explained that 'the Seleka perpetrated violence against the population', so 'the instinct of the Anti-Balaka is to kill the Muslim' and '[m]any people joined the Anti-Balaka movement in order to exact revenge and so whenever they met a Muslim, even a child, their reflex action was to kill that Muslim', 'during operations [Anti-Balaka] always wanted to try and neutralise or kill them', for which reason there were many civilian deaths.³³²⁵

³³¹⁹ P-0952: T-250, p. 65, line 24 – p. 66, line 14.

³³²⁰ P-0952: T-250, p. 9, lines 4-20.

³³²¹ P-0952: T-252, p. 27, line 13 – p. 28, line 2.

³³²² P-0952: T-250, p. 9, lines 4-20.

³³²³ P-2232: T-075, p. 12, line 18 – p. 13, line 8.

³³²⁴ P-2232: T-076, p. 17, lines 5-9.

³³²⁵ P-2232: T-075, p. 64, line 10 – p. 65, line 24.

1223. Similarly, P-2027 stated that the violent acts of the Seleka resulted in a spirit of revenge and ‘Muslim civilians were killed in this spirit of revenge’.³³²⁶ P-2027 even spoke of a sense of foreboding at the beginning of the crisis, stating that the Anti-Balaka ‘were mixing everyone’ together, and were guided by a spirit of revenge and lacked control.³³²⁷

1224. P-0965 stated that in the context of the Anti-Balaka’s advance through the provinces, they mainly attacked Muslims with a view to killing them, stating that the Seleka, being majority Muslims, whether it was a Seleka soldier or a civilian Muslim, to those that were chasing a Muslim is a Muslim, so they did not make a difference between them (*‘les Seleka étant en majorité musulman que ce soit un soldat Seleka ou un musulman civil, pour ceux qui les pourchassaient, un musulman est un musulman, donc il [sic] faisaient pas de différence entre les soldats et les civils musulmans’*).³³²⁸ He continued that the general advice in the atmosphere was to kill ‘the Arabs’ (*‘les arabes’*), saying that ‘an Arab is an Arab, he had to be killed’ (*‘un arabe est un arabe, il fallait le tuer’*).³³²⁹ P-0965 said that [REDACTED] Andjilo [REDACTED], on the contrary, he would punish Anti-Balaka elements if he heard they had let a Muslim, Seleka or civilian, go or helped them to be saved.³³³⁰

1225. P-2269 stated that the Seleka started killing and the Anti-Balaka were then angry and wanted revenge.³³³¹ He explained that ‘[w]e [the Anti-Balaka] didn’t differentiate between Muslim civilians or Seleka, they were all the same. So if the Anti-Balaka entered a place and saw Muslims, we would consider them all as Seleka, it didn’t matter if they were children, women or elderly, they were all Seleka. We all thought the same within the Anti-Balaka’.³³³² P-2269 said that it was the same for the Seleka, they would consider all Christians as Anti-Balaka.³³³³

1226. This was echoed by P-2841, who stated that the retaliatory violence by the Anti-Balaka against Muslim civilians emanated from the idea that Muslims were responsible for the

³³²⁶ P-2027 Statement, CAR-OTP-2078-0059-R03, at 0084, paras 150-151.

³³²⁷ P-2027 Statement, CAR-OTP-2078-0059-R03, at 0084, para. 151.

³³²⁸ P-0965 Interview Transcript, CAR-OTP-2046-0182-R01, at 0186, lines 117-143. *See also* P-0965 Interview Transcript, CAR-OTP-2046-0195-R01, at 0203, lines 271-280.

³³²⁹ P-0965 Interview Transcripts, CAR-OTP-2046-0182-R01, at 0186-87, lines 145-153; CAR-OTP-2046-0195-R01, at 0206, lines 369-375.

³³³⁰ P-0965 Interview Transcript, CAR-OTP-2046-0195-R01, at 0211, lines 556-578.

³³³¹ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0339, para. 21, at 0357, para. 160.

³³³² P-2269 Statement, CAR-OTP-2111-0336-R01, at 0357-58, paras 160-161.

³³³³ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0358, para. 162.

atrocities committed by the Seleka and that the Anti-Balaka ‘confused the Seleka and Muslim civilians in their minds, and the enemy became all Muslims’.³³³⁴ P-2841 stated that once the Anti-Balaka had been initiated into the group they would become enraged and ‘direct that rage’ at civilians if they did not encounter military personnel.³³³⁵

1227. Similarly, P-2673 stated that the aim of Mr Ngaïssona and Mokom father was to fight off the Seleka and they gave money to soldiers in Cameroon so they would join the Anti-Balaka and help them fight the Seleka, with ‘Seleka’ meaning the soldiers who came from Chad and Sudan as well as the local Muslims who supported them.³³³⁶

1228. The Chamber considers that this is clearly reflected in the hostilities that occurred from September 2013 onwards and eventually culminated in the coordinated attacks on Bangui and Bossangoa on 5 December 2013. This further featured in each of the events charged, and continued thereafter in the hostilities until the end of February 2014. The Chamber refers in this regard to its discussion in the context of hostilities during the advance of Anti-Balaka groups through the provinces,³³³⁷ and of events in Bangui on 5 and 24 December 2013,³³³⁸ on the PK9-Mbaïki axis in January and February 2014 where Anti-Balaka elements, including from Mr Yekatom’s group, are seen expressing Anti-Muslim sentiment,³³³⁹ as well as concerning the hostilities in January and February 2014.³³⁴⁰

1229. That the Anti-Balaka groups sought revenge in their advance and attacks was also known at the time the Anti-Balaka structure became more formalised in 2014. Indeed, Alfred Legrand Ngaya, while averring that Muslims were not targeted ‘as such’, testified that for months the population had been persecuted by the Seleka, which had accomplices among the Muslim population, and this created vengeance in them.³³⁴¹ Similarly, various documents issued in

³³³⁴ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4274-75, para. 204.

³³³⁵ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4274-75, para. 204.

³³³⁶ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6450, para. 95.

³³³⁷ See section IV.A.6 below.

³³³⁸ See sections IV.B.2-IV.B.4, IV.D.3 below.

³³³⁹ See section IV.E below.

³³⁴⁰ See section IV.A.8.ii below.

³³⁴¹ Audio, CAR-OTP-2118-4151; Transcript, CAR-OTP-2135-0915, at 0916, lines 24-38.

the name of the Anti-Balaka in 2014 referred to this ‘spirit of revenge’ driving the Anti-Balaka against the Seleka and ‘Muslim subjects’ supporting the Seleka.³³⁴²

1230. Witnesses who were not within the Anti-Balaka testified similarly. For example, P-0475, a Muslim civilian from Bangui, stated that the Seleka’s brutal attacks against non-Muslims led to the Anti-Balaka forming and taking revenge,³³⁴³ specifying that ‘[t]he Anti-Balaka and many CAR Christians at the time would confuse Muslims with Arabs’, which he heard in discussions, general conversations with colleagues and friends, that they ‘did and do not distinguish between Arabs and Muslims’, and that he himself was ‘attacked’ by friends and even within his family for being an ‘Arab’.³³⁴⁴

1231. Similarly, P-2324, a Muslim civilian in Berbérati at the relevant time, stated that in the context of the peace negotiations, the Anti-Balaka maintained that Chadians were not welcome in the town, to them anyone who spoke Arabic was a Chadian.³³⁴⁵ Roger de Martial Yagao, a Christian gendarme residing in Bossangoa at the relevant time, stated that the population in the CAR ‘was angry mostly against the Chadians and Sudanese, since they were considered to have caused the political and military conflict’, and that since ‘the Chadians and Sudanese were Muslims, all Muslims were persecuted after the Seleka lost power’.³³⁴⁶ He said further that some of the Anti-Balaka elements he spoke to in Bossangoa at the time ‘called all the Muslims, even civilians, Seleka’, and for them ‘it was enough to be a Muslim to be equated to a Seleka’.³³⁴⁷

1232. Jean-Jacques Demafouth also testified that when information on targeted attacks by the Anti-Balaka was received, it was verified with community and religious leaders, and all the information received confirmed that systematically as of January 2014, Muslim houses and property were being destroyed, Muslims being ‘hunted down’, which in the witness’s view

³³⁴² Project, CAR-OTP-2025-0372, at 0374; Project, CAR-OTP-2087-9176, at 9178.

³³⁴³ P-0475 Statement, CAR-OTP-2104-0116-R04, at 0142, para. 206.

³³⁴⁴ P-0475 Statement, CAT-OTP-2104-0116-R04, at 0120, para. 30.

³³⁴⁵ P-2324 Statement, CAR-OTP-2100-2002-R02, at 2029-30, para. 97.

³³⁴⁶ P-2133 Statement, CAR-OTP-2093-0267-R02, at 0292, para. 181.

³³⁴⁷ P-2133 Statement, CAR-OTP-2093-0267-R02, at 0280, para. 92.

was becoming ‘really systematic and methodical’, and coming from all the zones under the control of the Anti-Balaka.³³⁴⁸

1233. The above was put to the point by Aurélien Llorca, member of the CAR Panel, who stated that whilst the Anti-Balaka’s objectives was to chase the Seleka out of the CAR, due to the association made by the Anti-Balaka ‘between Seleka, Sudanese, Chadians and “foreigners” they would group them all together as their enemy’, leading to a ‘simplified idea’ of who the enemy was ‘lower down in the chain of Anti-Balaka command’, in that in the ‘lower ranks’ in the Anti-Balaka, ‘the perceived enemy simply became “Muslims in general”’.³³⁴⁹ Aurélien Llorca testified that he heard this from different Anti-Balaka elements in different places in different positions, as well as from the general population, stating that it was ‘as though there was a simplified message circulating that all the Muslims needed to be chased out’.³³⁵⁰ The witness, who in his capacity interviewed many Anti-Balaka elements at various level of the hierarchy, noted a ‘difference in language’ used to express the same idea, with Anti-Balaka subordinates wanting ‘to chase out all Muslims’, while the leadership made reference to chasing out the Seleka ‘in order to avoid any amalgamation of issues based on religion’.³³⁵¹ Aurélien Llorca stated that the link made between the Seleka and Muslims by the Anti-Balaka on the ground was ‘public and common knowledge’, on the roads and in official media.³³⁵² The panel concluded that by the time of the attack on Bangui and Bossangoa on 5 December 2013, ‘Muslims were already being equated with Séléka elements, foreigners, Chadians and jihadis’.³³⁵³

1234. The Chamber is of the view that the conflict in the CAR in 2012 to 2014 was not in its origins, or at the outset, of a religious nature.³³⁵⁴ However, it is clear from the evidence as

³³⁴⁸ P-2328: T-047, p. 8, line 15 – p. 9, line 13.

³³⁴⁹ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0265-66, para. 132.

³³⁵⁰ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0265-66, para. 132; P-0287: T-020, p. 27, line 12 – p. 28, line 5.

³³⁵¹ P-0287: T-020, p. 27, line 12 – p. 28 line 5.

³³⁵² P-0287: T-020, p. 28, lines 6-13.

³³⁵³ CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0844-45, paras 24-29.

³³⁵⁴ See also P-0952: T-249, p. 6, line 4 – p. 8, line 4; T-251, p. 16, line 1-16 (the witness stated that the crisis was not based on religion, but non-Muslims rose up against the Seleka, with the 2012/2013 crisis being originally a ‘crisis of identity’); P-0876: T-088, p. 5, line 2 – p. 7, line 16, p. 8, lines 6-18, p. 11, line 10 – p. 13, line 4 (the witness stated that the conflict was more of a strategic, political and even geopolitical nature; according to the witness, the portrayal of the conflict by the media as a religious one worsened the situation and the conflict then did take on a religious

outlined that the Muslim religion became an indicator as to who the enemy, perceived or real, of the Anti-Balaka was.

1235. The evidence before the Chamber shows that the level of education across the elements of the Anti-Balaka played into how the Anti-Balaka perceived the Muslim civilian population. Specifically, P-0965 testified that the Anti-Balaka ‘movement’ was poorly informed and educated, which meant that ‘almost all of those who made up the movement were in fact illiterate’,³³⁵⁵ and this, in relation to those coming from Gobere, was common knowledge to those in charge.³³⁵⁶ P-0965 opined that whilst an illiterate person has the capacity to carry out instructions, they may act differently to a person who has been educated or trained and who knows their rights and the law.³³⁵⁷

1236. Similarly, P-2841 stated that ‘60% to 70% of people in CAR cannot read or write so it was difficult to change people’s mentality’, when asked about any attempts of the leaders to ‘prevent the violence against Muslim civilians or change the mindset’.³³⁵⁸ He said that the way in which the conflict unfolded and was conducted by the Anti-Balaka was not a surprise as ‘most of these Anti-Balaka were not educated, and the violence came from the idea that the Muslims were responsible’.³³⁵⁹

1237. P-0876 testified that, in this context, ‘it was necessary’ to reach out to Anti-Balaka elements ‘to explain to them that a Muslim is not necessarily always Seleka’.³³⁶⁰ Similarly, P-1193 stated that having heard about Muslims being killed in the north of the country, [REDACTED] Mr Yekatom’s group positioned at the PK9 bridge because [REDACTED] make them understand that not all Muslims were ‘wrong’ and that they should distinguish

dimension); P-0475 Statement, CAR-OTP-2104-0116-R04, at 0140, para. 190; P-0475: T-091, p. 42, line 8 – p. 43, line 13 (the witness stated that it was ‘fake’ to say the conflict was between ‘Christians’ and ‘Muslims’ as this dichotomy was a ‘false problem’; he and others refused to accept that the crisis was undertaken on religious groups); P-0965 Interview Transcript, CAR-OTP-2046-0037-R02, at 0044-45, lines 242-285 (the witness stated that when the Anti-Balaka was organised, it was at the start not a story about Christians and Muslims); P-1193: T-126, p. 10, lines 3-24, p. 19, line 25 – p. 20, line 12 (the witness opined that the crisis took a turn after media called the conflict an ‘intercommunity war’ between Christians and Muslims, turning into a denominational or religious conflict).

³³⁵⁵ P-0965: T-061, p. 21, line 12 – p. 22, line 1.

³³⁵⁶ P-0965: T-061, p. 22, lines 16-23.

³³⁵⁷ P-0965: T-061, p. 23, line 24 – p. 24, line 23. *See also* P-0966 Statement, CAR-OTP-2031-0241-R03, at 0255, para. 77.

³³⁵⁸ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4275, para. 205.

³³⁵⁹ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4274-75, paras 204-205.

³³⁶⁰ P-0876: T-085, p. 32, line 8 – p. 34, line 20.

between Muslims and mercenaries.³³⁶¹ This was at a time when Muslims had already been evacuated by the Chadians.³³⁶²

1238. Other witnesses testified in a similar way. Specifically, Alfred Legrand Ngaya stated that it was difficult to get educated people to join the Anti-Balaka as intellectuals feared the ICC.³³⁶³ Aurélien Llorca stated that ComZones were usually more educated, better dressed and better spoken than ‘foot soldiers’, although there were exceptions like Andjilo,³³⁶⁴ while Jo-Brice Ouabiro Dana stated that literate and illiterate ComZones did not function in the same way.³³⁶⁵

1239. In light of the evidence before the Chamber, in particular also regarding Mr Ngaïssona’s contacts with various individuals in 2013³³⁶⁶ and bearing in mind Mr Yekatom’s control over his own group at the relevant time,³³⁶⁷ the Chamber is of the view that this was known to, and instrumentalised by, François Bozizé, Mr Ngaïssona and others in their actions.

1240. It is in this context that the Chamber has considered the evidence before it, as outlined below, regarding the rhetoric used by François Bozizé, Mr Ngaïssona and others in particular in the lead-up to the Seleka coup in March 2013, but also thereafter.

1241. First, the Chamber has examined the speeches of François Bozizé from December 2012 to early 2013 that primed the CAR population to distinguish between ‘real’ and ‘foreign’ Central Africans and set the tone of the environment of distrust by demanding constant ‘vigilance’ from ‘real’ Central Africans and identifying threats from those living in ‘fenced compounds’, a clear reference to Muslims in the CAR, which was also understood as such.

1242. The Chamber notes in this regard the conclusion of the CAR Panel, which stated that the high number of human rights violations committed by the Seleka on non-Muslim

³³⁶¹ P-1193 Statement, CAR-OTP-2045-0048-R03, at 0053, paras 33-34; P-1193: T-124, p. 11, lines 13-17, p. 18, lines 5-21, p. 22, line 11 – p. 23, line 7.

³³⁶² P-1193 Statement, CAR-OTP-2045-0048-R03, at 0053, para. 34; P-1193: T-124, p. 18, lines 22-24. *See also* p. 24, lines 12-16.

³³⁶³ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0339, para. 97.

³³⁶⁴ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0248, paras 43-44.

³³⁶⁵ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0255, para. 77.

³³⁶⁶ *See* section IV.A.2.i.b.iii above.

³³⁶⁷ *See* sections IV.B.2, IV.E.1-IV.E.2 below.

communities ‘exacerbated dormant resentments that were opportunistically channelled, for political purposes, through the anti-balaka’,³³⁶⁸ and that political activism, including by ‘Bozizé’s camp’, contributed to the emergence of an anti-foreign discourse which motivated the killing of Muslims in areas controlled by the Anti-Balaka.³³⁶⁹

1243. More specifically in this context as regards the rhetoric used, the UN International Commission of Inquiry on the CAR concluded that ‘[t]owards the end of the Bozizé Government, there was a sudden surge in the number and strength of hate messages emanating from the members of the government’, directed at ‘minority groups, such as people from the Peuhl ethnic group, as well as other Muslims’.³³⁷⁰ According to this commission, ‘[s]taunch supporters of the Bozizé Government used the national radio, and especially popular programmes, to defend the government and call for its opponents and others accused of conniving with the Séléka to be attacked’.³³⁷¹

1244. Of particular importance in this regard is the speech given by François Bozizé on 27 December 2012 at PK0 in Bangui,³³⁷² at a time when the Seleka forces had started their advance towards Bangui and attacks in various localities in earnest.³³⁷³

1245. The Prosecution argues that this speech of Bozizé is set within the context of Bozizé and members of his government and the KNK, including Mr Ngaïssona, ‘stepping up efforts to mobilise support for the regime, resorting to nationalistic appeals discriminating against, and targeting Muslims’,³³⁷⁴ with the speech at PK0 ‘stok[ing] fear and engender[ing] ethno-religious animus toward the country’s Muslim population, falsely portraying his political opponents as the product of a foreign Muslim invasion’.³³⁷⁵

1246. The Ngaïssona Defence argues that there was nothing untoward in this speech which called for peaceful protest and correctly labelled the Seleka as largely foreigners, and that François

³³⁶⁸ CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0845, para. 27.

³³⁶⁹ CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0844-45, paras 24-29.

³³⁷⁰ Commission of Inquiry Report, CAR-OTP-2001-7017, at 7065, para. 157.

³³⁷¹ Commission of Inquiry Report, CAR-OTP-2001-7017, at 7065, para. 158.

³³⁷² Audio, CAR-OTP-2000-0630; Transcript, CAR-OTP-2060-0623; Translation, CAR-OTP-2060-0678.

³³⁷³ See section IV.A.1.ii above.

³³⁷⁴ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 23.

³³⁷⁵ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 24.

Bozizé did not conflate the Seleka with CAR Muslims.³³⁷⁶ The Ngaïssona Defence argues more generally that ‘there is no evidence of a plan, design, pattern, or coordinated collective mobilisation against the Muslim population that may be inferred from the public statements’ made by François Bozizé, Mr Ngaïssona and others prior to the coup, as rather these statements ‘convey [a] concern for the peace and security of [the] CAR, in response to the Seleka invasion unfolding on its territory’.³³⁷⁷

1247. In the Chamber’s view, the content of the speeches and how they were understood, as outlined below, cannot be interpreted in the manner suggested by the Ngaïssona Defence. Instead, it is clear from the statements discussed that François Bozizé meant to mobilise the population into a state of preparedness to fight, if necessary, against ‘foreigners’, including those living, at that time, in ‘fenced compounds’ within the CAR.

1248. Speaking at the rally on 27 December 2012, François Bozizé called on the support of France and the US for assistance in pushing back the Seleka to their former positions and for continued dialogue in Libreville.³³⁷⁸ François Bozizé warned those at the rally of the precarious situation the country was in, referring to the approaching Seleka as being comprised of foreigners and stressing the differences between the CAR population and Seleka rebels, stating that the latter did not speak Sango or French, included Janjaweed and ‘Toroboro’, and sought to take over power in the CAR, exploit the country’s resources, and kill Central Africans:

Des étrangers cherchent à s’accaparer de notre pays;³³⁷⁹

Pourquoi s’empressent-ils de venir tuer les gens, ils ont pris des J[anjaouid] [...] Des T[oroboro] et consorts pour venir prendre le pouvoir à B[angui];³³⁸⁰

³³⁷⁶ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 149-151.

³³⁷⁷ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 148.

³³⁷⁸ Translation, CAR-OTP-2060-0678, at 0687, lines 290-293.

³³⁷⁹ Translation, CAR-OTP-2060-0678, at 0682, lines 76-77. (Translation from French to English by the Registry) ‘Foreigners are trying to grab our country’.

³³⁸⁰ Translation, CAR-OTP-2060-0678, at 0682, lines 89-90. (Translation from French to English by the Registry) ‘Why are they in such a hurry to come and kill people? They brought Janjaweed along with them [...] Toroboros, and other such people to come and take over power in Bangui’. See also Translation, CAR-OTP-2060-0678, at 0681, lines 36-38, at 0682, lines 120-129, 135-139, at 0684, lines 155-157, 162-163, at 0685, lines 193-214, 222-224, at 0686, lines 271-279, at 0687, lines 293-294, 309-312, at 0690-91, lines 437-450 (for further references to ‘foreigners’ taking power in the country, and to the expression of the rebels’ intentions of killing Central Africans).

Ce sont tous des étrangers. Il y a beaucoup de J[anjaouid] parmi eux; beaucoup trop de J[anjaouid]! Il n'y a aucun Centrafricain parmi eux [...] Voilà, ils ne parlent pas sango, ils ne parlent pas français;³³⁸¹

Ce n'est pas une guerre justifiée, mais plutôt une tentative de vol de notre pétrole, de vol de notre uranium, de vol de notre or à [N]dassima, de vol de nos diamants, de vol de notre forêt.³³⁸²

1249. François Bozizé entreated people to remain vigilant or watchful in respect of foreigners who lived in 'fenced' houses or compounds, in which people intending to harm the Central African population were hiding or being hidden, making reference to particular neighbourhoods, and called on the population to turn suspicious people in to the police or gendarmerie:

Soyez vigilants dans les différents quartiers; surveillez surtout les étrangers qui vivent dans des concessions clôturées. Ils ont l'habitude de cacher des gens dans leurs concessions. Ils attendent le désordre total avant de sortir et de passer à l'action en vue de tuer les gens, de tuer les gens, de tuer les gens. Surveillez surtout les concessions avec des clôtures, encerclez ces concessions, enquêtez. Soyez vigilants [...], La jeunesse, vigilance, vigilance, vigilance. Au bord du fleuve vers M[ongoumba], dans les quartiers D[amala] et B[oeing], dans le 8e arrondissement. Ils sont nombreux vers M[boko], ils sont nombreux là-bas. Soyez vigilants. Arrêtez-les et remettez-les à la gendarmerie, à la police. Personne ne peut venir d'un pays étranger et nous asservir. Soyez vigilants, ne dormez pas. Il n'est pas seulement question de rebelles; il est surtout question des étrangers qui veulent venir détruire notre pays gratuitement et intentionnellement [...].³³⁸³

³³⁸¹ Translation, CAR-OTP-2060-0678, at 0685, lines 199-202. (Translation from French to English by the Registry) 'All of them are foreigners. There are many Janjaweed amongst them; much too many Janjaweed! There's not a single Central African with them [...] The fact is, they don't speak Sango, and they don't speak French.'

³³⁸² Translation, CAR-OTP-2060-0678, at 0691, lines 447-449. (Translation from French to English by the Registry) 'This war is not a necessary war. In reality, it is an attempt to steal our oil, to steal our uranium, to steal our gold in Ndassima, to steal our diamonds, to steal our forest.'

³³⁸³ Translation, CAR-OTP-2060-0678, at 0685, lines 204-214. (Translation from French to English by the Registry) 'You have to be vigilant in the various neighbourhoods; keep an eye especially on the foreigners who are living in fenced compounds. They are in the habit of hiding people in their compounds. They are waiting for the period of total chaos to emerge and swing into action killing people, killing people, killing people. Keep an eye especially on the fenced compounds; surround those compounds and make inquiries. You need to be vigilant [...] For the youth, vigilance, vigilance, vigilance. On the riverbank towards Mongoumba, in the Damala and Boeing neighbourhoods, in the 8th Arrondissement. There are many of them in the area towards Mboko; there are many of them there. You need to be vigilant. Arrest them and hand them over to the gendarmerie, to the police. No one from a foreign country can come here and enslave us. You need to be vigilant; do not sleep. We are not just dealing with the rebels here. We are dealing more with foreigners who want to come and destroy our country gratuitously and intentionally [...]' See also Translation, CAR-OTP-2060-0678, at 0687, lines 285-286, 307-319, at 0688, lines 351-360, at 0691-92, lines 476-491, 508-524.

1250. François Bozizé called upon people to demonstrate peacefully against the impending coup and not to harm people or foreigners.³³⁸⁴ At the same time, however, François Bozizé insistently asked whether anyone in ‘the youth’ was ready to fight and whether people were ready for war, hardly veiled by his statement that ‘war’ would need to be fought according to rules and by not touching ‘foreigners’, and called upon Central Africans to get ready to resist and to arm themselves with bows and knives and not to flee should the time come to fight to defend the country:

N’y a-t-il personne au sein de la jeunesse pour lutter ? N’y a-t-il personne au sein de la jeunesse pour lutter ? Est-ce qu’il y en a ? Est-ce qu’il y en a ? Est-ce qu’il y en a ? Y-a-t-il des gens prêts pour la guerre ? La guerre vous devez faire dans les règles, ne touchez pas aux étrangers [...] Après ce qui s’est passé, nous avons tous les yeux ouverts, nous allons être vigilants. Ces personnes agissaient dans l’ombre sans que nous ne le sachions, mais maintenant que nous les connaissons tous, nous verrons. La jeunesse debout. [...] La jeunesse debout.³³⁸⁵

Même ceux où la guerre sévit dans leurs contrées doivent se lever. Levez-vous, ne restez pas dans la brousse, sortez. Armez-vous d’arcs, de couteaux, de tout ce que vous pouvez utiliser [...]. Dites que vous êtes en colère, que vous êtes prêts à mourir, que vous êtes prêts à mourir, que vous êtes prêts à mourir, que vous êtes prêt à mourir. N’ayez pas peur, n’ayez pas peur.³³⁸⁶

1251. Levy Yakété also addressed the crowd during this rally, saying that COCORA cells would be set up in all villages of the CAR, and stressing that they were surrounded by traitors and that foreigners would never take power in the CAR, concluding: ‘*la patrie ou la mort, nous vaincrons*’.³³⁸⁷

³³⁸⁴ Translation, CAR-OTP-2060-0678, at 0683, paras 113-120. See also Translation, CAR-OTP-2060-0678, at 0684-85, lines 181-193, at 0688, lines 342-355, at 0691, lines 455, 466-467, at 0692, lines 508-514.

³³⁸⁵ Translation, CAR-OTP-2060-0678, at 0688, lines 348-362. (Translation from French to English by the Registry) ‘Is there no one amongst the youth to fight? Is there no one amongst the youth to fight? Are there any of them? Are there any of them? Are there any people who are ready for war? In war, you have to follow the rules. Do not lay a hand on any foreigners [...] After what happened, we all have our eyes open; we are going to remain vigilant. These people were acting in the shadows without our knowledge, but now that we know all of them, we’ll see. The youth should rise up. [...] The youth should rise up.’

³³⁸⁶ Translation, CAR-OTP-2060-0678, at 0691, lines 458-462. (Translation from French to English by the Registry) ‘Even those caught in the middle of the war in their localities must rise up. Rise up! Do not stay in the bush. Come out! Arm yourselves with bows, knives, anything you can lay your hands on [...]. Let it be known that you are angry, that you are ready to die, that you are ready to die, that you are ready to die. Do not be afraid. Do not be afraid.’

³³⁸⁷ Translation, CAR-OTP-2060-0678, at 0689, lines 387-403.

1252. Various witnesses testified about how François Bozizé's speech was understood, as outlined below.

1253. For instance, P-0889 stated that not solely Muslims lived in fenced compounds and that Bozizé referred to keeping a watchful eye over the foreigners who were coming, thus targeting the Seleka, as the majority of them were not Central Africans and did not speak the national language,³³⁸⁸ with 'Janjaweed' not referring to CAR Muslims, but to foreigners from Chad or Sudan.³³⁸⁹ According to P-0889, the purpose of the speech was to warn people about the Seleka's advance and that the Seleka were already hidden in houses in Bangui.³³⁹⁰

1254. Similarly, P-1847 testified that in his speech, François Bozizé was referring to the enemies of the CAR who were not Central Africans but foreigners who did not speak French or Sango and would be regarded as belonging to the Seleka, with 'Janjaweed' being mercenaries from Sudan.³³⁹¹ P-1847 stated that he said vigilance was to be exercised towards the foreign Seleka rebels who were already in Bangui, hiding within the walls of Muslims houses,³³⁹² as at the end of 2012, the Seleka had covertly entered Bangui, so the aim of the roadblocks erected by COCORA was to find the hidden Seleka and their accomplices, and those targeted as accomplices of the Seleka at the roadblocks were Runga, Muslims and Gula.³³⁹³ According to P-1847, at the time of the speech the CAR population experienced the advance of the Seleka as 'foreign invasion', with the complicity of certain Central Africans, and there was fear that the country would be destroyed.³³⁹⁴

1255. D30-4720 [REDACTED] testified that François Bozizé was advocating vigilance in general and referred to foreigners who had entered the country to destabilise it, with the mention of fenced compounds not being a reference to Muslims in particular.³³⁹⁵ The witness testified

³³⁸⁸ P-0889: T-108, p. 57, line 14 – p. 59, line 19; P-0889 Interview Transcripts, CAR-OTP-2122-8002-R02, at 8030-31, lines 1036-1058; CAR-OTP-2122-8194-R02, at 8227-28, lines 1164-1180.

³³⁸⁹ P-0889: T-108, p. 59, line 21 – p. 60, line 17.

³³⁹⁰ P-0889 Interview Transcript, CAR-OTP-2122-7517-R02, at 7538-39, lines 860-868, 898-899; P-0889: T-108, p. 56, line 22 – p. 57, line 2.

³³⁹¹ P-1847 Second Statement, CAR-OTP-2122-8251-R01, at 8270, para. 179; P-1847: T-022, p. 50, line 21 – p. 57, line 6; T-024, p. 5, line 24 – p. 6, line 10.

³³⁹² P-1847 First Statement, CAR-OTP-2061-1534, at 1573-74, paras 250-253.

³³⁹³ P-1847: T-022, p. 41, line 6 – p. 45, line 25, p. 50, line 21 – p. 57, line 6.

³³⁹⁴ P-1847: T-024, p. 9, line 7 – p. 10, line 23.

³³⁹⁵ D30-4720: T-280, p. 8, line 4 – p. 12, line 23.

that the areas mentioned in the speech, Mongoumba in the south and Mboko to the east, were not known to be Muslim areas, but the gates of entry to Bangui.³³⁹⁶ According to D30-4720, the Muslims did not become a target after Bozizé's request that the population remain vigilant, she visited PK5 frequently and never heard that Muslims were targeted.³³⁹⁷

1256. The Chamber considers of import in this context that François Bozizé knowingly provided false information in his speech when stating that the Seleka were '*tous des étrangers*' and included '*aucun Centrafricain*'.³³⁹⁸ In the view of the Chamber, this is a further illustration of how François Bozizé wanted the Seleka to be seen: as being exclusively 'foreign', including its members, or purported supporters, that were in fact citizens of the CAR.

1257. Indeed, the evidence shows that the Muslim community in particular understood the speech accordingly, including that the reference to 'fenced compounds' referred to Muslims. For example, P-0967, a Muslim civilian, testified that Bozizé led people to understand that the enemy was fast approaching and was not from the CAR, but foreign, and therefore the citizens of the CAR had to be alert and vigilant.³³⁹⁹ According to P-0967, after this speech the people's understanding of the country changed, in that the population thought that the rebellion was managed by the Muslims and were disappointed vis-à-vis the Muslims.³⁴⁰⁰

1258. Similarly, P-0475 understood the speech to refer to being alert to Muslim compounds because jihadists would enter those compounds.³⁴⁰¹ P-0475 understood the reference to fenced compounds in the speech to be covertly referring to Muslims because they 'usually live in houses with compounds', and this is what immediately comes to the minds of Central Africans.³⁴⁰² P-0475 agreed that also non-Muslims lived in fenced compounds, but explained that in the beginning it was only Muslims.³⁴⁰³ He stated that '[Bozizé] asked the Central Africans to be vigilant so that there would be no attack by the Muslims. And everyone knew

³³⁹⁶ D30-4720: T-280, p. 8, line 4 – p. 12, line 23. See also P-0889: T-108, p. 60, line 20 – p. 61, line 21; P-1847: T-024, p. 4, line 10 – p. 5, line 23; P-0475: T-091, p. 34, lines 12-21.

³³⁹⁷ D30-4720: T-280, p. 13, line 21 – p. 14, line 19.

³³⁹⁸ See Translation, CAR-OTP-2060-0678, at 0685, lines 199-202.

³³⁹⁹ P-0967: T-199, p. 12, lines 22 – p. 14, line 2.

³⁴⁰⁰ P-0967: T-199, p. 14, lines 3-16.

³⁴⁰¹ P-0475: T-090, p. 14, line 6 – p. 15, line 6.

³⁴⁰² P-0475: T-091, p. 32, line 3 – p. 33, line 20, p. 34, line 22 – p. 36, line 4.

³⁴⁰³ P-0475: T-091, p. 34, line 22 – p. 36, line 4.

about this and everybody was preparing themselves psychologically for attack by the Muslims. It wasn't a secret'.³⁴⁰⁴ At the same time, P-0475 testified that there was no spirit of hatred in the speech and it was not Bozizé's intention to request the population to react negatively towards the Muslims, rather the subsequent events were the issue, leading to an amalgamation during which 'one would be considered to be a foreigner as long as one bore a Muslim name'.³⁴⁰⁵ P-0475 testified that the statements by Bozizé were further propagated by his supporters.³⁴⁰⁶

1259. Another Muslim civilian, P-0461, heard the speech broadcast on Radio Centrafrique and understood it as saying that the Muslims wanted to enter Bangui and take over the country, that Muslims had weapons in their compounds, and that Christians should enter the Muslim compounds and take the weapons.³⁴⁰⁷ According to P-0461, Christians started to rebel, particularly after this speech; when the Seleka attacked Bangui, people realised that François Bozizé was right.³⁴⁰⁸

1260. P-2232 testified that he understood Bozizé to be referring to Muslims when he warned of people in fenced houses, the reason being that 'in Bangui, in most of the cases it is Muslims who live in those fenced compounds. And amongst the Seleka, most of the Seleka elements were Muslims'.³⁴⁰⁹ P-2232 testified that 'Bozizé did not talk about Muslims. He was talking about the Seleka and those who were working with the Seleka'.³⁴¹⁰ According to P-2232, it was realised later that Bozizé was 'right', namely that 'all the Muslims living inside fenced compounds had weapons and they were using them to fight', that the Seleka elements were able to enter Bangui through the Muslim population.³⁴¹¹ P-2232 stated that the speech reflected a feeling of fear amongst the CAR population of the advancing Seleka, made up of foreigners from Chad and Sudan and seen as attacking the CAR, thus reflecting a more general fear or suspicion of the Muslim population in the CAR.³⁴¹² P-2232 noted that in

³⁴⁰⁴ P-0475: T-090, p. 14, line 6 – p. 15, line 6.

³⁴⁰⁵ P-0475: T-090, p. 25, lines 3-16; T-091, p. 36, line 6 – p. 37, line 10.

³⁴⁰⁶ P-0475: T-090, p. 15, lines 8-12, p. 23, lines 5-19.

³⁴⁰⁷ P-0461 Statement, CAR-OTP-2031-0190-R01, at 0193, para. 20.

³⁴⁰⁸ P-0461 Statement, CAR-OTP-2031-0190-R01, at 0193, para. 20.

³⁴⁰⁹ P-2232: T-075, p. 11, lines 1-24; T-079, p. 5, lines 1-5.

³⁴¹⁰ P-2232: T-079, p. 8, lines 3-18.

³⁴¹¹ P-2232: T-075, p. 11, lines 1-24; T-079, p. 3, line 25 – p. 4, line 19.

³⁴¹² P-2232: T-075, p. 13, lines 2-8.

calling for vigilance, Bozizé did not direct that anyone be maltreated or harmed, and advocated for non-violent protest by handing over ‘suspicious individuals’ to the police.³⁴¹³

1261. Further, Adrien Poussou, a journalist, later participant in meetings in Cameroon and member of the FROCCA, published in media at the time that after the speech ‘there was something that resembled psychosis in the Muslim community’, recalling that also in the Christian community, the speech was criticised and branded a ‘dangerous speech that would shake up the very foundations of national cohesion’.³⁴¹⁴ The witness testified that this perceived danger to public cohesion was also discussed and criticised publicly in the media.³⁴¹⁵

1262. In light of the above, the Chamber considers this speech of François Bozizé a clear call for vigilance of ‘Central Africans’ towards all ‘foreigners’, which, on its face and in the words used by François Bozizé, included individuals ‘living’ in ‘fenced compounds’ within the CAR.³⁴¹⁶ The speech played on and heightened an already prevailing climate of fear and suspicion and was meant to mobilise the population into supporting his regime. Far from being a mere innocent call for peaceful demonstrations, as suggested by the Ngaïssona Defence, the Chamber is of the view that this speech was meant to set the tone of preparedness for the possibility of ‘real’ Central Africans fighting, to their death, against anyone who was considered to be ‘foreigner’. This speech was made in full knowledge of the Seleka, in their essence, having come to the fore through a coalition of Central African groups opposed to the Bozizé administration,³⁴¹⁷ and in this knowledge falsely claimed that the Seleka included exclusively ‘foreigners’, and not a single Central African.³⁴¹⁸

1263. The Chamber notes that this speech did not directly refer to Muslims within the CAR in general, and that this speech, on its own, did not make Muslims out to be the enemy.³⁴¹⁹ However, the Chamber recalls how the speech and in particular the reference to ‘fenced

³⁴¹³ P-2232: T-079, p. 6, line 7 – p. 8, line 18.

³⁴¹⁴ P-2625: T-188, p. 33, line 2 – p. 34, line 2.

³⁴¹⁵ P-2625: T-188, p. 16, lines 13-15, p. 34, line 5 – p. 35, line 3.

³⁴¹⁶ See Translation, CAR-OTP-2060-0678, at 0685, lines 204-205.

³⁴¹⁷ See section IV.A.1.i above.

³⁴¹⁸ See Translation, CAR-OTP-2060-0678, at 0685, lines 199-202.

³⁴¹⁹ The Chamber notes in this regard also a speech given by François Bozizé given on occasion of the 54-year anniversary of the CAR, seemingly in early December 2012, meaning at a time when the Seleka existed and advanced, but had not yet carried out its first main attack (see P-0889: T-108, p. 56, lines 1-21 *referring to* Speech, CAR-OTP-2100-0540, at 0544; see also section IV.A.1.ii above).

compounds' was understood and considers that it primed its audience, setting the tone with references to 'foreigners' to include also those considered 'foreign' *within* the CAR who would support the Seleka. This is not negated by François Bozizé also calling, at that stage of the conflict, for peaceful protest.

1264. The speech of François Bozizé held on 27 December 2012 was not the only address to the population in the context of the advancing Seleka. The Chamber considered in this context as a further cumulative factor that François Bozizé's message was widely known and drew sectarian lines well before the coup and the events in the latter half of 2013 because of its repetition by others and its dissemination prior to the Seleka coup in March 2013, including the support expressed by Mr Ngaïssona as outlined below. The Chamber considered as an additional cumulative factor that certain youth organisations took on François Bozizé's appeal to vigilance by setting up roadblocks and checkpoints 'to find hidden Seleka and their accomplices', targeting Muslims and CAR ethnicities associated with Muslims.

1265. In this context, the Chamber refers to Levy Yakété, two days after François Bozizé's speech at PK0, calling in a radio broadcast³⁴²⁰ on the youth to redouble their vigilance efforts and keep a watchful eye, particularly in Bangui, Bimbo and Begoua, as illegal activities and other suspicious behaviour were occurring, stating that unknown people should be handed over to the police and gendarmerie, reminding not to use any violence in carrying out these actions and calling for a multiplication of checkpoints on all arterial roads in Bangui.³⁴²¹

1266. The Chamber further recalls in this regard its discussion of the activities of COCORA and COAC at checkpoints in Bangui prior to the Seleka coup.³⁴²²

1267. This was followed by François Bozizé's address to the people on 31 December 2012 on occasion of the New Year,³⁴²³ which referred to the crisis in the country and stated, *inter alia*, that the CAR was divided, having become two countries with one belonging to the

³⁴²⁰ Audio, CAR-OTP-2000-0668; Transcript, CAR-OTP-2087-9783; Translation, CAR-OTP-2087-9850.

³⁴²¹ Translation, CAR-OTP-2087-9850, at 9852.

³⁴²² See section IV.A.1.ii.b above.

³⁴²³ Audio, CAR-OTP-2000-0632; Transcript CAR-OTP-2060-0631; Translation CAR-OTP-2060-0693.

‘Janjaweed’ and the other to the ‘real’ Central Africans.³⁴²⁴ Bozizé reiterated his call for Central Africans to remain vigilant:

Tout ce que je vous demande, c’est d’être vigilants, veillez tout le temps, tout le temps. Les jeunes, soyez vigilants, les femmes, soyez vigilantes, les préfets, soyez vigilants, les sous-préfets, soyez vigilants, les maires, soyez vigilants, les chefs de quartier, soyez vigilants, les chefs de groupe, soyez vigilants, ne laissez pas tomber le pays, ne laissez pas tomber la R[epublique] C[entrafricaine].³⁴²⁵

1268. He concluded by saying that

[l]’année 2013 s’approche, vigilance, vigilance! Surveillez, laissez tomber la peur. Tout est dans tes mains, Centrafricain, ce n’est qu’avec tes mains que tu seras capable de te battre, de te battre jusqu’à la victoire, la victoire, la victoire!³⁴²⁶

1269. Further, in early January 2013, Javon Zama Papa called on the radio,³⁴²⁷ on behalf of Mr Ngaïssona, for a peace march, speaking of how the enemies of the nation had decided to create unrest by bringing in Sharia law with the aim of preventing the various religious denominations from carrying out their normal activities, and he maintained that certain people wanted to use Islam to destroy the country and terminate all the positive initiatives that had been taken by the government for the well-being of the citizens and for the development of the country.³⁴²⁸

1270. Shortly thereafter, on 6 January 2013,³⁴²⁹ Mr Ngaïssona called on people to attend a march in Bangui he was coordinating, distinguishing between CAR citizens and the foreigners in

³⁴²⁴ Translation, CAR-OTP-2060-0693, at 0695, lines 38-40.

³⁴²⁵ Translation, CAR-OTP-2060-0693, at 0697, lines 128-132. (Translation from French to English by the Registry) ‘All I am asking you is to be vigilant. Be alert at all times, at all times. The youth, be vigilant; the women, be vigilant, the prefects, be vigilant; the sub-prefects, be vigilant; the mayors, be vigilant; the neighbourhood chiefs, be vigilant; the group leaders, be vigilant. Do not let your country fall. Do not let the Central African Republic fall.’

³⁴²⁶ Translation, CAR-OTP-2060-0693, at 0698, lines 141-144. (Translation from French to English by the Registry) ‘The year 2013 is nearly upon us; vigilance, vigilance! Be on the lookout. You have to banish any fear. Everything is in your hands, Central Africans; you have only your hands to fight, to fight until you achieve victory, victory, victory!’

³⁴²⁷ Audio, CAR-OTP-2000-0680; Transcript, CAR-OTP-2087-9789; Translation, CAR-OTP-2087-9863, at 9865, lines 1-29.

³⁴²⁸ Translation, CAR-OTP-2087-9863, at 9865, lines 10-14. On the basis of the speaker referring to the march to take place on ‘mardi 9 janvier de cette année’ (see Translation, CAR-OTP-2087-9863, at 9865, line 6), the Chamber concludes this call having been made in early January 2013.

³⁴²⁹ Audio, CAR-OTP-2042-0976; Transcript, CAR-OTP-2135-3389; Translation, CAR-OTP-2107-1473, at 1474, lines 3-30; Translation, CAR-OTP-2135-3392, at 3394-95, lines 3-55.

the Seleka who he stated had perpetrated crimes against Central Africans, and stating that everyone must fight for the return to peace:

Ces gens qui sont venus ne représentent pas tous les Centrafricains, ils ne sont pas non plus soutenus par tous les Centrafricains. Les nombreux étrangers qui sont avec eux ont perpétré des actes terribles qui ont infligé de grandes souffrances au peuple centrafricain. C'est pour cela qu'après avoir réfléchi, nous nous sommes dit en tant que combattants de la paix que nous devons nous battre pour que la paix revienne dans notre pays. Voilà pourquoi je viens [...] lancer ce communiqué à tous les Centrafricains. Que tu fasses partie d'une confession religieuse, que tu sois membre du gouvernement, syndicaliste, commerçant ou commerçante, élève, étudiant, je pense que ce communiqué nous concerne tous.³⁴³⁰

Ce ne sont pas les Centrafricains qui ont fait ces choses là. Je pense c'est les étrangers qui s'y mélangent au milieu des Centrafricains pour venir revendiquer. C'est eux qui ont détruit tout sur leur passage.³⁴³¹

1271. Additionally, Mr Ngaïssona rejected civil war and called upon the Central African population to support the Libreville peace process.³⁴³²

1272. In a radio broadcast press conference on 9 January 2013 regarding the Libreville negotiations,³⁴³³ François Bozizé continued to refer to the Seleka as made up of 'Janjaweed', foreigners who did not speak Sango, French or English, and stated that the Seleka had been obliged to recruit Janjaweed and Toroboro who wished to exploit and destroy the CAR.³⁴³⁴ He further asked whether the people would leave the CAR to foreigners and whether they

³⁴³⁰ Translation, CAR-OTP-2135-3392, at 3394, lines 8-15. (Translation from French to English by the Registry) 'These people who have come here do not represent all Central Africans, nor are they supported by all Central Africans. The large number of foreigners accompanying them have committed reprehensible acts. They have inflicted untold suffering on the Central African people. That is why, after having thought things over, we decided that as combatants for peace, we have to fight for the restoration of peace in our country. That is why I have come [...] to make this appeal to all Central Africans. Whether you belong to a religious denomination, whether you are a member of government, whether you are a trade unionist, a trader, a pupil or a student, I think that this appeal concerns all of us.'

³⁴³¹ Translation, CAR-OTP-2107-1473, at 1474, lines 21-23. (Translation from French to English by the Registry) 'Those things were not done by Central Africans. I think it is the foreigners who have infiltrated the Central African population in order to come and make claims. They are the ones who have destroyed everything on their path.'

³⁴³² Translation, CAR-OTP-2107-1473, at 1474, lines 12-30.

³⁴³³ Audio, CAR-OTP-2000-0635; Transcript, CAR-OTP-2060-0633; Translation, CAR-OTP-2060-0699.

³⁴³⁴ Translation, CAR-OTP-2060-0699, at 0701, lines 36-40, at 0702, lines 47-54.

would want to be slaves, stating that if people were not vigilant, they would be slaughtered.³⁴³⁵

1273. Following the march announced by Javon Zama Papa and Mr Ngaïssona, in a radio broadcast on 11 January 2013, Mr Ngaïssona thanked those who had responded to the call of the coordination fighting for peace, stating *‘c’est une manière de brandir haut et fort que la R[épublique] C[entrafricaine] ne doit pas être envahie par les étrangers’*, and further that the Central African people could not be divided as it rose up as one to say no to civil war and bloodbath, and thanked the people for their support of Bozizé.³⁴³⁶

1274. Also Steve Yambété, KNK member and head of COAC,³⁴³⁷ stated on the radio in early January 2013 that in order to help the security situation, the gendarmerie and police should be alerted to suspected criminals at checkpoints.³⁴³⁸ In further radio statements in January 2013, Steve Yambété said that (i) COAC’s aim was to identify who was ‘with’ the head of state at day and ‘Janjaweed’ at night;³⁴³⁹ (ii) he had called upon the youth to mobilise, which had responded positively by erecting roadblocks along routes and stopped ill-intentioned people, calling upon the youth to be vigilant, monitor the security in their country, and control the roadblocks;³⁴⁴⁰ and (iii) those who resisted at checkpoints were accomplices of the Seleka, the youths manning the checkpoints were disciplined, unarmed and non-violent, and would call the military when they encountered a dangerous person to be transferred to the police and the gendarmerie.³⁴⁴¹

1275. On occasion of the International Women’s Day on 8 March 2013, François Bozizé spoke on the issue of the crisis, questioning whether the young people who had joined the Seleka were

³⁴³⁵ Translation, CAR-OTP-2060-0699, at 0702, lines 107-120 (*‘Si vous fuyez, à qui allez-vous laisser la R[épublique] C[entrafricaine]? Aux étrangers? Donc voulez-vous devenir des esclaves? Avec ce qui se passe, si nous ne sommes pas vigilants, on va nous égorger comme des chèvres. Ce sont les informations que je reçois. Donc, il nous revient de ne pas abandonner la R[épublique] C[entrafricaine]’*).

³⁴³⁶ Audio, CAR-OTP-2042-2144; Transcript, CAR-OTP-2107-1483, at 1484.

³⁴³⁷ See paragraph 707 above.

³⁴³⁸ Audio, CAR-OTP-2042-2137; Transcript, CAR-OTP-2107-1481.

³⁴³⁹ Audio, CAR-OTP-2000-0691; Transcript, CAR-OTP-2135-1460; Translation, CAR-OTP-2135-1465, at 1468, lines 40-53.

³⁴⁴⁰ Audio, CAR-OTP-2042-0259; Transcript, CAR-OTP-2107-2991; Translation, CAR-OTP-2118-5618.

³⁴⁴¹ Audio, CAR-OTP-2042-0262; Transcript, CAR-OTP-2118-0003; Translation, CAR-OTP-2125-0466.

really Central Africans, considering the destructive actions,³⁴⁴² and calling specifically on women not to be afraid, warning them that the country would otherwise be destroyed and they ('we') would become slaves.³⁴⁴³

1276. Only a week later, at a rally on 15 March 2013 to celebrate François Bozizé's ten years in power,³⁴⁴⁴ François Bozizé reiterated his urge to the crowd to remain vigilant,³⁴⁴⁵ in a 'call to vigilance, national unity and assembly'.³⁴⁴⁶ Mr Ngaïssona, attending in his capacity as minister of youth, sports, arts and culture, pledged to François Bozizé the support of the Central African youth in 'defending their endangered homeland'.³⁴⁴⁷

1277. On the same day,³⁴⁴⁸ François Bozizé protested about the Seleka's lack of respect for the Libreville agreement and stated that '[c]ertains enfants du pays' were being manipulated by foreigners who wished to exploit the country.³⁴⁴⁹ Bozizé again urged the youth to be vigilant and to defend the country if they were 'authentic' Central Africans and unless they wanted to become slaves.³⁴⁵⁰ He reiterated that police or gendarmerie should be called to deal with suspicious people and that no violence should be used,³⁴⁵¹ and said that they had been unable to organise themselves due to, *inter alia*, infiltration by the Seleka.³⁴⁵² Importantly, François Bozizé also further defined who 'the youth' was to be vigilant about and defend against:

La jeunesse centrafricaine debout, les femmes debout, défendons la C[entrafricque] notre pays, pour que notre pays se développe. Ne laissez pas des personnes malintentionnées entrer dans notre pays, dans nos quartiers. Elles viennent avec des autos, avec des marchandises, elles viennent en moto, à cheval. Nos petites localités

³⁴⁴² Audio, CAR-OTP-2000-0627; Transcript, CAR-OTP-2060-0618; Translation, CAR-OTP-2060-0668, at 0674, lines 211-216.

³⁴⁴³ Translation, CAR-OTP-2060-0668, at 0676, lines 294-303.

³⁴⁴⁴ Audio, CAR-OTP-2000-0658; Transcript, CAR-OTP-2006-0661; Translation, CAR-OTP-2006-0739.

³⁴⁴⁵ Translation, CAR-OTP-2006-0739, at 0745, lines 229-231.

³⁴⁴⁶ Translation, CAR-OTP-2006-0739, at 0746, lines 249-250.

³⁴⁴⁷ Translation, CAR-OTP-2006-0739, at 0744, lines 157-161. *See also* Translation, CAR-OTP-2130-1069, at 1073, lines 169-171.

³⁴⁴⁸ Audio, CAR-OTP-2000-0656; Transcript, CAR-OTP-2060-0653; Translation, CAR-OTP-2060-0740.

³⁴⁴⁹ Translation, CAR-OTP-2060-0740, at 0743, lines 58-60, at 0752, line 425.

³⁴⁵⁰ Translation, CAR-OTP-2060-0740, at 0744, lines 95-106, at 0744-75, lines 129-135, at 0751, lines 390-395.

³⁴⁵¹ Translation, CAR-OTP-2060-0740, at 0745, lines 141-149, at 0746, lines 185-187.

³⁴⁵² Translation, CAR-OTP-2060-0740, at 0752, lines 434-449.

de la R[épublique Centrafricaine], soyez vigilants, pour préserver la R[épublique Centrafricaine], c'est tout ce qui j'ai à vous dire.³⁴⁵³

1278. The evidence before the Chamber shows that Muslims in the CAR were generally seen as traders.³⁴⁵⁴ The Chamber thus considers that the reference to individuals coming into the CAR with '*marchandises*' served as further identifier not only for the Seleka as the 'enemy', but by its nature also included Muslim civilians in the CAR.

1279. The Chamber considers this to be underscored by then-ambassador of the CAR to Cameroon Louis Oguéré who, on the same day, stated that the war of occupation that the country was experiencing had been predictable, because foreigners had installed themselves in the country, fraudulently becoming Central Africans and, due to the resources of the CAR, were interested in gaining political power, and that the people in question had been welcomed but now wanted to take the country.³⁴⁵⁵

1280. The Chamber concludes that the context given by the then-ambassador, who also participated in meetings with François Bozizé and Mr Ngaïssona in Cameroon after the Seleka coup,³⁴⁵⁶ makes clear that he was not merely referring to foreign elements of the Seleka, but in fact to those considered 'foreigners' in their own country, the CAR.

1281. The Chamber further notes that in a radio broadcast of 22 March 2013, Steve Yambété, COAC coordinator and *chargé de mission* at the ministry of youth and sports, issued a call

³⁴⁵³ Translation, CAR-OTP-2060-0740, at 0747, lines 225-230. (Translation from French to English by the Registry) 'The Central African youth, rise up; the women, rise up. Let us defend our country, the Central African Republic, so that it should be able to develop. Do not allow malicious individuals to come into our country, into our neighbourhoods. They are arriving in vehicles, with goods; they are arriving on motorbikes, on horseback. The small localities in the Central African Republic, you must be vigilant in order to preserve the Central African Republic. That is all I have to tell you.'

³⁴⁵⁴ P-1823 Statement, CAR-OTP-2063-0369-R02, at 0372, para. 15 (the witness stated that many people thought that Muslims were only traders, while there were many intellectuals among the Muslim community); P-1858: T-185, p. 65, lines 5-17; P-1193: T-126, p. 12, line 17 – p. 13, line 14 (the witness stated that most of the Chadians who came to the CAR in the 1980s became traders); P-1838 Statement, CAR-OTP-2100-0252-R05, at 0254-55, para. 15 (the witness stated, explaining certain demographical aspects of the population of Mbaïki, that Muslims were generally traders and coffee planters); P-2084 Statement, CAR-OTP-2094-0968-R02, at 0974-75, para. 35 (the witness explained in relation to the population in Lobaye that most of the traders were Muslims).

³⁴⁵⁵ Audio, CAR-OTP-2000-0655; Transcript, CAR-OTP-2130-1069, at 1078, lines 370-379; Translation, CAR-OTP-2130-1099.

³⁴⁵⁶ See section IV.A.2.i.b.i above.

for calm in light of the Seleka hostilities, stating that he came to represent ‘his minister’ – which, at that time, was Mr Ngaïssona:

Jeunesse de Centrafrique, moi, ton frère, Mike Steve Yambété, chargé de mission au ministère de la Jeunesse, Sports, Arts et Culture, je suis venu représenter mon ministre empêché pour te dire de ne pas te laisser manipuler par les racontars. Au moment où je te parle, sois sereine. Ton pays n’est pas inquiété. Attends au moment où on va te dire que ta vie est menacée, c’est à ce moment-là que tu peux faire tout ce que tu veux. Mais pour l’instant, ta vie n’est pas menacée, raison pour laquelle le ministre de la Jeunesse, des Sports, des Arts et de la Culture, m’a chargé de venir te livrer ce message, de ne pas avoir peur. Reste tranquille là où tu es. Dès que le besoin se fait sentir, on te fera appel.³⁴⁵⁷

1282. The Chamber notes the Ngaïssona Defence’s argument that there is no evidence that Mr Ngaïssona instructed Steve Yambété to make an address on his behalf and that, in any event, this address was a call for appeasement and not violence.³⁴⁵⁸ The Chamber agrees that there is no evidence on the record indicating that Mr Ngaïssona instructed Steve Yambété to make the above radio statement. At the same time, the Chamber notes that Steve Yambété clearly indicated in this address that he was giving it on behalf of ‘[his] minister’ and thus, in the least, wanted the audience to think that this was the case. Further, the evidence pointed to by the Ngaïssona Defence in this regard is inconclusive. P-1847 testified that Mr Ngaïssona did not issue any messages himself, but that Steve Yambété did, and further indicated that he had not heard of the specific message of Steve Yambété reflected above.³⁴⁵⁹ Alfred Legrand Ngaya testified that Mr Ngaïssona was not present in the CAR at the time of

³⁴⁵⁷ Audio, CAR-OTP-2042-1783, at approximately 00:01:15-00:02:36; Transcript, CAR-OTP-2107-1475, at 1476, lines 9-16. (Translation from French to English by the Registry) ‘Young people of the Central African Republic, I, your brother, Mike Steve Yambété, chargé de mission at the Ministry of Youth, Sport, Arts and Culture, I have come here to represent my minister, who is occupied elsewhere, to tell you not to allow yourselves to be manipulated by storytellers. Right now as I speak to you, you need to be calm. Your country is not in danger. Wait for the moment when you will be told that your life is at risk, and that is when you can do what you want. However, for the time being, your life is not at risk, and that is why the Minister of Youth, Sport, Arts and Culture has tasked me to come and convey this message to you: to not be afraid. You should stay calm where you are. As soon as the need arises, you shall be called upon.’

³⁴⁵⁸ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 416. *See also* Public Redacted Version of the ‘Defence Response to the “Prosecution’s Sixth Application for the Submission of Evidence from the Bar Table”’ (ICC-01/14-01/18-1942), filed 22 June 2023, 8 November 2023, ICC-01/14-01/18-1942-Red, para. 18.

³⁴⁵⁹ P-1847: T-023-ENG, p. 12, line 5 – p. 13, line 2; T-023-FRA, p. 11, line 22 – p. 12, line 18. The indication by the witness that Steve Yambété and Mr Ngaïssona ‘didn’t really have very close relationships’ and that Steve Yambété went to the presidency to relay his messages, not via a minister (*see* P-1847: T-023-ENG, p. 13, lines 8-17), is similarly inconclusive in relation to this specific message.

the Seleka coup,³⁴⁶⁰ as did P-2232, who added that those mobilising or organising the young people in Bangui were Levy Yakété and Steve Yambété, among others.³⁴⁶¹

1283. In any event, the Chamber disagrees that the message delivered by Steve Yambété was merely a call for peace. While telling the ‘youth of the CAR’ to remain calm, the message continued to state that once they would be told that their lives are in danger ‘*tu peux faire tout ce que tu veux*’ and that ‘*[d]ès que le besoin se fait sentir, on te fera appel*’.³⁴⁶² In the view of the Chamber, far from being a simple appeasing call, this message implied a state of alert, and that the youth could – and would – be called on as needed.

1284. More generally, Adrien Poussou considered that ‘the rhetoric of the government was to get Christian Central Africans to understand that foreigners were coming and taking their country away from them [and] if [they] allowed the Seleka rebellion to enter Bangui, it would mean that the foreigners, the Chadians and the Sudanese, would come and take control of the country’, a rhetoric which resonated with the population given that ten years earlier, Bozizé had orchestrated a coup with the support of the Chadian army, that brutalised people in the 2013 to 2014 crisis, ‘behaving as an occupying force’.³⁴⁶³

1285. P-1847 testified that the Bozizé government began marshalling supporters against the Seleka rebellion, frequently and widely circulating information on the radio and in papers about the Sudanese and Chadians encroaching into the CAR territory and committing offences, for example via David Banga, director-general of the Central African radio and Jevon Papa Zama, who had a daily radio programme in which he denounced the Seleka violence and broadcast messages in support of François Bozizé against the ‘Islamists’, such as asking the population to be vigilant.³⁴⁶⁴

1286. Adrien Poussou also referred to this programme, stating that Radio Centrafrique was ‘the voice of the government at the time’, and mentioning a programme called ‘*Ye so a lingbi ti*

³⁴⁶⁰ P-0808: T-070, p. 42, lines 10-12. See also P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0304, para. 103.

³⁴⁶¹ P-2232: T-075, p. 23, lines 9-12.

³⁴⁶² Transcript, CAR-OTP-2107-1475, at 1476, lines 9-16.

³⁴⁶³ P-2625: T-188, p. 31, line 1 – p. 32, line 14.

³⁴⁶⁴ P-1847: T-022, p. 31, line 22 – p. 38, line 7; T-023, p. 3, line 17 – p. 5, line 21; P-1847 Second Statement, CAR-OTP-2122-8251-R01, at 8268-69, para. 160.

inga’ hosted by Abakar Piko, Séverin Vélé Yamindi and Javon Papa Zama, which would openly attack opponents of the regime.³⁴⁶⁵

1287. The Ngaïssona Defence argues that the speeches and radio statements made in December 2012 and March 2013 by François Bozizé and others, including the broadcasts of the radio show mentioned above, merely denounced the Seleka violence, encouraged dialogue, and discouraged violence.³⁴⁶⁶

1288. In the view of the Chamber, this is an overly trivialised reading of the messages given. While it is clear that calls for peaceful demonstrations and refraining from violence such as throwing stones against individuals or people were made, all of the above also unequivocally called for ‘vigilance’ of the addressees, thereby maintaining the Central African population in a state of alert against ‘foreigners’. The references to ‘foreigners’ have to be seen in the context of the Seleka not being in fact a ‘foreign invasion’, even though it used combatants from Chad and Sudan, as well as in light of the fact that they were made in direct connection to ‘foreigners’ living in the CAR and supporting the Seleka, in contrast with ‘real’ or ‘authentic’ Central Africans.

1289. The Chamber furthermore notes as another cumulative factor its discussion of the creation and activities of FROCCA, which marshalled support against the Seleka regime with express pleas to return to ‘the constitutional order’, signifying François Bozizé’s return to power.³⁴⁶⁷ Adrien Poussou testified that within FROCCA, the prevailing rhetoric was that Christian Central Africans ‘were being robbed of [their] own country by Muslim invaders. And it just so happens that the Seleka regime was made up of [their] fellow citizens of the Muslim faith’, and that this sort of language was also being used by Mr Ngaïssona.³⁴⁶⁸ According to this witness, FROCCA used ‘hate speech or hateful language’ in its communications with the goal of spreading incendiary information, such as the alleged planned ‘Islamisation’ of

³⁴⁶⁵ P-2625: T-188-ENG, p. 35, line 12 – p. 36, line 4, p. 37, lines 7-10; T-188-FRA, p. 37, lines 19-22; T-192, p. 10, lines 22-25.

³⁴⁶⁶ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 152-155.

³⁴⁶⁷ See section IV.A.3 above.

³⁴⁶⁸ P-2625: T-189, p. 67, line 20 – p. 68, line 5.

the CAR, to ‘step up the antagonism between Christians and Muslims [...] to push Christians to defend their country against the invaders, to resist by violent means’.³⁴⁶⁹

1290. In this context, the Chamber recalls its discussion of the FROCCA ‘protocol agreement’³⁴⁷⁰ and notes that this document refers to the enemies of the nation collaborating with ‘*mercenaires islamistes*’ to humiliate and violate the human rights of the CAR people, and to the harm inflicted by ‘*envahisseurs islamistes sans foi ni loi*’.³⁴⁷¹

1291. The press releases issued by FROCCA employed a similar rhetoric. The first release of 5 August 2013 stated that the Seleka’s takeover and human rights violations were ‘*l’heure du triomphe des commanditaires extérieurs et leurs complices locaux* [sic]’.³⁴⁷² In a release in response to the Seleka raids in Boy-Rabe in August 2013, FROCCA explained that the Seleka had a hidden agenda, which was ethnic and religious cleansing with a view to imposing Islam in the CAR.³⁴⁷³ Lin Banoukepa was reported as stating in that same interview at the time that the coup had been carried out with ‘*la participation très active des mercenaires islamistes de confession musulmane [...] du Tchad et du Soudan*’.³⁴⁷⁴ FROCCA further denounced the Seleka raids and criminal acts of the Seleka in general, referring to the transitional regime as anti-democratic and Islamic.³⁴⁷⁵ FROCCA continued to decry alleged plans for a forceful Islamisation of the CAR, calling on the international community ‘to see the genocide that is under way’,³⁴⁷⁶ and requesting the unconditional withdrawal of the Seleka from power and the CAR territory.³⁴⁷⁷ Lin Banoukepa was further reported as calling on the Central African people to rise up and drive out Islamists and jihadist terrorists who came with the aim of ‘Islamising’ the CAR.³⁴⁷⁸

³⁴⁶⁹ P-2625: T-189, p. 70, line 13 – p. 71, line 12, p. 73, lines 11-20.

³⁴⁷⁰ See paragraphs 1019-1020 above.

³⁴⁷¹ Protocol, CAR-OTP-2124-0852, at 0854-55.

³⁴⁷² Press article, CAR-OTP-2001-4048, at 4048. See also Communiqués, CAR-OTP-2094-0387, at 0387-88.

³⁴⁷³ Press article, CAR-OTP-2123-0469, at 0469. See also Communiqués, CAR-OTP-2094-0387, at 0394-96; Press article, CAR-OTP-2091-1728, at 1728-30; Email, CAR-OTP-2130-3303 as discussed in paragraph 1032 above.

³⁴⁷⁴ Press article, CAR-OTP-2123-0469, at 0469. See also Communiqués, CAR-OTP-2094-0387, at 0394-96; Press article, CAR-OTP-2091-1728, at 1728-30.

³⁴⁷⁵ Press article, CAR-OTP-2091-1711. See also Communiqués, CAR-OTP-2094-0387, at 0391-92.

³⁴⁷⁶ Press article, CAR-OTP-2091-1714. See also Communiqués, CAR-OTP-2094-0387, at 0392-93.

³⁴⁷⁷ Press article, CAR-OTP-2091-1717. See also Communiqués, CAR-OTP-2094-0387, at 0393-94.

³⁴⁷⁸ Press article, CAR-OTP-2089-0056, at 0057-58. See also Press article, CAR-OTP-2091-1722, at 1722; Press article, CAR-OTP-2091-1739, at 1739.

1292. Adrien Poussou testified that members of FROCCA, including Mr Ngaïssona, subscribed to the position that Banoukepa took in the press releases, as they allowed them to be published³⁴⁷⁹ or at least did not, to his knowledge, voice any objections to the language used.³⁴⁸⁰ The witness explained that there was a mailing list, Lin Banoukepa wrote the drafts which he sent to the mailing list, of which Mr Ngaïssona was part, and the witness would automatically react with criticism – the others did not object, so he concluded that the close circle of François Bozizé agreed with the drafts of Lin Banoukepa.³⁴⁸¹ Adrien Poussou further stated that the prevailing rhetoric within the inner circle of Bozizé of Christians being robbed of the country by Muslim invaders³⁴⁸² was also used by the supporters of Bozizé in meetings held in Cameroon in 2013.³⁴⁸³

1293. Importantly in this regard, the Chamber notes that on 5 December 2013, day of the coordinated attacks in Bangui and Bossangoa, Lin Banoukepa spoke of the Anti-Balaka Central Africans liberating the CAR from the yoke of the jihadists originating from Sudan and Chad, and called upon all Central Africans to rise up that day and eject the invading and criminal foreign Islamic component, and support the liberating action of the Anti-Balaka, describing it as ‘[l]e rétablissement de l’ordre fonctionnel’:

Le rétablissement de l’ordre fonctionnel en cours aujourd’hui à B[angui]. Nous nous revendiquons l’espace, l’organe politique, pour sauver nos citoyens, au FROCCA. Et nous revendiquons aujourd’hui notre part auprès de vos jeunes frères et sœurs qui, eux, sont en action. Donc nous sommes ensemble, et nous sommes la tête politique. Si le peuple se soulève, nous sommes derrière le peuple. Les A[nti-Balaka] sont des Centrafricains pour aller libérer leur pays des jougs des djihadistes venus du D[arfour], du T[chad], du S[oudan]. Vous savez que les événements de B[angui] ne sont pas une rébellion comme la S[eleka] l’est. C’est un peuple indépendant qui ne veut pas être soumis, qui veut mettre fin aux crimes impunis. [...] En ce jour du 5 décembre, j’appelle tous les Centrafricains à se lever comme un seul homme pour bouter hors de notre territoire la composante islamique étrangère, envahissante, criminogène [sic]

³⁴⁷⁹ P-2625: T-189, p. 67, lines 8-13.

³⁴⁸⁰ P-2625: T-189, p. 74, lines 3-11.

³⁴⁸¹ P-2625: T-193, p. 24, line 20 – p. 26, line 20.

³⁴⁸² P-2625: T-189, p. 67, line 14 – p. 68, line 5.

³⁴⁸³ See section IV.A.2.i.b.i above.

qui sévit, qui humilie. Et l'objet de notre appel au soutien de l'action de libération de ce 5 décembre de nos jeunes sœurs et frères du B[alaka].³⁴⁸⁴

1294. Contemporaneously, other media reported that a 'movement allied to' François Bozizé claimed responsibility for attacks around the capital, with Lin Banoukepa reported as stating that fighters were attempting to oust the rebels who toppled François Bozizé from power and that the Anti-Balaka wanted to free the country of jihadists from Chad and Sudan.³⁴⁸⁵

1295. Adrien Poussou recognised the voice of Lin Banoukepa in the radio broadcast and stated that he understood the announcement as FROCCA claiming responsibility for the attack on Bangui on 5 December 2013.³⁴⁸⁶ D30-4720 stated that there were no fighters within FROCCA itself, and that the broadcast called upon the people to rise up, and that FROCCA would stand behind them.³⁴⁸⁷

1296. In the view of the Chamber, this statement of Lin Banoukepa on behalf of FROCCA is a good illustration of how matters unfolded at the time: the Anti-Balaka groups fought on the ground, with political ambitions and frameworks, such as FROCCA, making use of these actions to further their motives.

1297. Overall, the evidence before the Chamber shows that the Anti-Balaka groups which engaged in hostilities against the Seleka in earnest from September 2013 onwards equated the Seleka with the Muslim civilian population in general, perceiving Muslim civilians, due to their

³⁴⁸⁴ Audio, CAR-OTP-2088-2034; Transcript, CAR-OTP-2107-1596, at 1597, lines 11-18, 20-23. (Translation from French to English by the Registry) 'The ongoing restoration of a functional system today in Bangui. We believe that, at FROCCA, we are the forum, the political organ, in a position to save our citizens. And today, we have our very own amongst our brothers and sisters who are in the heat of action. This means that we are together, and we are the political leadership. If the people rise up, we shall be behind the people. The Anti-Balaka are Central Africans mobilizing to go and liberate their country from the yoke of Jihadists from Darfur, Chad, Sudan. You are aware that the events of Bangui are not the making of a rebellion like the Seleka. They are an independent people who do not want to be subjugated, and who want to put an end to crimes that go unpunished.. [...] On this day, 5 December, I am calling on all Central Africans to rise up as one man and kick out from our territory those foreign Islamic invasive groups responsible for perpetrating crimes, wreaking havoc, and humiliating people. That is the purpose of our appeal: to support the liberation actions of this 5 December, being carried out by our young Balaka sisters and brothers.' See also Post, CAR-OTP-2091-0433.

³⁴⁸⁵ Press article, CAR-OTP-2081-0235, at 0235-36.

³⁴⁸⁶ P-2625: T-190, p. 24, line 2 – p. 26, line 12 *referring to* Audio, CAR-OTP-2088-2034, at approximately 00:00:00-00:01:38; Transcript, CAR-OTP-2107-1596, at 1597, lines 11-23.

³⁴⁸⁷ D30-4720: T-282, p. 45, line 19 – p. 48, line 20 *referring to* Audio, CAR-OTP-2088-2034, at approximately 00:00:00-00:02:07; Transcript, CAR-OTP-2107-1596. See also D30-4720: T-281, p. 33, line 14 – p. 34, line 4.

religious or ethnic affiliation, as collectively responsible for the crimes committed by the Seleka, or as complicit with, or supportive of, the Seleka.

1298. The evidence before the Chamber also shows that this was widely known, including to the Anti-Balaka leadership and Mr Ngaïssona therein. The Chamber thus considered as a last cumulative factor that each stage of the evolution of the Anti-Balaka objectives and policies was public knowledge, and that it was instrumentalised by François Bozizé, Mr Ngaïssona and others to further their political or personal agenda.

1299. As outlined below, the Chamber is of the view that Mr Ngaïssona was aware of the context and how it developed already through the meetings he participated in while in Cameroon, and at the latest in discussions concerning FROCCA. Further, Mr Ngaïssona was informed of the attacks taking place as from September 2013. Similarly, Mr Yekatom, given his own history with the Seleka and flight to Zongo, knew about the context and how members of his group, irrespective whether they were trained FACA members or not, did not distinguish between Muslim civilians and the Seleka. Yet, Mr Yekatom as leader of his group did not demand or emphasise the need for such distinction when instructing his elements in preparation of the attack on Bangui on 5 December 2013, in Yamwara, or when his group advanced along the PK9-Mbaïki axis.

1300. Importantly, in a very public visit to Mbaïki on 12 February 2014, following the dislocation of Muslims therefrom,³⁴⁸⁸ Catherine Samba-Panza, then-transition president of the CAR, denounced the violence and killings committed by the Anti-Balaka, warning the group it would pay should it continue.³⁴⁸⁹ This had been prefaced by a statement of the commander of the Sangaris, Francisco Soriano, who declared that the Anti-Balaka were ‘enemies of peace’.³⁴⁹⁰ This was followed by the Anti-Balaka coordination, under lead of Mr Ngaïssona, complaining about the characterisation of the group in what it called ‘incendiary

³⁴⁸⁸ See section IV.E.6 below.

³⁴⁸⁹ P-0952: T-249, p. 40, line 4 – p. 43, line 3; T-252, p. 58, line 20 – p. 59, line 8; Video, CAR-OTP-2023-1636, at 00:19:06-00:27:16; Translation, CAR-OTP-00002254, at 0007-9. See also P-1813: T-180, p. 29, lines 3-22; P-1838: T-215, p. 31, line 3 – p. 32, line 13; D29-5015: T-254, p. 71, line 10 – p. 72, line 5; D29-5012: T-294, p. 54, line 25 – p. 55, line 16, p. 56, lines 5-10; Press article, CAR-OTP-2076-0678.

³⁴⁹⁰ Press article, CAR-OTP-2117-0681, at 0681-82; Press article, CAR-OTP-2117-0704, at 0704. See also Video, CAR-OTP-2090-0408; Transcript, CAR-OTP-2107-1598, at 1599.

declarations’, while at the same time acceding that inquiries needed to be made within the movement to find those responsible for possible violence.³⁴⁹¹

1301. It is clear from the evidence before the Chamber that Mr Ngaïssona was fully aware of the anti-foreign discourse employed by François Bozizé and the individuals supporting him at the time, and engaged therein himself as outlined above, knowing that the reference to ‘foreigners’ would be understood to also encompass CAR nationals, specifically Muslim civilians.

1302. Specifically, Mr Ngaïssona participated in meetings in Cameroon in which the anti-foreign and indeed anti-Muslim discourse was repeated,³⁴⁹² and was aware of the rhetoric employed by FROCCA.³⁴⁹³

1303. Moreover, this rhetoric did not stop there. Indeed, in a document dated 11 February 2014 issued under Mr Ngaïssona’s name, the background to the conflict is recalled by stating that *‘la population, victime des exactions des S[eleka] à travers la Centrafrique depuis le 10 décembre 2012, a regagné les rangs des Antibalaka avec un esprit de vengeance [sic] envers les ex-Séléka est [sic] les sujets musulmans qui ont soutenu les Séléka durant leur occupation de la RCA’*.³⁴⁹⁴ Similarly, a press statement of the same day appears to criticise that ‘Muslims’, in general, were speaking up against the Anti-Balaka, who are described as *‘dignes fils du pays’* which engaged in an *‘œuvre salvatrice’*.³⁴⁹⁵ In an interview later in February 2014, Mr Ngaïssona stated: ‘We cannot accept the attacks by the Muslims’.³⁴⁹⁶ Even later in 2014, Mr Ngaïssona continued using rhetoric similar to that used by François Bozizé in mid-March 2013, when stating: *‘Un étranger qui vient dans notre pays, pour faire de l’occupation, prendre des armes et tuer les enfants du pays, nous ne pouvons pas accepter*

³⁴⁹¹ Press statement, CAR-OTP-2025-0380, at 0381, 0383. See P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0342-43, paras 119-121, at 0344, para. 124; P-0808 Corrections, CAR-OTP-2134-1737, at 1740.

³⁴⁹² See section IV.A.2.i.b.i above.

³⁴⁹³ See also paragraphs 1031-1037 above.

³⁴⁹⁴ Project, CAR-OTP-2025-0372, at 0374. (Translation from French to English by the Registry) ‘In addition, the population, victims of the Seleka’s atrocities throughout the Central African Republic since 10 December 2012, have joined the ranks of the Anti-Balaka with the intention of exacting revenge on the ex-Seleka and the Muslim individuals who supported the Seleka during their occupation of the CAR.’

³⁴⁹⁵ Press statement, CAR-OTP-2084-0148, at 0149. See also paragraph 1812 below.

³⁴⁹⁶ P-2012: T-025, p. 18, line 21 – p. 19, line 19. See also paragraph 1820 below.

cela et voir les enfants du pays souffrir’ (emphasis added).³⁴⁹⁷ In another interview at a time of general peace efforts, in which he stated that he was against violence,³⁴⁹⁸ Mr Ngaïssona also reiterated, against his better knowledge, that at least 90% of the Seleka were foreigners from Chad and Sudan,³⁴⁹⁹ and that the Seleka’s goal was to transform the CAR into an Islamic state: *‘Mais nous, on ne peut pas accepter alors que nos frères sont seulement peut-être à 8% de la population qui peuvent prendre toute une 92% de la population en otage’*.³⁵⁰⁰

1304. The Chamber is of the view, on the basis of the evidence as outlined above, as well as below in relation to the hostilities Anti-Balaka groups engaged in as of September 2013,³⁵⁰¹ that the lack of distinction between Seleka members and Muslim civilians was so widespread by this time that Mr Ngaïssona was aware of it. And indeed, Mr Ngaïssona used rhetoric reflecting this lack of distinction himself, and well into 2014, while he continued to support and worked with the Anti-Balaka, becoming its general coordinator, with this knowledge, and at a time when further Anti-Balaka attacks against Muslim civilians in the west of the CAR took place.³⁵⁰²

1305. This lack of distinction was equally present within Mr Yekatom’s group. Indeed, as outlined below, Mr Yekatom must have been aware of the statements against Muslims, in general, made by elements and leaders of his group under his command, and, when giving instructions to his group, himself did not draw an appropriate distinction between targeting Seleka members or individuals belonging to the Muslim civilian population.³⁵⁰³ In fact, the evidence before the Chamber indicates that Mr Yekatom himself expressly instructed the elements under his command to attack Muslim civilians, in the context of events relating to crimes as charged in this case.³⁵⁰⁴ Mr Yekatom not only issued such instructions to elements

³⁴⁹⁷ Translation, CAR-OTP-2088-0649, at 0652-53, lines 85-94. (Translation from French to English by the Registry) ‘A foreigner who comes into our country and occupies it, takes up arms and kills the children of the country, that is something we cannot accept, while watching our country’s children suffering.’

³⁴⁹⁸ Video, CAR-OTP-2122-5902; Transcript, CAR-OTP-2122-9457, at 9458, lines 40-41, at 9470-71, lines 483-504, at 9473, lines 576-580.

³⁴⁹⁹ Transcript, CAR-OTP-2122-9457, at 9461-62, lines 147-165.

³⁵⁰⁰ Transcript, CAR-OTP-2122-9457, at 9459, lines 67-72. (Translation from French to English by the Registry) ‘But that is not something we can accept, considering that our brothers make up only about 8% of the population, who are capable of taking the entire remaining 92% of the population hostage.’

³⁵⁰¹ See section IV.A.6 below.

³⁵⁰² See section IV.A.8.ii below.

³⁵⁰³ See sections IV.B.2, IV.B.3.i, IV.D.3, IV.E.1-IV.E.3 below.

³⁵⁰⁴ See sections IV.B.2, IV.B.3.i, IV.E.1-IV.E.3 below.

under his command, but also personally participated in related attacks which targeted not only Seleka members, but also Muslim civilians. Further, leaders in Mr Yekatom's group under his command echoed his instructions to the elements of the group, while elements of the group participated in the targeting of Muslim civilians.³⁵⁰⁵ Mr Yekatom must have known that, as a consequence of his specific instructions resulting in the targeting and killing of Muslim civilians, the latter would flee the attacked areas.³⁵⁰⁶

6. Hostilities during the advance towards Bangui

The Anti-Balaka groups, which had formed in the provinces and in part gathered together at Gobre, started their advance towards Bangui, with the ultimate objective to attack the capital in order to remove Michel Djotodia from power and oust the Seleka from the CAR. In this advance, various Anti-Balaka groups started engaging in attacks against the Seleka from September 2013 onwards. Such attacks were not limited to Seleka forces, but included attacking localities with Muslim civilians.

These groups going into different localities communicated with each other and individuals abroad, including Maxime Mokom, with a view to coordinating such attacks.

Attacks were launched around Bossangoa and in Bouca (Ouham prefecture), in Ndjo, Bossembélé, Boali and Gaga (Ombella-M'Poko prefecture), as well as in Bouar (Nana-Mambéré prefecture). As part of these attacks, Anti-Balaka elements attacked Bossangoa on 17 September 2013.

Throughout the advance and during these attacks, Anti-Balaka groups targeted Muslim civilians. This information was widely known across the CAR and abroad, including in Cameroon.

The advance of the Anti-Balaka groups and hostilities on the way culminated in coordinated attacks in Bangui and Bossangoa on 5 December 2013.

From his involvement in coordinating his own group's advance through the provinces towards Bangui for purposes of the attack on Bangui on 5 December 2013, Mr Yekatom knew of the advance of the Anti-Balaka groups through the provinces towards Bangui,

³⁵⁰⁵ See sections IV.B.2, IV.B.3.i, IV.D.3, IV.E.1-IV.E.3 below.

³⁵⁰⁶ See also sections IV.B.5, IV.E.6 below.

including the hostilities, as well as killings and dislocation of Muslim civilians, taking place in this context.

Mr Ngaïssona knew and was informed of the advance of the groups towards Bangui as well as of the hostilities during this advance, including the killings and dislocation of Muslim civilians from the locations mentioned above.

i. Distribution of groups, strategy and start of the advance

1306. As further outlined below, various Anti-Balaka elements who had joined the groups in Govere and the wider Bossangoa area explained how these groups were assigned to attack different locations in the context of their advance towards Bossangoa and Bangui. As is apparent from the objectives of the groups that were advancing through the provinces towards Bangui, hostilities within the wider CAR regions were not the ultimate aim: indeed, as discussed in further detail below, the hostilities in the CAR provinces eventually culminated in the coordinated attacks on Bangui and Bossangoa on 5 December 2013.³⁵⁰⁷ The Chamber notes that around the same time as the advance of the Anti-Balaka groups towards Bangui started in earnest, the Seleka coalition was dissolved by Michel Djotodia.³⁵⁰⁸

1307. For example, Jo-Brice Ouabiro Dana explained that before they set out to attack villages, they were given instructions of which villages and when to attack, and they had an overall time plan to keep to;³⁵⁰⁹ they could not attack in just any way, but attacked villages or localities with checkpoints or Seleka bases, never villages with only civilians, since the attacks were targeted to ‘get rid’ of the Seleka and ‘chase them’ (*‘déloger’*) from their posts.³⁵¹⁰

1308. As regards who was giving instructions to the groups, Jo-Brice Ouabiro Dana said that they came from those who were commanding, for example Dedane, Ndangba, Romain; and if there were calls and they asked to fight the Seleka bases, they would go.³⁵¹¹

³⁵⁰⁷ See sections IV.B.1, IV.C.1 below.

³⁵⁰⁸ See Annex 6 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0894, para. 1. A copy of the decree dated 10 October 2013 by the former Defence Minister Bertrand Mamour integrating certain Seleka members into the FACA can be found at Annex 6.1 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0896.

³⁵⁰⁹ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0248, para. 40.

³⁵¹⁰ P-0966: T-117, p. 43, line 9 – p. 44, line 1.

³⁵¹¹ P-0966: T-117, p. 43, line 9 – p. 44, line 1.

1309. As regards who came up with the strategy, Jo-Brice Ouabiro Dana said that it was ‘Danboy and other soldiers’ who came together to prepare the strategy of conquering small localities before heading towards Bossangoa and ultimately finishing in Bangui, to free both.³⁵¹² Those present when coming up with this strategy were Dedane, Kema, Romain, Feikouma, Houronti, Mandago Alexis, Ndangba, ‘Rambo’, ‘Bad Boy’, and Kpa Thibaut; they also talked to the ‘*modibo*’ who was there.³⁵¹³

1310. Jo-Brice Ouabiro Dana said that Dedane, who was in charge of communications, left the group to make calls and came back with instructions; they were told that those calls were to people on the other side of the river, in particular Maxime Mokom; and the soldiers gathered their elements per group and disseminated the orders.³⁵¹⁴

1311. Jo-Brice Ouabiro Dana said that their objective was to ‘take Bossangoa and then to march towards the capital to recapture it’ and not ‘to go to other areas or locations’.³⁵¹⁵ P-0666 noted that there were other groups that went to Gobere afterwards to look for fetishes and they were asked to capture other locations.³⁵¹⁶

1312. According to Jo-Brice Ouabiro Dana, their strategy was to ‘target little villages’ occupied by the Seleka around Bossangoa to defeat smaller Seleka groups and seize their weapons, to become strong enough to attack Bossangoa where the Seleka were numerous.³⁵¹⁷ They did not have weapons, just stones, wooden sticks, makeshift firearms, 12 calibre bullets and fetishes; seizing weapons from the Seleka when they could, though their automatic weapons were too complicated to operate.³⁵¹⁸

1313. Similarly, P-2602 stated that it was a military tactic to try to push the ‘mercenaries’ to Bossangoa centre because if they were pushed towards Chad, they would receive

³⁵¹² P-0966: T-116, p. 52, line 4 – p. 53, line 2; T-117, p. 37, line 22 – p. 38, line 15.

³⁵¹³ P-0966: T-117, p. 38, lines 16-20.

³⁵¹⁴ P-0966: T-117, p. 38, line 20 – p. 39, line 2, p. 44, lines 2-16.

³⁵¹⁵ P-0966: T-116, p. 52, lines 4-13.

³⁵¹⁶ P-0966: T-116, p. 52, lines 4-13.

³⁵¹⁷ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0249, para. 44; P-0966: T-116, p. 52, line 15 – p. 53, line 2; T-117, p. 37, line 22 – p. 38, line 15.

³⁵¹⁸ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0248, para. 41.

reinforcements, while ‘in the middle’, Bossangoa, they would not have the chance.³⁵¹⁹ P-2602 said that they split into groups when ‘pushing’; there were groups pushing them ‘towards Bouca’, ‘towards [...] Batangafo’ ‘towards Zere’; they were to push them ‘towards Bossangoa’ so that the Seleka would all be gathered there; and at Bossangoa, former forces would intervene and separate them from the civilians, whereas, in the small villages, the local population would be exposed with nobody to help.³⁵²⁰

1314. P-2269 also stated that when he left Gobere to go to Bangui, they fought the Seleka on their way.³⁵²¹ P-2269’s group went from Gobere taking the road from Bogangolo, where they engaged with the Seleka and then took the location,³⁵²² to Damara and then Bangui; all the groups took different routes as it was part of their strategy; the aim was to arrive in Bangui for the attack on 5 December 2013.³⁵²³ In Gobere, they had divided themselves into [REDACTED] groups, each with their own chief, and they took different routes to go to Bangui; some groups went to other towns to attack areas controlled by the Seleka, like Bouca and Bossangoa, and not every group went to Bangui; some people stayed behind at the Gobere base and in Bossangoa; the deputies would remain behind.³⁵²⁴

1315. Providing more details on how the advance unfolded, Jo-Brice Ouabiro Dana explained that one company led by Andjilo was the first to leave Gobere and sent to attack Bouca, another company was sent to Ouham-Bac, another between Gbade and Dadacouta 1 and 2, yet another to Lere.³⁵²⁵ Andjilo was selected for Bouca because it was his locality and he knew the area, had men with whom he came from Bouca – selection was done according to the origin of each chief because they knew their regions.³⁵²⁶ Two or three companies could be

³⁵¹⁹ P-2602 Interview Transcript, CAR-OTP-2118-9525-R01, at 9527, lines 54-67. *See also* P-2602 Interview Transcript, CAR-OTP-2118-9641-R01, at 9654, lines 427-443.

³⁵²⁰ P-2602 Interview Transcript, CAR-OTP-2118-9525-R01, at 9527-28, lines 68-91.

³⁵²¹ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0346, para. 74.

³⁵²² P-2269 Statement, CAR-OTP-2111-0336-R01, at 0346, para. 74.

³⁵²³ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0346, para. 75.

³⁵²⁴ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0346, para. 77.

³⁵²⁵ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0248, para. 42; P-0966: T-116, p. 52, line 15 – p. 53, line 2.

³⁵²⁶ P-0966: T-117, p. 41, lines 2-13.

sent to the same town, and Jo-Brice Ouabiro Dana's company, the last to leave, was sent to Benzambé with the group of 'John Rombhot'.³⁵²⁷

1316. Jo-Brice Ouabiro Dana stated that, when they arrived near a village, they would send someone in the night to do 'reconnaissance' to determine how many 'Seleka' were present, confirm if people had fled to the bush and whether there were women or not.³⁵²⁸ The witness further stated that they searched houses and mosques for weapons to determine if a house was a Seleka house, they had to enter and look for weapons.³⁵²⁹ According to Jo-Brice Ouabiro Dana, it was easy to identify Seleka houses as they usually lived together in a group fenced off from the rest.³⁵³⁰

1317. Jo-Brice Ouabiro Dana considered that if a Muslim man was found in a house and had not fled, he was 'a Seleka'; they did not think all Muslims were Seleka, the religion was not linked to Seleka.³⁵³¹ When asked about what would happen if a Muslim person was found in a house, the witness said that there were no Muslims in the small villages, and if they found them, they would 'put them together' and send someone to 'come and get them'; he recalled that some were taken to the border with Chad, others sent to Bangui, and they also set up camp for displaced people and put Muslims there, for example in Yaloké.³⁵³² According to Jo-Brice Ouabiro Dana, those who did not fight had to be put together in a 'safe place'.³⁵³³

1318. Jo-Brice Ouabiro Dana reiterated that their only goal was to protect their country because 'foreigners' had come to 'destroy' it, it was also their duty to defend the people of the CAR and that is 'why' they brought the Muslims together 'to protect them and help them get out of there'.³⁵³⁴

³⁵²⁷ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0248, para. 42; P-0966: T-116, p. 52, line 15 – p. 53, line 2. The witness clarified that this was a person different to Mr Yekatom, his full name was Nambo Zuina and P-0966 carried out manoeuvres with him and advanced in the area around Bossangoa (see P-0966: T-117, p. 37, line 22 – p. 38, line 15; T-118, p. 55, line 23 – p. 56, line 6). See also P-2658 Statement, CAR-OTP-2126-0012-R02, at 0027, paras 97, 101, where P-2658 spoke about a person called 'Nambozouina', a FACA present in Gobere, interacting with Dedane.

³⁵²⁸ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0249, para. 45.

³⁵²⁹ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0249, para. 46.

³⁵³⁰ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0249, para. 46.

³⁵³¹ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0249, para. 46.

³⁵³² P-0966: T-116, p. 30, line 25 – p. 34, line 22.

³⁵³³ P-0966: T-116, p. 34, line 23 – p. 36, line 11.

³⁵³⁴ P-0966: T-117, p. 12, line 12 – p. 13, line 2.

1319. Jo-Brice Ouabiro Dana stated that to avoid being shot by a Seleka hiding in a house, one had to ‘destroy all houses’.³⁵³⁵ He recalled that they found weapons hidden in mosques, in the floor boards under praying carpets (*tapis*), and they destroyed those mosques.³⁵³⁶ According to the witness, they did not touch State schools, women and children, they only chased away men and destroyed ‘Seleka houses’;³⁵³⁷ they could not destroy ‘everything’ because they wanted the population to be able to return and continue with their lives and also wanted to be able to stay and cohabite with villagers without any problems.³⁵³⁸ Jo-Brice Ouabiro Dana recalled that each chief had ‘his own personal strategy of attack and of combat’.³⁵³⁹ When they ‘freed’ a village, they would take control of it for as long as a week, otherwise the Seleka would come back; and they would encourage the civilians to return.³⁵⁴⁰

1320. The Chamber is of the view that the evidence of Jo-Brice Ouabiro Dana as outlined above has to be seen against the background of the overarching policy exhibited by Anti-Balaka groups at the time.³⁵⁴¹ This is indeed underscored by how the witness framed the description of their activities himself: while averring that not all Muslims were considered Seleka, the witness also stated that those who did not fight had to be put together in a ‘safe place’, without specifying for which reason he considered this necessary if such individuals were civilians. Similarly in this context, in his view Muslims needed to be ‘help[ed] to get out of there’. In addition, while stating that they could not destroy ‘everything’ because they wanted the population to return, he also stated that to avoid being shot by a Seleka, all ‘Seleka’ houses were destroyed, with such houses for search for weapons being identified on the basis of the assumption that ‘Seleka’ usually lived in a group fenced off from the rest. The Chamber is of the view that the activities of Jo-Brice Ouabiro Dana’s group, even as described by the witness himself, were clearly not informed by a genuine distinction between actual adversaries, i.e. members of the Seleka or individuals engaged in hostilities in case there were any, but rather focused on what, in the group’s perception, a ‘Seleka’ would be.

³⁵³⁵ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0249, para. 46.

³⁵³⁶ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0249, para. 47.

³⁵³⁷ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0249, para. 47.

³⁵³⁸ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0249, para. 47.

³⁵³⁹ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0249, para. 47.

³⁵⁴⁰ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0249, para. 48.

³⁵⁴¹ See section IV.A.5 above.

1321. Similarly to Jo-Brice Ouabiro Dana, P-0975, who was [REDACTED],³⁵⁴² described that the Anti-Balaka marched through the Ouham and Ombella-M'Poko prefectures with the objective to 'prevent the Seleka from killing civilians and to drive the Seleka out'.³⁵⁴³ P-0975 recalled the villages they 'freed from the Seleka' were Zere, Ndjo, Bobala, Boban, Boganli, Bogoin and others; other battalions went to other locations and some villages did not have any Seleka in them.³⁵⁴⁴ As regards the route, P-0975 recalled that they moved from Ndjo to Bogangolo to Gbozo to Damara and finally to Bangui; [REDACTED] freed the villages together.³⁵⁴⁵

1322. P-0975 explained that they would first find out from local informants where in a village Seleka were located, then fought them with '*saguets*' and machetes, leading to some Seleka and civilians being killed, and many fleeing.³⁵⁴⁶ According to P-0975, they did not go into homes or mosques or schools³⁵⁴⁷ and did not take any Seleka captives as they were their 'enemies' and had 'killed our families'.³⁵⁴⁸

1323. P-0975 said that after freeing a village from the Seleka, the Anti-Balaka asked local youngsters to protect and 'take control' of the village who usually had hunting rifles and ammunition; some villages chiefs would still lead the villages and the youngsters had to follow them; while in other villages, where the chiefs refused to support the Anti-Balaka so they worked with the youngsters instead.³⁵⁴⁹

³⁵⁴² P-0975 Statement, CAR-OTP-2033-7885-R02, at 7889, para. 29.

³⁵⁴³ P-0975 Statement, CAR-OTP-2033-7885-R02, at 7890, para. 32.

³⁵⁴⁴ P-0975 Statement, CAR-OTP-2033-7885-R02, at 7890, para. 32.

³⁵⁴⁵ P-0975 Statement, CAR-OTP-2033-7885-R02, at 7890, para. 36.

³⁵⁴⁶ P-0975 Statement, CAR-OTP-2033-7885-R02, at 7890, para. 33.

³⁵⁴⁷ P-0975 Statement, CAR-OTP-2033-7885-R02, at 7890, para. 33.

³⁵⁴⁸ P-0975 Statement, CAR-OTP-2033-7885-R02, at 7890, para. 34.

³⁵⁴⁹ P-0975 Statement, CAR-OTP-2033-7885-R02, at 7890, para. 35.

1324. In a video, an individual identified as ‘Modibo’,³⁵⁵⁰ and who was present in Gobere,³⁵⁵¹ talks about his joining the Anti-Balaka in the bush, and walking from Bossangoa through the bush towards Bangui.³⁵⁵²

1325. Jacob Mokpem-Bionli, who was in Bangui during this time, had general information on the advance of the Anti-Balaka groups, stating that there were attacks in Bossangoa, Zere, Benzambe, and that certain ComZones played a crucial and strategic role in the fight for resistance, such as Florent Kema in Bossangoa, Ndangba, Alexis Mandago and Kossi in the Bossangoa region – further stating that all these ComZones had good relations and kept each other informed.³⁵⁵³ The witness also knew about there being attacks in Bouca, Ndjo, Bossembélé, Bogangolo and Damara.³⁵⁵⁴

1326. Jacob Mokpem-Bionli further explained that gradually the Anti-Balaka started organising themselves to come to Bangui walking up to 300 kilometres through the bush, some from across the river from Zongo.³⁵⁵⁵ The rest of the Anti-Balaka, including the witness, who had remained in Boy-Rabe [REDACTED] were in contact with the people coming from Bozoum and the provinces.³⁵⁵⁶ Jacob Mokpem-Bionli stated that the people from the provinces arrived first and information was given to the people from across the river Oubangui to join; he recalled that the leaders of the youth from the provinces were two brothers with last name ‘Ndangba’ from Bossangoa, the younger of the two a soldier; there was Yvon Konaté, a FACA who was close to François Bozizé and had gone to Bossangoa; there were also people from Ombella-M’Poko going towards Lobaye who were from the ‘forest area’.³⁵⁵⁷ The

³⁵⁵⁰ See P-1786: T-197, p. 52, lines 10-15 *referring to* Video, CAR-OTP-2065-2903, at 00:00:02; P-1521: T-081, p. 76, lines 3-25 *referring to* Video, CAR-OTP-2012-0523, at 00:38:24-00:39:10. The Chamber notes that while these witnesses commented on videos different to the video at issue in this instance, all three videos clearly depict the same individual. P-1521 confirmed that the full name of this person was ‘Nganafio Honore’ (see P-1521: T-081, p. 77, lines 1-2). See paragraphs 2475-2478 below.

³⁵⁵¹ See P-0966: T-116, p. 21, line 9 – p. 22, line 3, p. 22, line 22 – p. 23, line 5, p. 23, line 16 – p. 24, line 3, p. 29, line 16 – p. 30, line 2. See also List, CAR-OTP-2041-0783, at 0794.

³⁵⁵² Video, CAR-OTP-2065-2867; Transcript, CAR-OTP-2127-3746; Translation, CAR-OTP-2127-3658, at 2660, lines 4-38.

³⁵⁵³ P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0303, para. 96. See also P-2027 Statement, CAR-OTP-2078-0059-R03, at 0077, para. 105.

³⁵⁵⁴ P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0304, para. 100.

³⁵⁵⁵ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0055, para. 34.

³⁵⁵⁶ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0055, para. 34.

³⁵⁵⁷ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0055, para. 35; P-0992: T-092, p. 46, lines 11-18.

witness stated that ‘Rambo’ led the group from Ombella-M’Poko [REDACTED].³⁵⁵⁸ Jacob Mokpem-Bionli was in contact with [REDACTED].³⁵⁵⁹ The witness thought that the leader of the resistance in Bouca was Djim and that Batangafo must have been led by Andjilo.³⁵⁶⁰ Jacob Mokpem-Bionli was in permanent contact with Djim Adoum, ComZone in Bossangoa and part of those who discovered the traditional magic in Gobere; Djim was tasked with dispatching information.³⁵⁶¹

ii. Bossangoa and surroundings, including Bouca (Ouham prefecture)

1327. The Prosecution submits that by September 2013, the Anti-Balaka had become an organised armed group engaged in a sustained and intense armed conflict against the Seleka in western CAR.³⁵⁶² It submits that between ‘6-9 September 2013’, the Anti-Balaka attacked several villages in the Bossangoa area, including Bossangoa, Zere, Bowaye, Benzambé, and Bouca, targeting not only the Seleka but equally Muslim civilians whom they associated with the Seleka.³⁵⁶³ The Prosecution argues that Anti-Balaka ComZones like Thierry Lebene, Florent Kema, Ndangba, and Andjilo were among those that participated in the attacks, led by Dedane, who was Maxime Mokom’s deputy.³⁵⁶⁴

1328. The evidence as discussed further below shows that in early September 2013, Anti-Balaka groups launched several coordinated attacks in the surroundings of Bossangoa, followed by an attack against Bossangoa itself on 17 September 2013.

1329. As regards Mr Ngaïssona’s involvement, the Prosecution argues that he was in communication with the ‘Gobere chiefs’, including Dedane and was aware of Maxime Mokom’s coordinating role, directly and through Bernard Mokom.³⁵⁶⁵ It submits that Mr Ngaïssona provided funds, weapons and other supplies to the ‘Gobere group’.³⁵⁶⁶

³⁵⁵⁸ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0055, para. 36; P-0992: T-092, p. 50, lines 10-24.

³⁵⁵⁹ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0055, para. 36.

³⁵⁶⁰ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0055, para. 36.

³⁵⁶¹ P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0302-03, para. 95.

³⁵⁶² [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 132.

³⁵⁶³ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 133.

³⁵⁶⁴ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 134.

³⁵⁶⁵ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 135.

³⁵⁶⁶ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, paras 128-129, 135.

1330. The Ngaïssona Defence argues that Mr Ngaïssona had no role in funding the ‘Gobere group’ and that the evidence concerning Mr Ngaïssona’s provision of weapons and other supplies to this group is not convincing.³⁵⁶⁷

1331. In what follows, the Chamber has first assessed the Anti-Balaka organisation, strategy and movement, including the attacks in localities around Bossangoa and Bouca in September 2013, before turning to Mr Ngaïssona’s involvement with respect to these groups during this time.

a. Attacks in localities around Bossangoa and in Bouca in early September 2013

1332. In line with the strategy of attacking smaller locations in the Bossangoa area and Ouham prefecture more generally, as outlined above, the evidence further outlined below shows that in early September 2013, Anti-Balaka groups launched several coordinated attacks in the surroundings of Bossangoa, followed by an attack against Bossangoa itself on 17 September 2013.

1333. As set out below, witnesses specifically talked of attacks taking place simultaneously in several villages in the Bossangoa area, including in Bowaye,³⁵⁶⁸ Zere, Benzambé, Ouham-Bac and Koro-M’Poko.

1334. P-2453 mentioned simultaneous attacks on Bowaye, Zere, Benzambe, and Ouham-Bac on 6 September 2013, the first of which he was a victim to, the other two of which he heard about.³⁵⁶⁹ P-2453 also heard later at the ‘*École Liberté*’ in Bossangoa from people from Bowaye, Benzambé and Koro-M’Poko that attacks had occurred on the same day.³⁵⁷⁰ Similarly, P-2049 testified to attacks on Bowaye, Zere and Benzambé on 6 September 2013.³⁵⁷¹ P-2462 also heard from people at the *École de la Liberté* at Bossangoa who were from villages such as Zere, Benzambé, Ouham-Bac and Koro-M’Poko that they had fled

³⁵⁶⁷ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 491-497.

³⁵⁶⁸ The Chamber notes that the spelling of this location differs between ‘Bowaye’, ‘Bowai’, ‘Bowai’, and has used ‘Bowaye’ in its discussion.

³⁵⁶⁹ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0420, para. 27, at 0427, para. 54; P-2453: T-136, p. 77, line 25 – p. 78, line 2.

³⁵⁷⁰ P-2453: T-137, p. 31, lines 10-25.

³⁵⁷¹ P-2049: T-100, p. 34, line 15 – p. 36, line 4.

from the Anti-Balaka in September 2013.³⁵⁷² P-2453 heard that mainly Muslim civilians were killed in Bowaye, Zere and Benzambé,³⁵⁷³ and that after the attacks, Muslims did not stay in Zere and the Anti-Balaka controlled the town and location.³⁵⁷⁴ P-2200 heard that between August and October 2013, the Anti-Balaka attacked several villages in the Bossangoa area at the same time, on a Friday, killing numerous Muslims in each village, including Benzambé,³⁵⁷⁵ Boue, Zere, ‘Karamboko’, Sajo, ‘15Km’ and ‘Ouham-Bac 45Km’.³⁵⁷⁶

1335.P-2658 did not know of any other attacks by the Anti-Balaka in the Bossangoa area; he only received information relating to Bouca, Bowai and Bossangoa.³⁵⁷⁷ P-2658 thought the attacks in Bouca, Benzambé and Bowai were not conducted simultaneously, he heard about the attack in Bouca [REDACTED], but he did not know about the dates of the other attacks.³⁵⁷⁸

1336.Turning to the attacks, the Chamber notes that P-2602, [REDACTED] who was also in Gobere, stated that after they had trained the civilians in Gobere, divided into groups and agreed on groups attacking different locations, they attacked at the same time at 05:00, with [REDACTED] going to Benzambé centre, other groups going to Zere, Bowaye, Koro-M’Poko, Ouham-Bac, Bouca and Bossangoa.³⁵⁷⁹

³⁵⁷² P-2462: T-059, p. 31, line 9 – p. 32, line 17; T-060, p. 13, line 24 – p. 14, line 7.

³⁵⁷³ P-2453: T-136, p. 77, lines 5-24.

³⁵⁷⁴ P-2453: T-136, p. 78, lines 7-12.

³⁵⁷⁵ The Chamber notes that the witness mentioned ‘Bezembe’, referring to Benzambé, as he described it as the ‘native village of François Bozizé’.

³⁵⁷⁶ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2151, para. 27. *See also* HRW Report, CAR-OTP-2001-2043, at 2045.

³⁵⁷⁷ P-2658: T-135, p. 9, lines 22-25.

³⁵⁷⁸ P-2658: T-135, p. 62, line 7 – p. 63, line 18, p. 65, lines 1-8.

³⁵⁷⁹ P-2602 Interview Transcripts, CAR-OTP-2118-9525-R01, at 9532-34, lines 215-291; CAR-OTP-2118-9598-R01, at 9600, lines 44-58.

1337. As regards their objective, P-2602 stated that they were to chase away the ‘mercenaries’; ‘[i]f they kill a member of your family and you get angry, you join us’.³⁵⁸⁰ They knew the ‘mercenaries’ were in Kabo, Batangafo, Kambakota and others.³⁵⁸¹

1338. As regards which sub-group was attacking these locations, the Chamber received evidence from P-2658, who was in Dedane’s group at the time, and from P-2602 who was in close communication with Dedane at the time.

1339. P-2658 testified that when Dedane returned from Bossangoa, around four months after the Seleka arrived there, he divided the Anti-Balaka into three groups; one group composed of Dedane would lead the attack on Bossangoa and asked ‘12 Puissances’ and Dangba was to remain with him;³⁵⁸² another group led by Andjilo was to go to Bouca and attack;³⁵⁸³ and a third group led by [REDACTED] a civilian, was designated to attack Bowai.³⁵⁸⁴ P-2658 recalled that Dedane insisted that the attack should start at the same time.³⁵⁸⁵ The latter two groups went to their destinations two days after this meeting led by Dedane,³⁵⁸⁶ and Dedane’s group did not attack any other locality before that, they had stayed in Gobere.³⁵⁸⁷

1340. P-2602 stated that the Zere attack was led by Mokpem who was together with ‘KPA’; the attack on Bouca was led by Andjilo; [REDACTED] led the Benzambé attack with Maurice called ‘MBA’; Bowaye was led by Dieudonne Horounti, Kema and Fekouma; Ouham-Bac was led by Mandago Alexis.³⁵⁸⁸ He further stated that only those who attacked Bouca withdrew and took over the town the next day, because at that time the leader of the group was not a military; the other groups were successful on the same day; they had the same

³⁵⁸⁰ P-2602 Interview Transcript, CAR-OTP-2118-9641-R01, at 9651-52, lines 331-354.

³⁵⁸¹ P-2602 Interview Transcript, CAR-OTP-2118-9641-R01, at 9654, lines 433-438. The Chamber notes in this regard that P-2602 insisted that the date of these coordinated attacks around Bossangoa was on 6 October 2013, a Friday, implying that Zere and Ouham-Bac were also attacked a month prior by former self-defence groups (see P-2602 Interview Transcripts, CAR-OTP-2118-9598-R01, at 9599, lines 5-11; CAR-OTP-2118-9617-R01, at 9634, lines 557-573; CAR-OTP-2118-9714-R01, at 9720-22, lines 197-274). In light of the other evidence as described above and below, the Chamber considers the witness to be mistaken in the month, as he clearly described coordinated attacks of the same nature as those described by other witnesses who consistently placed such attacks in September 2013, and further mentioned the attacks having taken place on a Friday.

³⁵⁸² P-2658 Statement, CAR-OTP-2126-0012-R02, at 0028, para. 105. See also P-2658: T-135, p. 9, lines 15-21.

³⁵⁸³ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0028, para. 105.

³⁵⁸⁴ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0028, para. 105; P-2658: T-135, p. 7, line 17 – p. 8, line 6.

³⁵⁸⁵ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0028, para. 105.

³⁵⁸⁶ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0028, para. 105.

³⁵⁸⁷ P-2658: T-135, p. 9, lines 15-21.

³⁵⁸⁸ P-2602 Interview Transcript, CAR-OTP-2118-9617-R01, at 9635-38, lines 602-704.

tactics because the various military in the groups received the same training and had the capacity to take over the towns.³⁵⁸⁹

1341. Jo-Brice Ouabiro Dana recalled that the selection of the chiefs of these groups was done according to the origin of each chief because they knew their regions.³⁵⁹⁰

1342. A statement seemingly issued by the CAR government on 11 September 2013 mentions that Beboura, Bohong and Ngaoundaye in the Ouham-Pendé prefecture and Bossangoa, Bouca, Benzambe, Lere and ‘Bowaie’ in the Ouham prefecture were theatre of violent clashes between Seleka elements and ‘gangs’ presented either as ‘archers’, as Anti-Balaka organised in self-defence groups, or as supporters of François Bozizé, leading to the death of Muslim families, houses and granaries burnt, and civilian population fleeing to the bush.³⁵⁹¹ The CAR Panel concluded in its 2014 interim report that a group of Anti-Balaka carried out the military offensive on the front line in the area of Benzambé, in particular in Bouca, alongside a group commanded by Andjilo Ngaïbona alias ‘Angelo’, and in Dékoa, with reinforcements from Bozoum and Bossembélé, clashing on a regular basis with the forces of Alkhatim Mahamat, appointed in Ndélé as deputy chief of staff of the ‘new’ Seleka.³⁵⁹²

³⁵⁸⁹ P-2602 Interview Transcript, CAR-OTP-2118-9525-R01, at 9534, lines 295-310.

³⁵⁹⁰ P-0966: T-117, p. 41, lines 2-13. *See also* P-0889 Interview Transcript, CAR-OTP-2122-7626-R02, at 7629, lines 85-113 (the witness stated that Ngaïbona Rodrigue aka ‘general’ Andjilo, from Batangafo, liberated Batangafo and Bouca from the Seleka, then advancing further towards Bangui); P-2269 Statement, CAR-OTP-2111-0336-R01, at 0344, para. 64 (the witness stated that he did not participate in the attack on Bouca, that was Andjilo); P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1063, para. 32 (the witness described that after the attack at Ouham-Bac, the movement from Bossangoa kept progressing, with military from Bangui joining them, they progressed to Bouca, Sibut and Bokangolo).

³⁵⁹¹ *See* Statement, CAR-OTP-2100-1790, at 1791.

³⁵⁹² Annex 5 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0877, para. 9. The Chamber also notes in this regard the testimony of P-1577, who travelled to Benzambé, Ouham-Bac and Zere on [REDACTED] November 2013, with members of the Anti-Balaka he encountered on these trips claiming to him that the people living in Ouham-Bac and Zere had helped the Seleka identify non-Muslim neighbourhoods and villages (*see* P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0773, para. 18, at 0775, para. 27, at 0778, para. 36). [REDACTED] pictures in Zere which show burnt and seemingly abandoned structures, including the burnt remains of a Catholic church following a series of attacks over several months, and of a damaged structure identified to P-1577 as the mosque of Zere (*see* Photograph, CAR-OTP-2085-0741; Metadata, CAR-OTP-2085-0742; CAR-OTP-2085-2433; Photograph, CAR-OTP-2085-0751; Metadata, CAR-OTP-2085-0752; CAR-OTP-2085-2436; Photograph, CAR-OTP-2085-0761; Metadata, CAR-OTP-2085-0762; CAR-OTP-2085-2439; Photograph, CAR-OTP-2085-0771; Metadata, CAR-OTP-2085-0772; CAR-OTP-2085-2442; Photograph, CAR-OTP-2085-0781; Metadata, CAR-OTP-2085-0782; CAR-OTP-2085-2445; Photograph, CAR-OTP-2085-0791; Metadata, CAR-OTP-2085-0792; CAR-OTP-2085-2448; Photograph, CAR-OTP-2085-0801; Metadata, CAR-OTP-2085-0802; CAR-OTP-2085-2453; Photograph, CAR-OTP-2085-0811; Metadata, CAR-OTP-2085-0812; CAR-OTP-2085-2458; Photograph, CAR-OTP-2085-0821;

1343. In the following, the Chamber outlines the attacks on various locations in the wider Bossangoa area, and related movements of different Anti-Balaka groups that were coordinating their activities.

i. Bowaye

1344. Turning first to Bowaye, the Chamber heard from P-2453, P-2658 and P-2049, as set out below, who spoke about an attack taking place there on 6 September 2013 and provided details about two vehicles that were looted by the Anti-Balaka on their way to Bowaye. P-2453, a civilian, was in one of these vehicles with others travelling on Thursday, 5 September 2013, to a weekly Saturday market. From what P-2658 described, he appeared to have himself been in the Anti-Balaka group that attacked the vehicles. P-2049, on the other hand, provided evidence about what he heard from the victims who had been traveling in the second vehicle.

1345. P-2453 stated that the vehicle he was in was fired at when crossing a large group of people with weapons and a man with a traditional rifle and *gris-gris* tried to stop the vehicle [REDACTED].³⁵⁹³ [REDACTED] P-2453 saw the group, which he later learned were the Anti-Balaka, some in civilian clothes and others in a mixture of military and civilian clothes, taking all goods from the vehicle, after which they went back in the direction of Bowaye.³⁵⁹⁴ P-2453 and a female passenger on the vehicle, [REDACTED] who was wearing a Muslim attire, were eventually found by a group of seven Anti-Balaka, armed with traditional rifles and machetes, also called ‘balaka’, and asked if P-2453 was a Muslim; these Anti-Balaka

Metadata, CAR-OTP-2085-0822; CAR-OTP-2085-2461; Photograph, CAR-OTP-2085-0831; Metadata, CAR-OTP-2085-0832; CAR-OTP-2085-2464; Photograph, CAR-OTP-2085-0841; Metadata, CAR-OTP-2085-0842; CAR-OTP-2085-2467; Photograph, CAR-OTP-2085-0851; Metadata, CAR-OTP-2085-0852; CAR-OTP-2085-2470; Photograph, CAR-OTP-2085-0861; Metadata, CAR-OTP-2085-0862; CAR-OTP-2085-2475; Photograph, CAR-OTP-2085-0871; Metadata, CAR-OTP-2085-0872; CAR-OTP-2085-2478; Photograph, CAR-OTP-2085-0881; Metadata, CAR-OTP-2085-0882; CAR-OTP-2085-2483; Photograph, CAR-OTP-2085-0891; Metadata, CAR-OTP-2085-0892; CAR-OTP-2085-2486; Photograph, CAR-OTP-2085-0901; Metadata, CAR-OTP-2085-0902; CAR-OTP-2085-2491; Photograph, CAR-OTP-2085-0911; Metadata, CAR-OTP-2085-0912; CAR-OTP-2085-2496; Photograph, CAR-OTP-2085-0921; Metadata, CAR-OTP-2085-0922; CAR-OTP-2085-2499; Photograph, CAR-OTP-2085-0931; Metadata, CAR-OTP-2085-0932; CAR-OTP-2085-2502; Photograph, CAR-OTP-2085-0941; Metadata, CAR-OTP-2085-0942; CAR-OTP-2085-2507).

³⁵⁹³ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0420, paras 27-28, at 0421, para. 32; P-2453: T-137, p. 37, line 12 – p. 39, line 8. The Chamber considers this not to be impaired by the otherwise unsupported claim of D30-4608, who thought it an ‘impossibility’ that weekly markets would have taken place north of Bossangoa in autumn of 2013 (see D30-4608: T-291, p. 48, line 24 – p. 49, line 3).

³⁵⁹⁴ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0421, para. 33; P-2453: T-137, p. 40, line 5 – p. 41, line 23.

checked P-2453's feet and ankles for prayer marks, following which the woman was taken to the bush; the Anti-Balaka undressed P-2453 to his underwear and tied his hands; and during a discussion among the Anti-Balaka, one of them said that '*Caporal* Florent K[ema]', their 'chief', had said that 'all Muslims had to be killed'.³⁵⁹⁵

1346. When P-2453 could not answer questions about the Seleka, he was beaten and fell unconscious; after some days, he was found by people in Muslim gowns who said that after the incident in Bowaye had been reported to the Seleka in Nana-Bakassa, the Seleka had sent to look for people who had fled, taking P-2453 with them.³⁵⁹⁶ P-2453 heard that the other vehicle travelling with them was attacked in Bowaye and that the Seleka found the bodies of all male Muslims passengers, and he later confirmed with the families in Bossangoa that [REDACTED] all Muslim civilians, not involved with the Seleka and not armed that day – were killed.³⁵⁹⁷ P-2453 stated that local Muslims in Bowaye fled when they heard of the attack on these vehicles; P-2453 later heard from another woman that the Anti-Balaka forced [REDACTED] into sexual intercourse.³⁵⁹⁸

1347. In turn, P-2658 was in the Anti-Balaka group that was to attack Bowäi (Bowaye) [REDACTED].³⁵⁹⁹ P-2658 said that Bowäi is not far from Bossangoa and Dedane said to his elements that after attacking there, the elements should continue to Bossangoa.³⁶⁰⁰ P-2658 saw two trucks that had been attacked in Bowäi and in Kaboro, just before Bowäi,³⁶⁰¹ and some of the village inhabitants told Dedane that five people were killed in the first truck and that some Muslims and Seleka elements buried the bodies at the site of the attack.³⁶⁰² The same villagers from Kaboro told them that another truck was attacked by the Anti-Balaka which then retreated after they encountered the Seleka of Bowäi, and that [REDACTED] were captured by the Anti-Balaka but the passengers fled; they also said that later the Seleka

³⁵⁹⁵ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0422, paras 34-36; P-2453: T-137, p. 44, line 18 – p. 46, line 25.

³⁵⁹⁶ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0422-23, paras 35-37; P-2453: T-137, p. 44, line 18 – p. 45, line 16, p. 46, lines 3-25; T-138, p. 3, line 24 – p. 4, line 19.

³⁵⁹⁷ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0423, paras 38-39; P-2453: T-138, p. 4, line 22 – p. 5, line 25.

³⁵⁹⁸ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0424, paras 40-41.

³⁵⁹⁹ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0028, para. 106; P-2658: T-135, p. 7, line 25 – p. 8, line 10.

³⁶⁰⁰ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0029, para. 108.

³⁶⁰¹ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0029, para. 108.

³⁶⁰² P-2658 Statement, CAR-OTP-2126-0012-R02, at 0029, para. 109.

took the truck to Nana-Bakassa.³⁶⁰³ P-2658's group took goods and some engine oil, diesel fuel from the truck which Dedane said they would use to clean their guns.³⁶⁰⁴ They heard that the Anti-Balaka that went to Bowai continued to Ndorombouli, hence Dedane [REDACTED] returned to about 17 kilometres from Bossangoa where Dedane had positioned his elements.³⁶⁰⁵

1348. P-2049 heard from two women who were passengers that in the second of two vehicles that left Bossangoa for Bowaye for the weekly market, some were killed.³⁶⁰⁶ According to P-2049, Kema Florent known as 'Kema Kema' was in Bowaye, supervising the attacks on the ground.³⁶⁰⁷

1349. In light of the above, the Chamber finds that Bowaye was attacked on 6 September 2013 by an Anti-Balaka group on Dedane's instructions.

ii. Zere

1350. Moving further to Zere, the Chamber heard from P-2658, P-2049, D30-4608, and P-0475, as set out below, who spoke about an attack taking place there shortly after the attack on Bowaye in September 2013. As regards their respective sources of information, the Chamber notes that P-2658 was with Dedane in the Anti-Balaka group that participated in the events at Zere; whereas P-2049 was noting down information being reported to him at the time, including by people who had displaced from Zere to Bossangoa.

1351. P-2658 described how at some point after the events in Bowaye, the Anti-Balaka clashed with the Seleka somewhere in the bush near Bossangoa, leading to some Seleka and Anti-Balaka members being killed.³⁶⁰⁸

1352. P-2049 had information on the following persons being killed in Zere: Abdoulaye Abakar, Koursi Mamat, Djouli Djibrila with wife Mariam Babari and six children, Malam Djouli,

³⁶⁰³ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0029, para. 110.

³⁶⁰⁴ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0029, para. 111; P-2658 Corrections, CAR-OTP-2135-3476-R01, at 3485, para. 111; P-2658: T-134, p. 49, lines 6-8.

³⁶⁰⁵ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0029-30, para. 112.

³⁶⁰⁶ P-2049: T-100, p. 34, line 15 – p. 35, line 14, p. 43, lines 19-25, p. 44, lines 13-21.

³⁶⁰⁷ P-2049: T-100, p. 45, lines 6-16.

³⁶⁰⁸ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0030-31, paras 113-115.

Bouba Bouson ‘and children’, Issa Amadou, Bouba Gaye ‘and children’, Halidou Bouba and Mana Bouba, Amat Ali, Amat Bore, Youssoufa Bouba, Saleh Bouba, Adamou and Zenabou.³⁶⁰⁹ P-2049 heard from the wife of Bouba Gaye that people leading the attack included Djibert Cauchon, and he also heard of Andjilo, Claude Zamolengue, Simon, Eva, Enock alias Langa, Eric, Damsio, Simon, Bodayo.³⁶¹⁰ P-2049 did not see all the 90 people that were said to have been killed, but this concerned civilians; while the clashes were between the Anti-Balaka and the Seleka, those casualties that he heard about did not concern the Anti-Balaka and Seleka combatants.³⁶¹¹ As regards the source of his information, the Chamber notes that, for the various events, P-2049 testified that the information reported by individuals that came to see the imam was noted down.³⁶¹² Based on what the ‘displaced’ people from Zere who went to Bossangoa said, the Seleka had set up their base at the Zere school, and the Anti-Balaka had chased them out and captured Zere.³⁶¹³

³⁶⁰⁹ P-2049: T-100, p. 35, line 23 – p. 36, line 4, p. 37, line 17, p. 39, line 9 – p. 40, line 12. The Chamber does not consider this information to be diminished by Screening note, CAR-OTP-2078-0132-R01, at 0134, or Compilation, CAR-OTP-2088-1673-R01, at 1704, which suggest that there were less than 10 victims during this attack (see P-2049: T-102, p. 33, line 2 – p. 36, line 6). The first provides information of an individual that also does not seem to have been in Zere at the time of the attack, without providing a source for the information, while the second is a compilation of anonymous ‘statements’, with the specific ‘statement’ in question not providing any source for the information and in fact being unclear on whether it even relates to the same event. P-2049, due to [REDACTED], as well as talking to individuals at the *École de la Liberté*, had more immediate, even if still indirect, information on the victims of the attack. Similarly, the Chamber does not consider the information impacted by the suggestion that a video, which is not available to the Chamber and that according to P-2049 shows the burning of Djouli Djibrila, would have been taken in March 2011 (see T-102, p. 40, lines 6-17; [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 318, n. 1113 referring to Metadata, CAR-D30-0008-0087). Indeed, P-2049 made clear that he did not record the video but received it from someone else, that he knows Djouli, visible on that video and burned on the street during the events in Zere, and that at the time of his testimony, he was in [REDACTED] (see P-2049: T-102, p. 38, line 8 – p. 42, line 7). The Chamber similarly cannot conclude whether the event described in Report, CAR-OTP-2110-0915, at 0920, para. 31 is the same as that depicted on video, as the identity of the victim supposedly shown on the video described is redacted and identified by persons as imam or village head. In relation to the latter report, the Chamber further notes that the Defence argued lack of relevance and probative value in a different context (see Annex 1 to Defence Response to the Prosecution’s “Request for the Submission of Evidence from the Bar Table regarding the Prevalence of Sexual and Gender Based Violence”, ICC-01/14-01/18-1278-Conf-Anx1, pp. 74-75; Annex A to Yekatom Defence Response to the Prosecution’s “Request for the Submission of Evidence from the Bar Table regarding the Prevalence of Sexual and Gender Based Violence”, 4 January 2022, ICC-01/14-01/18-1233, ICC-01/14-01/18-1279-Conf-AnxA, pp. 20-21). As the Chamber has only examined this report in the context of specific witness testimony, and not relied on it in the context of its evidentiary analysis, the Chamber does not consider necessary to address these arguments further.

³⁶¹⁰ P-2049: T-100, p. 51, line 11 – p. 52, line 10.

³⁶¹¹ P-2049: T-100, p. 39, line 9 – p. 40, line 12.

³⁶¹² P-2049: T-100, p. 42, line 18 – p. 43, line 15. See also P-2200 Statement, CAR-OTP-2088-2146-R04, at 2151, para. 27 (the witness heard that in Zere, the Anti-Balaka killed about 70 Mbororo, including children, that they had locked into a house which they set on fire; two women, [REDACTED] both married to [REDACTED] who died during the attack, survived); HRW Report, CAR-OTP-2001-2043, at 2052-54.

³⁶¹³ P-2049: T-102, p. 31, line 21 – p. 32, line 17.

1353. In light of this evidence, including from witnesses within the Anti-Balaka participating in the advance and in attacks, the Chamber considers irrelevant that there may also have been retaliatory actions by Seleka forces.³⁶¹⁴ Similarly, the above evidence is not negated by D30-4608's testimony that he would not have heard of Muslim victims in Zere.³⁶¹⁵ The Chamber notes in this regard in particular that P-0475 seems to have mentioned the same visit to Zere as D30-4608,³⁶¹⁶ with P-0475 describing it as an attempt to persuade the young people to put down their weapons, during which [REDACTED] people who were adamant and determined about going to Bangui, taking over governmental power and wanting to overthrow the Seleka.³⁶¹⁷ According to P-0475, there was tension because of [REDACTED] being Muslim.³⁶¹⁸

1354. Having regard to the above, the Chamber finds that the Anti-Balaka clashed with the Seleka in Zere resulting in deaths of Muslim civilians.

iii. Bouca

1355. Turning to the attack on Bouca, the Chamber heard from Jo-Brice Ouabiro Dana, P-2658, P-2041, P-2251 and P-0306, as set out below, who spoke about an attack taking place there in early September 2013. As regards their respective sources of information, the Chamber notes that Jo-Brice Ouabiro Dana was in Gobere when Andjilo's group was sent to attack Bouca; P-0306 and P-2251 were in the Anti-Balaka group that attacked Bouca. It further notes that P-2658, as stated above, was in Dedane's group at the time observing Dedane and Andjilo communicating regularly about their respective locations and needs for materiel. P-2041 received information on the Muslim victims of the attack from [REDACTED].

³⁶¹⁴ See Press article, CAR-OTP-2074-0399, at 0409; Press article, CAR-OTP-2079-1940, at 1941.

³⁶¹⁵ D30-4608: T-291, p. 46, line 21 – p. 47, line 4.

³⁶¹⁶ D30-4608 Statement, CAR-D30-0017-0004-R01, at 0012, para. 57; D30-4608: T-291, p. 44, line 16 – p. 45, line 13, p. 47, line 13 – p. 48, line 16. See also Photograph, CAR-OTP-2073-0107; Media article, CAR-OTP-2079-1940, at 1941.

³⁶¹⁷ P-0475 Statement, CAR-OTP-2104-0116-R03, at 0119, para. 23, at 0120, para. 24, at 0130, para. 114, at 0130-0131, paras 116-118, 121; P-0475: T-090, p. 27, lines 6-10; T-091, p. 39, line 23 – p. 40, line 23, p. 41, line 22 – p. 42, line 7, p. 44, lines 16-25. P-0475 identified these individuals in Photograph, CAR-OTP-2073-0107 (see P-0475: T-091, p. 50, lines 1 – p. 51, line 20, p. 52, line 14 – p. 53, line 5). Commenting on Photograph, CAR-OTP-2073-0097, P-0475 drew a distinction with individuals who, according to him, were civilians, not soldiers (see P-0475: T-091, p. 53, lines 10-21). See also P-2049: T-103, p. 78, line 5 – p. 79, line 17; P-2657: T-105, p. 34, line 17 – p. 36, line 5 (commenting on Photographs, CAR-OTP-2073-0097; CAR-OTP-2073-0107).

³⁶¹⁸ P-0475 Statement, CAR-OTP-2104-0116-R03, at 0131, para. 120.

1356. Jo-Brice Ouabiro Dana said that a company led by Andjilo was the first to leave Gobere and sent to attack Bouca.³⁶¹⁹ Andjilo was selected for Bouca because it was his locality and he knew the area, had men with whom he came from Bouca.³⁶²⁰

1357. P-2658 recalled that the attack on Bouca took place at a different time than the attack on Bowai (Bowaye).³⁶²¹ P-2658 said that [REDACTED] Dedane were there when people attacked Bowai, and did not find the Anti-Balaka group that had attacked Bowai; it was two or three days after they returned that Andjilo called Dedane to say that they had attacked Bouca.³⁶²² P-2658 recalled that Dedane had called Andjilo, telling him to hurry up and attack Bouca; Dedane and Andjilo communicated regularly, and Andjilo said he was waiting for reinforcements and ammunition before attacking Bouca.³⁶²³

1358. P-0306 testified that while in [REDACTED], [REDACTED] was not in contact with Mr Ngaïssona, at the time [REDACTED] did not know what a telephone was.³⁶²⁴ P-0306 stated that [REDACTED], he did not see the Seleka attack.³⁶²⁵

1359. The Chamber notes that also P-2251 provided details on how the Bouca attack unfolded, stating that after retreating from Bossangoa, everyone went to attack Bouca, and they were instructed to do the same thing there, to ‘shout loudly to drive the Seleka out’.³⁶²⁶ P-2251 stated that they retreated when the Seleka shot at them, were joined by many others, and attacked Bouca a second time one day later, this time successfully going into the town centre.³⁶²⁷ In Bouca, P-2251’s chief had also been part of the attack on Bossangoa.³⁶²⁸ P-2251 recalled that some Anti-Balaka members died during the attack but did not know if any

³⁶¹⁹ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0248, para. 42; P-0966: T-116, p. 52, line 15 – p. 53, line 2.

³⁶²⁰ P-0966: T-117, p. 41, lines 2-13. *See also* P-0889 Interview Transcript, CAR-OTP-2122-7626-R02, at 7629, lines 85-113 (the witness stated that Ngaïbona Rodrigue aka ‘general’ Andjilo, from Batangafo, liberated Batangafo and Bouca from the Seleka, then advancing further towards Bangui); P-2269 Statement, CAR-OTP-2111-0336-R01, at 0344, para. 64 (the witness stated that he did not participate in the attack on Bouca, that was Andjilo); P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1063, para. 32 (the witness described that after the attack at Ouham-Bac, the movement from Bossangoa kept progressing, with military from Bangui joining them, they progressed to Bouca, Sibut and Bokangolo).

³⁶²¹ P-2658: T-135, p. 8, lines 18-20.

³⁶²² P-2658: T-135, p. 8, line 21 – p. 9, line 14, p. 61, lines 2-9.

³⁶²³ P-2658: T-134, p. 23, line 16 – p. 24, line 1.

³⁶²⁴ P-0306: T-064, p. 52, lines 1-22.

³⁶²⁵ P-0306: T-068, p. 62, line 24 – p. 63, line 20.

³⁶²⁶ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0053, para. 52.

³⁶²⁷ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0053-54, paras 53-54.

³⁶²⁸ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0054, para. 57.

Seleka died.³⁶²⁹ In this regard, the Chamber also notes that P-2251 stated not seeing any Muslims in Bouca and not knowing where they were.³⁶³⁰ Bearing in mind its credibility assessment of this witness,³⁶³¹ as well as the evidence outlined below indicating the presence of Muslim civilians during the attack, the Chamber has not relied on this part of P-2251's evidence. This is underscored by P-2251 himself stating that in places like Bossangoa, Bouca and Bogangolo, Muslims 'associated with' the Seleka were killed.³⁶³²

1360. P-2041 stated that he heard on 9 September 2013 from [REDACTED] that the Anti-Balaka were attacking Bouca, killing many Muslims and burning the houses.³⁶³³ He was told that before the attack there were rumours that the Anti-Balaka were 10 kilometres away in a village called Bambia, planning an attack on Bouca.³⁶³⁴

1361. As regards who was killed during the attack, P-2041 later learned from [REDACTED] that Amada Maloum, Touradjo Issa, Rabio Maloum, Hassan Issa, Saleh Mahamat and Rissala Hawa were killed during the attack.³⁶³⁵ [REDACTED] and his family were attacked by the Anti-Balaka at his camp in the bush in [REDACTED] west of Bouca) about [REDACTED] before the attack on Bouca, [REDACTED].³⁶³⁶

1362. As regards who led the attack, P-2041 also learnt from [REDACTED] three weeks after the attack on Bouca that Andjilo was the chief of the Anti-Balaka in Bouca.³⁶³⁷

1363. P-2041 added that approximately one month after the attack on Bouca, [REDACTED] fled, the herders went into the bush and others fled to Cameroon and Chad, because they feared for their lives at the hands of the Anti-Balaka – they told him that their neighbours had been killed and they were scared and wanted to leave as well.³⁶³⁸ P-2041 said that after the Muslims fled their houses and went to the town hall, where there were still some Seleka and

³⁶²⁹ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0054, para. 55.

³⁶³⁰ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0054, para. 56; P-2251: T-043, p. 23, lines 9-19, p. 24, lines 13-25.

³⁶³¹ See paragraphs 403-414 above.

³⁶³² P-2251 Statement, CAR-OTP-2093-0045-R01, at 0056, para. 70.

³⁶³³ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0007, paras 25-27.

³⁶³⁴ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0007, para. 28.

³⁶³⁵ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0007, para. 29.

³⁶³⁶ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0007, para. 30.

³⁶³⁷ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0007, para. 31.

³⁶³⁸ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0007-08, para. 32.

it was the only protected place for Muslims, the Anti-Balaka destroyed the houses of the Muslims.³⁶³⁹ P-2041 heard on RFI about two weeks later that the Anti-Balaka also attacked Bossangoa, where they apparently attacked the Seleka and civilians.³⁶⁴⁰

1364. Michel Ningando, a Catholic priest in the Bossangoa region, who gathered information from those present in Bouca at the time, stated there were attacks in Bouca in October 2013,³⁶⁴¹ when the local Muslims attacked the local Christians and pointed out to the Seleka where in the bush ‘the Christians’ were hiding, following which the self-defence groups retaliated and attacked Bouca, but they were not strong enough and were ‘driven away’ by the Seleka.³⁶⁴² Michel Ningando recalled that the imam of Bouca was killed, the Seleka retaliated by attacking the surrounding villages, and people from Batangafo and other small villages on the route from Batangafo to Bouca gathered in the Catholic mission in Bouca.³⁶⁴³ When the witness arrived in Bouca, the Muslims had already fled to Batangafo and Kabo, and only the Christians were left in Bouca.³⁶⁴⁴ From the information he gathered, he sent a report according to which there were about 70 deaths in Bouca, ‘all Christians’.³⁶⁴⁵

1365. P-2673 confirmed in relation to an exchange on Facebook [REDACTED] that ‘*nos gars*’ who they heard had attacked Bouca were Anti-Balaka and worked for Mr Ngaïssona.³⁶⁴⁶ P-2673 stated that the Anti-Balaka in Bouar, Bossangoa, Bouca are people who worked together with Mr Ngaïssona.³⁶⁴⁷ P-2673 did not hear anything about weapons being provided to the Anti-Balaka; the military had hidden their weapons in the CAR to use on return; P-2673 heard this [REDACTED] from many Gbaya soldiers close to Bozizé.³⁶⁴⁸ P-2673

³⁶³⁹ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0007-08, paras 32-33.

³⁶⁴⁰ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0008, para. 34.

³⁶⁴¹ The Chamber notes that Michel Ningando recalled the events as having taken place in October 2013, which does not comport with the fact that other witnesses recall the Bouca attack having taken place in September 2013. The Chamber further notes that the witness received information from people who were present in Bouca at the time and that he himself did not claim to have firsthand information about the Bouca attack. Bearing this in mind, the Chamber does not consider that this witness’s recollection of these events taking in place October 2013 to be a material inconsistency.

³⁶⁴² P-2652 Statement, CAR-OTP-2126-0175-R01, at 0184, para. 47.

³⁶⁴³ P-2652 Statement, CAR-OTP-2126-0175-R01, at 0184, para. 47.

³⁶⁴⁴ P-2652 Statement, CAR-OTP-2126-0175-R01, at 0184, para. 48.

³⁶⁴⁵ P-2652 Statement, CAR-OTP-2126-0175-R01, at 0184, para. 48.

³⁶⁴⁶ P-2673: T-041-ENG, p. 12, lines 11-25, p. 13, lines 22-24 referring to Facebook messages, CAR-OTP-2100-3030, at 3031; P-2673: T-041-FRA, p. 12, lines 9-26, p. 13, lines 18-20. See also Facebook messages, CAR-OTP-2102-5143, at 5148.

³⁶⁴⁷ P-2673: T-041, p. 14, line 24 – p. 15, line 5.

³⁶⁴⁸ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6453-54, para. 120.

confirmed that he never saw Mr Ngaïssona distributing any weapon, ammunition or Thuraya, but he ‘knew’ that the information received was true.³⁶⁴⁹

1366. The Chamber notes that a press article on ‘afriquenewsinfo.wordpress.com’, dated 9 September 2013, open source Radio Ndeke Luka that mentioned that Guy Simplicie Kodégué, spokesperson of presidency, had said that Lin Banoukepa, spokesperson of François Bozizé in Paris, Joachim Kokaté and Lévy Yakité all claimed (‘*revendiqué*’) the attack on Bouca.³⁶⁵⁰ The Chamber recalls that Lin Banoukepa was executive director of FROCCA at the time.³⁶⁵¹ Joachim Kokaté, when asked about this article, preferred not to answer the question whether he remembered making a claim, either in the name of the Anti-Balaka or his own, in respect of the attacks carried out by the Anti-Balaka on Bossangoa and Bouca on 9 September 2013.³⁶⁵²

1367. Having regard to the above, the Chamber finds that the Anti-Balaka attacked Bouca on 9 September 2013 resulting in the killing of the Imam of Bouca and other Muslim civilians, resulting in the Muslim population fleeing their houses to other villages, and to neighbouring countries. The clashes between the Anti-Balaka and the Seleka also led to the death of Christian inhabitants of Bouca.

iv. Benzambé

1368. Considering further the events in Benzambé, the Chamber heard from P-2602, Jo-Brice Ouabiro Dana, P-2049, Nestor Wiabona, D30-4608, P-1577 and V44-0001, as set out below, who spoke about an attack taking place there in early September 2013. The Chamber notes that P-2602 and Jo-Brice Ouabiro Dana were part of the Anti-Balaka group that attacked Benzambé, whereas P-2049 and D30-4608 received information from direct victims of the attack. Nestor Wiabona was present in Benzambé during the attack. P-1577 [REDACTED] to Benzambé in November 2013.

³⁶⁴⁹ P-2673: T-042, p. 40, lines 16-19.

³⁶⁵⁰ Press article, CAR-OTP-2091-1725, at 1725. *See also* Press articles, CAR-OTP-2122-9926; CAR-OTP-2061-1428.

³⁶⁵¹ *See* section IV.A.3 above.

³⁶⁵² P-0801: T-035, p. 9, line 3 – p. 11, line 6. *See also* T-035, p. 29, lines 7-10.

1369.P-2602 stated that in Benzambé, the Seleka were ‘bothering the population’, killing, taking things, burning houses; they chased them away and progressed to go to Bossangoa, that was the plan for the others as well because they were to chase all of them to Bossangoa centre.³⁶⁵³ Some stayed in Bossangoa, others from the Anti-Balaka group progressed following the Seleka towards Bangui.³⁶⁵⁴

1370.Jo-Brice Ouabiro Dana stated that his company was composed of 715 elements at the time they attacked Benzambé; 67 of his original men were sent to Gbozo; the witness kept 10 with him and they joined another group which moved to Benzambé.³⁶⁵⁵ Jo-Brice Ouabiro Dana testified that when attacking Benzambé, they sent trade girls to warn those in the village who were not Seleka to go to the bush before the attack; and provided further details of the attack.³⁶⁵⁶ In time, the witness placed the attack on Benzambé before the first attack on Bossangoa that took place in September 2013.³⁶⁵⁷

1371.Jo-Brice Ouabiro Dana confirmed that the Anti-Balaka ‘spared’ the imam who had defended the Christians and opposed the Seleka actions, and handed him over to the priest in Bossangoa to show that they were targeting the Seleka, not Muslim populations.³⁶⁵⁸ The witness insisted that the imam was not killed.³⁶⁵⁹ Jo-Brice Ouabiro Dana considered that they had a very strict chief, Ndangba, and no element of his stole or took anything, no child, woman was killed, and the target were the Seleka elements.³⁶⁶⁰ According to the witness, in the group that attacked Benzambé, there were Danboy, Nabozina, Delmas, Bad Boy.³⁶⁶¹

³⁶⁵³ P-2602 Interview Transcript, CAR-OTP-2118-9525-R01, at 9534-35, lines 311-333.

³⁶⁵⁴ P-2602 Interview Transcript, CAR-OTP-2118-9525-R01, at 9535-36, lines 336-343.

³⁶⁵⁵ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0249, para. 43.

³⁶⁵⁶ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0250, para. 49; P-0966: T-117, p. 44, line 17 – p. 45, line 7.

³⁶⁵⁷ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0250, para. 54.

³⁶⁵⁸ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0250, para. 50; P-0966: T-117, p. 45, lines 8-23. P-2602 stated that they captured the Imam and his family, and sent for the bishop to collect him (see P-2602 Interview Transcript, CAR-OTP-2118-9737-R01, at 9751-54, lines 471-572). See also D30-4953 Statement, CAR-D30-0026-0001-R01, at 0004, para. 32.

³⁶⁵⁹ P-0966: T-117, p. 45, line 8 – p. 47, line 1.

³⁶⁶⁰ P-0966: T-117, p. 47, line 2 – p. 48, line 17.

³⁶⁶¹ P-0966: T-117, p. 47, line 2 – p. 48, line 17.

1372. Jo-Brice Ouabiro Dana said that when they attacked Benzambé, they had to attack Ouham-Bac on the same day, if they had left the locality, the Seleka would have come back immediately and attacked them.³⁶⁶²

1373. P-2049 stated that the victims in Benzambé included Defala Bourham, Bashir, Abdelkarim aka Shacks, Yaya Zakaria, Abou Khiress (village head), Deré ‘with wife and children’, Bashru ‘with wife and children’, Yaya Djito, Ibrahim Adey, Aladi Mahamat, Naga Adamou, Douka and his children Doya Douka and Harouna Douka, Dolé ‘with wife and children’, Salma Idrissa and nine children (between 32 and 4 years old), Mariam Adamou and children Adamou Seidou, Kartouma Seidou, Ashta Seidou, Mahamat Zain Seidou, Amadou Seidou.³⁶⁶³ P-2049 said that he spoke to two people, Machoutou Djabire and Deré Seidou, who escaped and saw their wives and children being killed.³⁶⁶⁴ P-2049 clarified that Deré Seidou’s wife and children were not killed in Benzambé centre, they were fleeing towards Bossangoa when they were attacked.³⁶⁶⁵ P-2049 also said that it was Dedane that supervised the Benzambé attack.³⁶⁶⁶

1374. The Chamber notes in this regard that Nestor Wiabona stated that (i) Abou Khiress was ‘with the Seleka’ and not killed during the attack;³⁶⁶⁷ (ii) he saw Zakaria participate in the attack with a weapon, firing, fleeing and not dying;³⁶⁶⁸ and (iii) the following individuals did not die during the attack: Ibrahim Adey (in Chad, child still in Benzambé), Aladjji (in Chad), Yaya Djito (in Bossangoa), Naga Adamou, Salma Idrissa and Harouna Douka (in Bossangoa; were not in Benzambé during attack), Joël Feissonangai aka Dolé (seeing him in daily life), Seidou Deré (sold weapons) and wife Mariame Adamou (killed in Bongame while carrying a weapon by local youth because she had said that Christians would be the slaves of Muslims).³⁶⁶⁹ The Chamber further notes that P-2049 insisted that (i) Abou Khiress did not

³⁶⁶² P-0966: T-116, p. 38, lines 1-8.

³⁶⁶³ P-2049: T-100, p. 35, lines 15-22, p. 40, line 13 – p. 42, line 4.

³⁶⁶⁴ P-2049: T-100, p. 35, lines 15-22, p. 40, line 13 – p. 42, line 4.

³⁶⁶⁵ P-2049: T-100, p. 43, line 19 – p. 44, line 5.

³⁶⁶⁶ P-2049: T-100, p. 45, lines 17-23.

³⁶⁶⁷ D30-4953 Statement, CAR-D30-0026-0001-R01, at 0004, para. 27, at 0005, para. 41.

³⁶⁶⁸ D30-4953 Statement, CAR-D30-0026-0001-R01, at 0004, para. 29, at 0005, para. 42.

³⁶⁶⁹ D30-4953 Statement, CAR-D30-0026-0001-R01, at 0005-06, paras 40-47.

die in Chad in 2004;³⁶⁷⁰ (ii) Yaya Zakaria did die during the attack;³⁶⁷¹ (iii) other information on Defala Bourham, Abdelkarim Sair, Aladi Mahamat, Dolé and ‘wife and children’ not dying during this attack was incorrect.³⁶⁷² The Chamber notes that the source of Nestor Wiabona’s information is unclear, whereas P-2049 specified how he received information on victims of various attacks. Therefore, the Chamber considers P-2049’s evidence on victims killed during the attacks mentioned that he heard about from others, as reliable, while it considers Nestor Wiabona’s evidence insufficient to refute it.

1375. Nestor Wiabona stated that the Anti-Balaka entered Benzambé in September 2013 because they had heard from youth in the town, some of whom understood Arabic, that the Seleka were planning to barricade people (‘us’) in their houses and burn them in the night of 5 September 2013.³⁶⁷³ The witness stated that the attack by the Anti-Balaka started at 04:00 and during this period, they (‘we’) knew that Muslim civilians had taken weapons so most of them were already with the Seleka.³⁶⁷⁴ Nestor Wiabona was present during this attack and saw the Anti-Balaka entering the town, and recalled that they had traditional weapons; during the attack, they took some weapons from the Seleka they killed; they won the battle ‘*par la force de dieu*’.³⁶⁷⁵ The witness stated that, after this clash, the Anti-Balaka went towards Bossangoa, where the Seleka were,³⁶⁷⁶ And that there were some deaths on that day, following the clashes.³⁶⁷⁷

1376. D30-4608 heard of an attack in Benzambé from [REDACTED] Seleka had attacked and the youth had then attacked in reprisal; because the young ‘*autochtones*’ were in the majority, the Muslims fled into the bush; [REDACTED] to Bossangoa to tell D30-4608 about this.³⁶⁷⁸

1377. P-1577 travelled to Benzambé, Ouham-Bac and Zere on [REDACTED] 2013.³⁶⁷⁹ In Bossangoa a few days earlier, P-1577 [REDACTED] an individual who claimed to be a

³⁶⁷⁰ P-2049: T-102, p. 45, line 18 – p. 47, line 5.

³⁶⁷¹ P-2049: T-102, p. 47, line 18 – p. 48, line 25.

³⁶⁷² P-2049: T-102, p. 49, line 3 – p. 52, line 2.

³⁶⁷³ D30-4953 Statement, CAR-D30-0026-0001-R01, at 0004, paras 22-24.

³⁶⁷⁴ D30-4953 Statement, CAR-D30-0026-0001-R01, at 0004, paras 26-27.

³⁶⁷⁵ D30-4953 Statement, CAR-D30-0026-0001-R01, at 0004, para. 28.

³⁶⁷⁶ D30-4953 Statement, CAR-D30-0026-0001-R01, at 0004, para. 30.

³⁶⁷⁷ D30-4953 Statement, CAR-D30-0026-0001-R01, at 0004, para. 31.

³⁶⁷⁸ D30-4608 Statement, CAR-D30-0017-0004-R01, at 0012, para. 60.

³⁶⁷⁹ P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0773, para. 18, at 0775, para. 27.

Muslim trader and said that he had fled from Benzambé to Bossangoa after Anti-Balaka forces attacked Muslim homes in the Benzambé area.³⁶⁸⁰

1378. The Chamber notes that Achta Moussa Animer testified that her husband, Ajdo Ibrahim Moussa also known as Mahamt Abdel Karim, did not return when one Thursday, which the witness thought was a month before the 5 December 2013 attack in Bangui, he went with his vehicle to take people to Benzambé for a weekly market despite a warning from neighbours not to do it because the ‘malefactors’, which to the witness were the Anti-Balaka, were around in that locality.³⁶⁸¹ Achta Moussa Animer later learned that her husband’s vehicle, which transported Christians and Muslims, was stopped, after which she fled with her family, with the help of some neighbours, to Sibut and then Bangui.³⁶⁸² The witness did not know what happened to her husband’s remains or what happened to the bodies and vehicle.³⁶⁸³ While the witness was unable to provide further details in relation to the death of her husband, the Chamber concludes from the general context provided that this concerned events in Benzambé taking place during the advance of Anti-Balaka groups through the provinces.

1379. Having regard to the above, the Chamber finds that the Anti-Balaka attacked Benzambé in early September 2013, resulting in the killing of Muslim civilians and fleeing of Muslim population to other locations.

v. Koro-M’Poko

1380. In relation to an attack in Koro-M’Poko, the Chamber heard from P-2453 and P-2049, who spoke about an attack taking place there on 11 September 2013.

1381. P-2049 said that Koro Mpoko is 50 kilometres and Sadjo 40 kilometres from Bossangoa, between Bossangoa and Bossembélé.³⁶⁸⁴

³⁶⁸⁰ P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0778 referring to Photograph, CAR-OTP-2085-1201. See also Metadata, CAR-OTP-2085-1202; CAR-OTP-2085-2601.

³⁶⁸¹ V44-0001: T-267, p. 8, line 13 – p. 9, line 6, p. 25, line 9 – p. 26, line 13, p. 38, line 23 – p. 39, line 4.

³⁶⁸² V44-0001: T-267, p. 9, line 8 – p. 12, line 10.

³⁶⁸³ V44-0001: T-267, p. 12, line 11 – p. 13, line 1.

³⁶⁸⁴ P-2049: T-100, p. 45, line 24 – p. 47, line 19, p. 52, line 18 – p. 55, line 2.

1382. Both P-2453 and P-2049 heard of an Anti-Balaka attack in Koro-M’Poko on 11 September 2013, leading to the death of, *inter alia*, [REDACTED].³⁶⁸⁵ P-2453 additionally mentioned [REDACTED] among the victims,³⁶⁸⁶ while P-2049 also mentioned Hassan Ibrahim, Hassana Daboura, Bouba Bi Lire, and Kourgue Bi Bouba, stating that overall some 60 Muslims were killed and 39 heads of cattle lost in this attack.³⁶⁸⁷

1383. As regards the Anti-Balaka involved, P-2049 heard from people at the *École de la Liberté* that the individuals engaged in the attack included Yakossi, Kouzou known as Al-Habo from Kana, Ngaodji Bandoro, Charles Yonbondji and Kadacho Yafaro.³⁶⁸⁸ P-2049 specified that on the same day, an attack in Sadjo took place, where 40 Muslims were killed, 41 heads of cattle lost, and all houses of Muslims burnt.³⁶⁸⁹

b. Attack on Bossangoa in September 2013

1384. Following the various attacks in smaller localities in the wider area of Bossangoa, in coordination and in accordance with the plan outlined above, an Anti-Balaka group eventually attacked Bossangoa town early morning on 17 September 2013.

1385. At the outset, the Chamber notes the evidence of witnesses who were involved in the Anti-Balaka moving about and engaging in attacks in the wider Bossangoa area, as discussed above, and who described their movements and re-grouping before the attack on Bossangoa in September 2013. Specifically, following the attacks in Bowaye, Zere, Benzamble, and Bouca, the Chamber notes that Dedane’s group continued planning a further attack in Bossangoa.

³⁶⁸⁵ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0425, para. 45; P-2049: T-100, p. 45, line 25 – p. 47, line 20, p. 52, line 20 – p. 54, line 21.

³⁶⁸⁶ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0425, para. 45. When P-2453 was later staying at the *École Liberté* in Bossangoa, he met [REDACTED], who told him about the attack, saying that the MISCA soldiers found survivors and brought them to *École Liberté* in Bossangoa where Peuhls from Zere and other Muslims from neighbouring areas had already sought refuge (see P-2453 Statement, CAR-OTP-2111-0415-R04, at 0425, para. 46). See also Video, CAR-OTP-2073-1329, at 00:02:16-00:03:54; Transcript, CAR-OTP-2127-6548; Translation, CAR-OTP-2127-6597, at 6599-6600, lines 30-52. P-2049 identified the village as Koro-M’Poko (see P-2049: T-100, p. 52, line 20 – p. 53, line 19, p. 54, line 22 – p. 55, line 24).

³⁶⁸⁷ P-2049: T-100, p. 45, line 24 – p. 47, line 20, p. 52, line 20 – p. 55, line 4.

³⁶⁸⁸ P-2049: T-100-ENG, p. 50, line 14 – p. 51, line 10; T-100-FRA, p. 49, line 9 – p. 50, line 5.

³⁶⁸⁹ P-2049: T-100, p. 45, line 24 – p. 47, line 20, p. 52, line 20 – p. 55, line 4.

1386. P-2658 said that Dedane's group remained in the bush near Bossangoa for three days after the Zere attack, during which Dedane went to Bossangoa, bringing back ammunition and weapons.³⁶⁹⁰ P-2658 said that Dedane said they should wait for Andjilo, adding that Andjilo would finish attacking Bouca and come to Bossangoa; Dedane and his men wanted to join him so that they could attack Bossangoa together.³⁶⁹¹ Dedane told the group that he was speaking with Andjilo on the phone.³⁶⁹² P-2658 said that, after Zere, they went to a place around 12 kilometres from Bossangoa where they waited to hear from Andjilo, who, following Dedane's instructions, took the direction of Zere from Bouca.³⁶⁹³ Dedane told Andjilo to wait for his instruction in Zere because he was going to look for the group that had attacked Bowaye, and on finding them he returned and said they had 'all arrived to attack Bossangoa'.³⁶⁹⁴

1387. Continuing with their advance, Jo-Brice Ouabiro Dana stated that after they controlled Benzambé, they marched towards Ouham-Bac, meeting Dedane and Douze Puissances on the way when they were coming back from Bossangoa where they had bought ammunitions for hunting rifles.³⁶⁹⁵ Jo-Brice Ouabiro Dana did not know where the money to buy ammunition came from, the '*modibos*' were selling fetishes and they borrowed money from them to purchase cartridges, with acknowledgements of debt and the understanding that upon arrival in Bangui, they would be 'reimbursed' – it had been talked about in the meetings they had with 'the coordinator'.³⁶⁹⁶

1388. As regards materiel, Jo-Brice Ouabiro Dana said that the ammunition for hunting or artisanal weapons came from the other side of the river, Zongo, passed through the capital, and was transported in vehicles travelling to Bossangoa.³⁶⁹⁷ Ndangba, Danboy and Dandouzima were at the head of the 8th company, received the ammunition and distributed it to the various

³⁶⁹⁰ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0030, paras 115-116; P-2658 Corrections, CAR-OTP-2135-3476-R01, at 3486, para. 116, at 3490; P-2658: T-134, p. 49, lines 9-19.

³⁶⁹¹ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0030, para. 116; P-2658 Corrections, CAR-OTP-2135-3476-R01, at 3486, para. 116; at 3490; P-2658: T-134, p. 49, lines 9-19.

³⁶⁹² P-2658 Statement, CAR-OTP-2126-0012-R02, at 0030, para. 117.

³⁶⁹³ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0030-31, para. 118.

³⁶⁹⁴ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0030-31, para. 118; P-2658: T-135, p. 67, line 13 – p. 68, line 3.

³⁶⁹⁵ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0250, para. 51; P-0966: T-116, p. 36, line 23 – p. 37, line 6.

³⁶⁹⁶ P-0966: T-116, p. 36, lines 12-22; T-117, p. 54, line 9 – p. 55, line 2.

³⁶⁹⁷ P-0966: T-117, p. 53, line 20 – p. 54, line 7.

elements bearing hunting weapons.³⁶⁹⁸ The witness stated that when they attacked Benzambé and were advancing towards M'Poko, they met a young man known as Ngaikosset, referred to as the son of Eugène Ngaikosset, very much respected because of that name.³⁶⁹⁹

1389.P-2602 explained that the group that was in Zere split into two, one coming towards Bossangoa and another going towards Koro-M'Poko, while the group that left Bouca stopped at Bogangolo, and the Ouham-Bac group went straight to Bossangoa centre.³⁷⁰⁰ [REDACTED] stopped in Koro-M'Poko to give instructions before they could leave, that they should not take people's things by force and only fight with someone who was armed, and that the person among them stealing would be killed.³⁷⁰¹

1390.P-2602 [REDACTED] knew that weapons were stored there, and he was in contact with people from whom he could get some; they recovered 30 AK-47s, which they worked with in the field; they also had 'DKM', RPG, mortars which they retrieved from Seleka after combat; these weapons were handed back during the transition; Ougalas and some natives went to Bozoum for ammunition.³⁷⁰² Oupoutou, 12 Puissances, Dadama, Houronti, Bama had gone to Bossembélé to get the ammunition [REDACTED], after which they continued towards Bangui.³⁷⁰³ [REDACTED] because there were some militaries who went only from Bangui to go and meet them in order to lead and direct them.³⁷⁰⁴

1391.The Chamber heard from two witnesses who directly observed the fighting that took place in Bossangoa from the perspective of the Anti-Balaka, P-2658 and Jo-Brice Ouabiro Dana.

1392.P-2658 was among the fighters when the fighting took place³⁷⁰⁵ and provided a detailed account of the attack. P-2658 said that the plan was to attack Bossangoa at 05:00, but P-2658

³⁶⁹⁸ P-0966: T-116, p. 37, lines 7-25.

³⁶⁹⁹ P-0966: T-116, p. 14, lines 3-20; T-117, p. 23, line 24 – p. 25, line 9.

³⁷⁰⁰ P-2602 Interview Transcripts, CAR-OTP-2118-9525-R01, at 9536-37, lines 349-384; CAR-OTP-2118-9617-R01, at 9634-35, lines 570-601.

³⁷⁰¹ P-2602 Interview Transcript, CAR-OTP-2118-9525-R01, at 9537, lines 387-389, 393-398, at 9541, lines 555-560.

³⁷⁰² P-2602 Interview Transcripts, CAR-OTP-2118-9525-R01, at 9538-41, lines 434-533; CAR-OTP-2118-9641-R01, at 9657-60, lines 543-645; CAR-OTP-2118-9714-R01, at 9719, lines 163-171.

³⁷⁰³ P-2602 Interview Transcript, CAR-OTP-2118-9714-R01, at 9717-18, lines 97-123.

³⁷⁰⁴ P-2602 Interview Transcript, CAR-OTP-2118-9525-R01, at 9542, lines 562-570.

³⁷⁰⁵ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0031, para. 122.

did not know the date on which the attack took place.³⁷⁰⁶ The chiefs participating in the Bossangoa attack included, *inter alia*, 12 Puissances, Nambozouina, corporal Dangba and Dedane.³⁷⁰⁷ P-2658 denied Kema participating in this attack.³⁷⁰⁸

1393. P-2658 said that, a day prior to the attack, they took the Benzambe axis and were about 12 kilometres from Bossangoa that night, then moved in columns until the bridge about five kilometres from Bossangoa where they spent the night.³⁷⁰⁹ P-2658 was not aware of the instructions given by the chiefs, who were in front, to the elements [REDACTED].³⁷¹⁰

1394. P-2658 said that the attack started at 04:00 and the fights took place at the entrance and Seleka were killed.³⁷¹¹ The Seleka elements that were around attacked them, and Dedane and his elements retaliated and one Seleka element was killed; they then continued and entered Bossangoa.³⁷¹² When they entered Bossangoa, Dedane put the militaries (FACA) behind and instructed the elements who were not FACA not to run away because if they did, they would be killed by the militaries.³⁷¹³

1395. P-2658 said that the Anti-Balaka fought intensively against the Seleka at the entry of Bossangoa, and the attack lasted until 16:00.³⁷¹⁴ At a certain moment, all the Anti-Balaka retreated and started running in different directions, many Anti-Balaka and Seleka were killed during the attack; P-2658 hid in the bush and went into the city the following morning.³⁷¹⁵ In Bossangoa, when he got there, P-2658 saw more than 10 bodies, houses destroyed and pillaged; he recognised some of the victims, mainly the Anti-Balaka elements; some victims were killed by machete, others with weapons.³⁷¹⁶

³⁷⁰⁶ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0031, para. 119; P-2658: T-135, p. 11, lines 14-17, p. 11, line 24 – p. 12, line 9.

³⁷⁰⁷ P-2658: T-135, p. 11, lines 1-5.

³⁷⁰⁸ P-2658: T-135, p. 11, lines 11-13.

³⁷⁰⁹ P-2658: T-135, p. 10, lines 15-25.

³⁷¹⁰ P-2658: T-135, p. 11, lines 6-10.

³⁷¹¹ P-2658: T-135, p. 10, lines 15-25.

³⁷¹² P-2658 Statement, CAR-OTP-2126-0012-R02, at 0031, para. 120.

³⁷¹³ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0031, para. 121; P-2658 Corrections, CAR-OTP-2135-3476-R01, at 3487, para. 121; P-2658: T-134, p. 49, lines 20-25.

³⁷¹⁴ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0031, para. 122.

³⁷¹⁵ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0031, para. 122.

³⁷¹⁶ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0031-32, para. 123.

1396. Jo-Brice Ouabiro Dana, who had joined the Anti-Balaka in Gobere and was in the group that had previously attacked Benzambe,³⁷¹⁷ said that on their way to Bossangoa, 12 kilometres from town centre, some companies fell into a Seleka ambush.³⁷¹⁸ Other companies were supposed to attack Bossangoa but did not receive the message, so Jo-Brice Ouabiro Dana's company attacked Bossangoa alone, with only 17 bullets for hunting rifles, one AK-47 and one automatic weapon which did not function properly; the Seleka were heavily armed so they retreated and went to Ouham-Bac.³⁷¹⁹ Jo-Brice Ouabiro Dana stated that they were joined by other companies but separated when the Seleka sandwiched them between Bossangoa and Bozoum, so they crossed the river to Mbang and started their way to Bangui.³⁷²⁰ The witness recalled that Marabout Mauri, also known as 'General Mauri', was travelling with them.³⁷²¹ The witness stated that during this first attack, they did not fight against women or other civilians;³⁷²² he thought his attack was against the Seleka bearing arms, but other than that he could not know who was military or civilian, he fought all individuals bearing arms.³⁷²³

1397. Other witnesses who were in Bossangoa town described the attack on 17 September 2013 starting early in the morning, around 05:00.³⁷²⁴ As they learned that the Seleka were fighting with the Anti-Balaka, Muslim inhabitants of Bossangoa sought refuge at the imam's residence, and also at the *École de la Liberté*, while Christians sought refuge at the Catholic church.³⁷²⁵ The Anti-Balaka attacked at several locations at the same time, with witnesses hearing shots and explosions from several directions, in different neighbourhoods.³⁷²⁶

³⁷¹⁷ See paragraphs 1368-1379 above.

³⁷¹⁸ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0250, para. 54.

³⁷¹⁹ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0250, para. 54.

³⁷²⁰ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0251, para. 55; P-0966 Corrections, CAR-OTP-2135-2583-R01, at 2584; P-0966: T-116, p. 38, line 22 – p. 39, line 13, p. 40, line 4 – p. 41, line 8.

³⁷²¹ P-0966: T-116, p. 39, line 14 – p. 40, line 3.

³⁷²² P-0966: T-117, p. 55, lines 5-20.

³⁷²³ P-0966: T-117, p. 56, line 24 – p. 57, line 4.

³⁷²⁴ P-2462: T-059, p. 15, lines 10-25; T-060, p. 18, line 22 – p. 19, line 7; P-2200 Statement, CAR-OTP-2088-2146-R04, at 2152, para. 29; P-2049: T-100, p. 62, line 16 – p. 63, line 2.

³⁷²⁵ P-2462: T-059, p. 15, lines 10-25; T-060, p. 18, line 22 – p. 19, line 7; P-2200 Statement, CAR-OTP-2088-2146-R04, at 2152, para. 31; P-2049: T-100, p. 63, lines 1-13; T-103, p. 10, line 1 – p. 12, line 5.

³⁷²⁶ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2152, para. 32; P-2049: T-100, p. 62, line 16 – p. 63, line 2; T-103, p. 13, line 8 – p. 14, line 8; P-2453 Statement, CAR-OTP-2111-0415-R04, at 0426, para. 49; P-2453: T-138, p. 9, line 11 – p. 10, line 8, p. 11, line 17 – p. 12, line 11.

1398. According to P-2200, he knew the Anti-Balaka wanted to go after Muslims because he knew Christians who were members of the Anti-Balaka and refused to attack the Muslims as ordered, and because when entering Bossangoa, the Anti-Balaka first attacked residential areas and not Seleka positions.³⁷²⁷ P-2200 saw individuals progressing through the neighbourhood on foot, some in military attire, most in civilian clothes, which he knew were Anti-Balaka because they had red bands around their heads; he saw *gris-gris* on the bodies of dead Anti-Balaka.³⁷²⁸ There was a lot of firing with the Seleka responding to the attack, and P-2200 was told that nine Seleka were killed.³⁷²⁹

1399. D30-4608, Odette Namsona and Faustin Ngamesse were also present in Bossangoa at the time of the attack, but provided more general information.

1400. D30-4608 mentioned that the attack at Katanga on 17 September 2013 claimed Muslim civilian victims, who were ‘indicators’ for the Seleka, also claiming that Muslim civilians were armed.³⁷³⁰ D30-4608 stated, at the same time, that civilians were not attacked.³⁷³¹ D30-4608 thought the clashes were limited to the exit of the town towards Katanga, and he did not know of an attack by youth from the north to attack Boro.³⁷³² Odette Namsona stated it was chaos as from 8 September 2013, that the Anti-Balaka grouped in the bush to reflect on a counterattack, and that a lot of houses were set on fire, including when going towards Boro church.³⁷³³ Faustin Ngamesse fled to the bishopric on 10 September 2013 for fear of Seleka reprisals after their marabout was killed,³⁷³⁴ and one morning while there, they were informed that the Balaka and Seleka were fighting, that the Seleka killed people and set houses on fire in Sembé, while it was said that the Balaka entered Boro and Muslim civilians

³⁷²⁷ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2152-53, para. 33.

³⁷²⁸ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2153, para. 37.

³⁷²⁹ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2153, para. 38.

³⁷³⁰ D30-4608 Statement, CAR-D30-0017-0004-R01, at 0012, paras 57-58.

³⁷³¹ D30-4608: T-291, p. 49, lines 18-22.

³⁷³² D30-4608 Statement, CAR-D30-0017-0004-R01, at 0012-13, paras 62-65; D30-4608: T-291, p. 49, line 18 – p. 50, line 6.

³⁷³³ D30-4496: T-289, p. 18, line 17 – p. 19, line 2.

³⁷³⁴ D30-4514 Statement, CAR-D30-0025-0001-R01, at 0016, lines 504-508.

fled towards ‘*École Liberté*’.³⁷³⁵ According to Faustin Ngamesse, the dead that day were all Christians.³⁷³⁶

1401. Witnesses within Bossangoa town also received information on who participated in the attack on the side of the Anti-Balaka.

1402. For example, P-2049 heard that among those who led the attack were some who came from the provinces, including Dedane, Rocky, Charlie, Jeannot, Ndangba who was in the PG and participated in several attacks such as in Benzambé, and others from small areas, young people from the locality, and Charlie, whose real name is Tola.³⁷³⁷

1403. Similarly, P-2453 heard from [REDACTED] that they saw the following Anti-Balaka take part in the attack: [REDACTED] a FACA from Benzambé based in Bossangoa, [REDACTED] based in Bossangoa, [REDACTED], [REDACTED] from Bossangoa centre, [REDACTED], [REDACTED].³⁷³⁸ P-2453 also heard from [REDACTED], who had been held captive by the Anti-Balaka in September and managed to escape as they were about to attack Bossangoa on [REDACTED] September 2013, that his kidnappers were the Anti-Balaka group of Benzambé led by [REDACTED] who was, in the days before the attack, regularly on the phone with Florent Kema, in charge of the Anti-Balaka group of Bowaye, discussing the strategy to attack Bossangoa and agreeing to split to enter the town from different directions, with the attack to be led by [REDACTED]; these Anti-Balaka were armed with traditional rifles, a few Kalashnikovs and machetes.³⁷³⁹

1404. As regards individuals killed during the attack, P-2200 stated that seven Muslim civilians from Boro and Arabe neighbourhoods were killed and four injured.³⁷⁴⁰ [REDACTED] was also injured by a bullet, in Boro.³⁷⁴¹ [REDACTED] was injured by a bullet in Arabe and

³⁷³⁵ D30-4514 Statement, CAR-D30-0025-0001-R01, at 0017-18, lines 517-556, at 0018, lines 569-570.

³⁷³⁶ D30-4514 Statement, CAR-D30-0025-0001-R01, at 0018, lines 578-579.

³⁷³⁷ P-2049: T-100, p. 66, line 1 – p. 67, line 5, p. 67, lines 13-21. *See also* P-2200 Statement, CAR-OTP-2088-2146-R04, at 2154, para. 39 (the witness stated that some youth left the town for the bush several days before the attack, and during the attack they realised that they had joined the Anti-Balaka).

³⁷³⁸ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0426-27, para. 52.

³⁷³⁹ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0427, paras 54-55.

³⁷⁴⁰ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2153, para. 34.

³⁷⁴¹ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2153, para. 36.

brought to the Bossangoa hospital, but died from complications.³⁷⁴² P-2462 heard from [REDACTED] that her [REDACTED] brother [REDACTED] and one of their neighbours came onto an ambush and were shot by the Anti-Balaka when going to the imam's house.³⁷⁴³ P-2049 provided additional details, stating that [REDACTED] was shot in the abdomen when fleeing from his girlfriend's house [REDACTED], brought to the hospital and operated, but died thereafter.³⁷⁴⁴ P-2453 later learned that [REDACTED] were killed; [REDACTED] was shot in the thigh and [REDACTED] in the stomach, both badly injured; none of the victims were involved with the Seleka and no weapon was found on their bodies.³⁷⁴⁵

1405. It was suggested that [REDACTED] would have been part of a Muslim self-defence group who was killed in battle.³⁷⁴⁶ The Chamber notes in this regard that the related information was taken from an unsigned screening note of an individual who did not testify before the Chamber. Considering further P-2049's insistence that this suggestion was incorrect, his [REDACTED], and given his evidence that he had information only about civilians,³⁷⁴⁷ the Chamber relies on P-2049's evidence in relation to this person that he was not a member of a self-defence group and was killed by the Anti-Balaka.

1406. Following the attack, individuals went to the '*École Liberté*', where they felt safer because it was protected by the FOMAC Congolese contingent.³⁷⁴⁸ P-2453 stated they had very limited resources at the school, so MSF and UNICEF provided some basic hygiene amenities, water and medical care.³⁷⁴⁹ Individuals also went to the house of the imam.³⁷⁵⁰ P-2200 stated that four days after the attack, the Seleka came to him to say that order had returned and the conflict had moved in direction of Karanboko; P-2200 heard that some Anti-Balaka had withdrawn to the bush and others to the Catholic mission; calm returned to

³⁷⁴² P-2200 Statement, CAR-OTP-2088-2146-R04, at 2153, para. 35.

³⁷⁴³ P-2462: T-059, p. 16, line 8 – p. 17, line 12, p. 19, line 3 – p. 20, line 2.

³⁷⁴⁴ P-2049: T-100, p. 63, line 22 – p. 65, line 23; T-103, p. 14, line 16 – p. 15, line 23.

³⁷⁴⁵ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0426, paras 50-51.

³⁷⁴⁶ P-2049: T-103, p. 16, line 10 – p. 20, line 5, p. 22, line 10 – p. 23, line 7 *referring to* Screening note, CAR-OTP-2078-0132-R02, at 0134. *See also* [REDACTED].

³⁷⁴⁷ P-2049: T-103, p. 24, line 13 – p. 25, line 13.

³⁷⁴⁸ P-2049: T-100, p. 67, line 22 – p. 68, line 11; P-2453 Statement, CAR-OTP-2111-0415-R04, at 0427-28, para. 57.

³⁷⁴⁹ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0428, para. 58.

³⁷⁵⁰ P-2049: T-100, p. 67, line 22 – p. 68, line 11.

Bossangoa, but the Anti-Balaka and Seleka continued to fight in the neighbouring villages.³⁷⁵¹

1407. On the basis of the above, the Chamber finds that on 17 September 2013, Anti-Balaka groups attacked Bossangoa, causing the death of Muslim civilians and leading to the dislocation from their homes of others.

1408. The Chamber notes the information before it according to which retaliatory violence by the Seleka was committed against the non-Muslim population in Bossangoa after the attack.³⁷⁵² It is clear that large-spread violence and abuses were committed by the Seleka, including and in particular against the non-Muslim population.³⁷⁵³ While of significance to understand the overall context, it is not for the Chamber to further pronounce thereon in the context of the current case.

1409. Several witnesses travelled to Bossangoa and surroundings in the aftermath of the attack and described their impressions.

1410. For instance, Michaël Zumstein travelled to Bossangoa on 22 September 2013, where they were told that 25,000 people were gathered around a church in fear of attacks and looting by the Seleka, while an estimated 1,000 Muslim civilians were gathered at the *École de la Liberté*, fearful of revenge attacks from Christians.³⁷⁵⁴ The witness went again to Bossangoa

³⁷⁵¹ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2154, para. 41.

³⁷⁵² P-0966: T-117, p. 55, line 22 – p. 56, line 21 (the witness stated that after the attack, the Seleka considered all the Christians as Anti-Balaka, he was told by people who were at the bishopric that all men had taken refuge there and no more Christians were in the neighbourhood; he also heard from the same people that all the houses of Christians near the Tomkoro bridge were set on fire); P-2453 Statement, CAR-OTP-2111-0415-R04, at 0428, para. 59 (the witness stated that after the attack, the Seleka accused [REDACTED] the Christian chief [REDACTED] of being accomplice with the Anti-Balaka, taking him to the bush and he was never seen again, and they also took [REDACTED], who they accused of being in contact with the Anti-Balaka). *See also* Screening note, CAR-OTP-2105-0028, at 0030 (mentioning the burning of 600 houses of Christians by Seleka and some Muslims after the attack); P-2049: T-103, p. 26, line 2 – p. 28, line 12; UN HCHR Report, CAR-OTP-2001-0391, at 0394, para. 10 (mentioning that in the days following Anti-Balaka reportedly attacking Zere on 6 September 2013, Seleka elements engaged in retaliatory violence, including killing 61 persons in Bossangoa and surroundings between 8 and 20 September 2013, and killing four and burning the entire village of Wikamo on 10 October 2013); HRW Report, CAR-OTP-2001-2043, at 2058 (mentioning that several people told HRW that Seleka fighters responded to the Anti-Balaka attack on their Bossangoa positions by firing at civilians); Press article, CAR-OTP-2087-9530; Video, CAR-OTP-2073-1299, at 00:11:10-00:16:00; Transcript, CAR-D30-0002-0008, at 0009-10. The Chamber notes further in this regard its discussion in the context of the attack in Bossangoa on 5 December 2013 (*see* paragraphs 2811-2814 below).

³⁷⁵³ *See also* section IV.A.1.iv above.

³⁷⁵⁴ P-0505 Statement, CAR-OTP-2014-0129-R01, at 0133, para. 24.

between 28 and 30 September 2013, seeing looted and destroyed villages on the way, with people telling them that the houses were looted and destroyed by the Seleka.³⁷⁵⁵ Michaël Zumstein noticed Muslims fleeing on trucks in the opposite direction, away from Bossangoa but did not know where they came from.³⁷⁵⁶ Both in Bossangoa and in the small villages around it, the witness's general feeling was that everyone was displaced at the time: Muslim Peuhl herders were being attacked by Christian farmers, Christians were fleeing from the looting Seleka, farmers would sleep in the bush and Peuhl abandon their cattle, Muslims fearing the Anti-Balaka were gathered in the bush or fleeing to Bangui.³⁷⁵⁷ Buses and trucks often belonged to Muslims and would take on fleeing Muslims.³⁷⁵⁸

1411.P-1576 went to Bossangoa in [REDACTED] November 2013, with information circulating that there was a humanitarian crisis and about 40,000 displaced Christians.³⁷⁵⁹ On the route to Bossangoa, some villages had been completely destroyed.³⁷⁶⁰ In Bossangoa itself, 40,000 Christians were in a camp around the cathedral, around 1,500 Muslims who lived in the periphery of the Christian neighbourhood had been displaced to a school; the Seleka were present in Bossangoa.³⁷⁶¹ On the route towards Bangui on [REDACTED] November 2013, between Bossangoa and Bossembélé, they crossed Anti-Balaka elements who said that they were defending their village.³⁷⁶²

1412.P-1577 was similarly present in Bossangoa in November 2013 and observed that the road from Bangui to Bossangoa, normally quite busy, was extremely overgrown, while many of the villages along the way were empty.³⁷⁶³ According to P-1577, villagers had moved into the bush for fear of Seleka travelling in the region and to some extent targeting the

³⁷⁵⁵ P-0505 Statement, CAR-OTP-2014-0129-R01, at 0133-34, para. 27, at 0134, para. 30.

³⁷⁵⁶ P-0505 Statement, CAR-OTP-2014-0129-R01, at 0133-34, para. 27.

³⁷⁵⁷ P-0505 Statement, CAR-OTP-2014-0129-R01, at 0134, paras 28-29.

³⁷⁵⁸ P-0505 Statement, CAR-OTP-2014-0129-R01, at 0134, para. 29.

³⁷⁵⁹ P-1576 Statement, CAR-OTP-2060-0280-R01, at 0282-83, para. 15.

³⁷⁶⁰ P-1576 Statement, CAR-OTP-2060-0280-R01, at 0282-83, para. 15.

³⁷⁶¹ P-1576 Statement, CAR-OTP-2060-0280-R01, at 0282-83, para. 15. See Photograph, CAR-OTP-2061-4347; Metadata, CAR-OTP-2061-1814; Photograph, CAR-OTP-2061-4348; Metadata, CAR-OTP-2061-1820; Photograph, CAR-OTP-2061-4349; Metadata, CAR-OTP-2061-1826; Photograph, CAR-OTP-2061-4350; Metadata, CAR-OTP-2061-1843; Photograph, CAR-OTP-2061-4351; Metadata, CAR-OTP-2061-1847; Photograph, CAR-OTP-2061-4352; Metadata, CAR-OTP-2061-1853; Photograph, CAR-OTP-2061-4457; Metadata, CAR-OTP-2061-1859; Photograph, CAR-OTP-2061-4458; Metadata, CAR-OTP-2061-1862; Photograph, CAR-OTP-2061-4459; Metadata, CAR-OTP-2061-1868.

³⁷⁶² P-1576 Statement, CAR-OTP-2060-0280-R01, at 0283, para. 16.

³⁷⁶³ P-1577: T-027, p. 16, lines 5-17.

population.³⁷⁶⁴ The idea that [REDACTED] had pushed the local population to organise self-defence groups across the country aligned with P-1577's general impression and the conversations they had with the local population.³⁷⁶⁵

1413. P-1577 said that he heard the term 'Anti-Balaka' for the first time during this trip to the CAR in early November 2013.³⁷⁶⁶ When travelling out of Bossangoa on occasion, P-1577 came across individuals that identified themselves as Anti-Balaka, who also said that bridges had been removed so that Seleka vehicles would not be able to travel at speed along the roads and would have to stop.³⁷⁶⁷ P-1577 explained that the number of 40,000 displaced at the Catholic church in Bossangoa was reported by the international community at the time, based on his direct observations he believed the number to be closer to 30,000, which he also heard from people at the church.³⁷⁶⁸ P-1577 talked to some Muslim and Peuhl individuals who said they had experienced various forms of violence by armed 'non-Muslims' who they called Anti-Balaka, some had bullet or machete wounds on their legs or other parts of their body.³⁷⁶⁹

³⁷⁶⁴ P-1577: T-027, p. 16, line 18 – p. 17, line 15.

³⁷⁶⁵ P-1577: T-027, p. 17, line 16 – p. 18, line 10. *See also* Facebook post, CAR-OTP-2081-0923-R01, at 0925; Facebook post, CAR-OTP-2081-0923.

³⁷⁶⁶ P-1577: T-027, p. 19, lines 2-4.

³⁷⁶⁷ P-1577: T-027, p. 20, line 18 – p. 21, line 19, p. 22, lines 3-9. *See* Photograph, CAR-OTP-2085-0491; Metadata, CAR-OTP-2085-0492; CAR-OTP-2085-2342; Photograph, CAR-OTP-2085-0511; Metadata, CAR-OTP-2085-0512; CAR-OTP-2085-2352; Photograph, CAR-OTP-2085-0561; Metadata, CAR-OTP-2085-0562; CAR-OTP-2085-2369; Photograph, CAR-OTP-2085-1041; Metadata, CAR-OTP-2085-1042; CAR-OTP-2085-2547; Photograph, CAR-OTP-2085-1991; Metadata, CAR-OTP-2085-1992; CAR-OTP-2085-2886; Photograph, CAR-OTP-2085-2011; Metadata, CAR-OTP-2085-2012; CAR-OTP-2085-2894. *See also* P-2658 Statement, CAR-OTP-2126-0012-R02, at 0030, para. 113.

³⁷⁶⁸ P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0774, para. 23 *referring to* Facebook post, CAR-OTP-2081-0923, at 0923-24. *See e.g.* Photograph, CAR-OTP-2085-1321; Metadata, CAR-OTP-2085-1322; CAR-OTP-2085-2647; Photograph, CAR-OTP-2085-1351; Metadata, CAR-OTP-2085-1352; CAR-OTP-2085-2656; Photograph, CAR-OTP-2085-1391; Metadata, CAR-OTP-2085-1392; CAR-OTP-2085-2668; Photograph, CAR-OTP-2085-1461; Metadata, CAR-OTP-2085-1462; CAR-OTP-2085-2695; Photograph, CAR-OTP-2085-1531; Metadata, CAR-OTP-2085-1532; CAR-OTP-2085-2716; Photograph, CAR-OTP-2085-1621; Metadata, CAR-OTP-2085-1622; CAR-OTP-2085-2745; Photograph, CAR-OTP-2085-0041; Metadata, CAR-OTP-2085-0042; CAR-OTP-2085-2175; Photograph, CAR-OTP-2085-0061; Metadata, CAR-OTP-2085-0062; CAR-OTP-2085-2181; Photograph, CAR-OTP-2085-0071; Metadata, CAR-OTP-2085-0072; CAR-OTP-2085-2184; Photograph, CAR-OTP-2085-2101; Metadata, CAR-OTP-2085-2102; CAR-OTP-2085-2927; Photograph, CAR-OTP-2085-0601; Metadata, CAR-OTP-2085-0602; CAR-OTP-2085-2381.

³⁷⁶⁹ P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0774, para. 24; P-1577: T-027, p. 18, line 22 – p. 19, line 1. P-1577 also stated that he heard in many instances, also from Anti-Balaka commanders, the use of the word Peuhl, and on several occasions the Anti-Balaka commanders referred to the Muslim community in PK12 in Bangui as Peuhl, so they intermingled the word Peuhl and Fulani for the Muslim community in general (*see* P-1577: T-028, p. 26, line 24 – p. 28, line 24, p. 29, lines 17-23 *referring to* Video, CAR-OTP-2073-1299, at 00:18:39-00:19:51 and 00:22:27-00:23:04; Transcript, CAR-D30-0004-0134).

1414. Nicolas Tiangaye testified that the Anti-Balaka excesses against the Muslim civilian population in Bossangoa were quite significant and he travelled there on behalf of the government around 17 October 2013 to bring humanitarian assistance to those at the bishop's residence.³⁷⁷⁰ Nicolas Tiangaye met thousands of displaced persons at the bishop's residence, living under extremely difficult circumstances, no water, food, health care.³⁷⁷¹ The Muslim population was already suffering reprisals from the Anti-Balaka, but the Seleka were also committing acts of violence against non-Muslims.³⁷⁷² The first victims were those who had come under abuses from the Seleka, and the Anti-Balaka organised themselves to carry out reprisals against the Muslims; the witness did not hear any testimony as such, but he experienced these things personally,³⁷⁷³ he spoke to victims at the bishopric.³⁷⁷⁴ Nicolas Tiangaye did not have details on the perpetrators of the excesses committed by the Anti-Balaka.³⁷⁷⁵ The witness insisted that he made only one trip to Bossangoa.³⁷⁷⁶

1415. The Chamber notes further in relation to this attack that P-2673 [REDACTED] Facebook chat messages [REDACTED] on 17 September 2013 concerning an attack in Bossangoa taking place on that day.³⁷⁷⁷ Similarly, P-2841 explained that [REDACTED] he had relatives in Bossangoa and since it had been taken by the Anti-Balaka, news spread rather quickly, everyone knew about it.³⁷⁷⁸ Considering the times at which these messages appear to have

³⁷⁷⁰ P-0291: T-051, p. 43, line 6 – p. 44, line 24 *referring to* Minutes, CAR-OTP-2101-3086, at 3091 and Press article, CAR-OTP-2088-2542. *See also* Video, CAR-OTP-2066-5308; Transcript, CAR-OTP-2107-6935; Translation, CAR-OTP-2122-2307. P-0291 stated that this video shows events before December 2013 (*see* P-0291: T-051, p. 57, line 14 – p. 59, line 15).

³⁷⁷¹ P-0291: T-051, p. 44, line 25 – p. 45, line 7, p. 46, lines 1-4.

³⁷⁷² P-0291: T-051, p. 45, lines 8-13. *See also* Report, CAR-OTP-2101-3086, at 3087-93.

³⁷⁷³ P-0291: T-051, p. 45, lines 14-25.

³⁷⁷⁴ P-0291: T-051, p. 46, lines 9-15.

³⁷⁷⁵ P-0291: T-051, p. 46, lines 5-8.

³⁷⁷⁶ P-0291: T-051, p. 46, lines 16-20, p. 59, lines 18-25.

³⁷⁷⁷ P-2673: T-041, p. 15, line 6 – p. 16, line 11 *referring to* Facebook messages, CAR-OTP-2100-3030, at 3032. *See also* Facebook messages, CAR-OTP-2102-5143, at 5153.

³⁷⁷⁸ P-2841: T-029, p. 24, line 3 – p. 25, line 7 *referring to* [REDACTED]. *See also* P-2841 Statement, CAR-OTP-2127-4238-R01, at 4251, para. 73, at 4253, para. 208; P-2841: T-029, p. 27, line 11 – p. 29, line 3; T-030, p. 4, line 22 – p. 5, line 10 (the witness stated that he received information on Bossangoa and Bouca from relatives living there who told him that the Anti-Balaka obtained weapons by ambushing the Seleka as they passed, leading to an exchange of fire; the witness also said that he received information on the Anti-Balaka in Bossangoa [REDACTED]) (also *referring to* [REDACTED]). *See further* D30-4848: T-298, p. 22, line 6 – p. 23, line 1 (explaining that 'le vieux' [REDACTED] referred to François Bozizé).

been exchanged, the Chamber notes that information on the attack seems to have reached individuals also outside of the CAR very close in time to the events happening on the ground.

1416. Indeed, also otherwise information on the Bossangoa attack in September 2013 was generally available. The Chamber also notes in this regard the press statement issued by FROCCA on 18 September 2013.³⁷⁷⁹

1417. For example, P-0567 learned about the Anti-Balaka attacking Bossangoa in September 2013 when reading reports to gain contextual knowledge of the situation in the country, but did not have first-hand knowledge.³⁷⁸⁰ P-0567 stated that the first attack by the Anti-Balaka in Bossangoa in September 2013 led to an imam and his family, including four to five children, being killed; by April 2014 all the Muslims had left from Bossangoa.³⁷⁸¹ According to P-0567, Bossangoa was the first town to be attacked by the Anti-Balaka in September 2013 chronologically; he opined that this was not a fight with the Seleka but rather an attack against Muslim civilians, specifically the imam and his family; before this attack people did not really know about the Anti-Balaka.³⁷⁸² P-0567 knew of a mission to the Bossangoa area between 14 and 16 September 2013 which reported another attack by the Anti-Balaka in Bossangoa against a group of Seleka vehicles.³⁷⁸³

1418. P-0884 said that he was aware of attacks in Bossangoa and Bouca in September 2013; he was not the only one, all Central Africans were aware of the Anti-Balaka attacks in the provincial towns of Bossangoa and others.³⁷⁸⁴

1419. P-1962 stated that from the radio, with people calling in and telling what was happening in Bossangoa, Bossembélé, Bossemtélé, Landi, Bouca, Kaga-Bandoro, he heard prior to 5 December 2013 about the Anti-Balaka forming in Bossangoa and Bouca, that they intended to fight the Seleka to destabilise the government, and that the Anti-Balaka were

³⁷⁷⁹ See paragraphs 1027-1028 above.

³⁷⁸⁰ P-0567 Statement, CAR-OTP-2059-0084-R04, at 0087, para. 16.

³⁷⁸¹ P-0567 Statement, CAR-OTP-2059-0084-R04, at 0096, para. 76.

³⁷⁸² P-0567 Statement, CAR-OTP-2059-0084-R04, at 0107, para. 154.

³⁷⁸³ P-0567 Statement, CAR-OTP-2059-0084-R04, at 0107, para. 156.

³⁷⁸⁴ P-0884: T-055, p. 40, lines 15-19.

killing Muslims in Bossangoa and the Muslims then started killing the Christians in PK5 – this was the reason for him to leave PK5.³⁷⁸⁵

1420. Jean-Jacques Demafouth testified that he heard about attacks in Bouca, Bossangoa and other locations in September 2013, because at the time there was a colonel of the Central African army called Yacoub who had been proposed to serve as commander of the military region in Bossangoa but refused to take up that position, giving the information that there were too many attacks in Bouca and Bossangoa and that the Anti-Balaka were extremely active in that area, so he could not take that risk.³⁷⁸⁶

1421. P-1847 stated that the Anti-Balaka and young FACA of the PG attacked the positions of the Seleka general Yayah in Bossangoa, following which the Seleka responded.³⁷⁸⁷ He stated that there was a very strong mobilisation of young Anti-Balaka in the Bossangoa zone, supported by young soldiers of the PG that were also part of the Anti-Balaka; they walked towards Bangui with a view to conducting the attack on 5 December 2013.³⁷⁸⁸

1422. P-2416 heard about an attack on Bossangoa by the Anti-Balaka after [REDACTED] in October 2013, and in a more recent conversation in Garam-Boulai, P-2416 heard that the person was present during the attack and that some of his relatives were killed, as were many Muslim civilians, and also the wife and children of a wholesale customer of P-2416.³⁷⁸⁹ P-2416 heard that those Anti-Balaka present in Bossangoa came to Yaloké after this attack.³⁷⁹⁰ In late February 2014, P-2416 talked with three Anti-Balaka from Bossangoa located in Yaloké who told him that they were Anti-Balaka, though P-2416 saw that they were not wearing *gris-gris* like many of the other Anti-Balaka, and that they had travelled from Bossangoa to Yaloké, had been trained in Rwanda or Uganda to kill people, and they said to P-2416 *‘Nzapa a bata mo, nzapa a bata ala kwé so álá ngbá gé’* (*‘God spared you, God spared all of you remaining here’*), that *‘Our plan was to kill all Muslims but we came to Yaloké and found you here. Normally we don’t want to see any Muslim but the Christians*

³⁷⁸⁵ P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0040-41, para. 8.

³⁷⁸⁶ P-2328: T-047, p. 60, line 14 – p. 61, line 6.

³⁷⁸⁷ P-1847 First Statement, CAR-OTP-2061-1534, at 1559, para. 163.

³⁷⁸⁸ P-1847 First Statement, CAR-OTP-2061-1534, at 1560, para. 164.

³⁷⁸⁹ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0500, para. 31.

³⁷⁹⁰ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0500, para. 31.

*here told us that you were a good person’; their last sentence to him was ‘Mo gi na I yé ti essence za I hon nzapa lo yeke kota mingi’ (‘Just give us something (money) for the oil for the motor bike. God is really big’).*³⁷⁹¹

1423. In light of the evidence as outlined above, illustrating in particular that information on the attack in Bossangoa in September 2013 was widely available at the time, the Chamber concludes that also Mr Ngaïssona must have known about the attack on Bossangoa in September 2013, including the deaths and dislocation of Muslim civilians that took place as a result of the Anti-Balaka attack there.

iii. Attacks between mid-September and December 2013

1424. The evidence shows that, following the attacks in the Bossangoa region in the north, as discussed above, the movement of the Anti-Balaka expanded by October 2013 to other regions of the CAR. This included to Bouar in the west, in Nana-Mambéré prefecture and towards Bangui in the south, through Ndjo, Bossembélé, and Boali in Ombella-M’Poko prefecture. This is exemplified by the attacks that took place in these locations respectively.

1425. P-2926 concluded in his report that the first clashes between Seleka and Anti-Balaka took place in August and September 2013, followed by Anti-Balaka attacks against Seleka in towns in the west, including Bouca, Bouar, Bozoum, Bossembélé,³⁷⁹² expanded by October 2013 into the north-west up to Bouar and south towards Bossembélé and Mbourouba, north of Damara.³⁷⁹³ According to P-2926, while initially directed against the Seleka, the self-defence groups quickly mixed Seleka and rural and urban Muslim communities.³⁷⁹⁴

1426. This is also reflected in P-1847’s evidence regarding instructions being received by Dedane, who was coordinating these groups in close communication with them. P-1847, [REDACTED] said that the former PG in Bossangoa and Bouar were under Dedane’s command and [REDACTED] they had received orders from François Bozizé to descend on Bangui and attack, and that is how they started to attack the towns from Bossangoa, then to

³⁷⁹¹ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0500-01, paras 32-33.

³⁷⁹² P-2926 Report, CAR-OTP-2127-4289, at 4304, para. 34, at 4310, para. 52.

³⁷⁹³ P-2926 Report, CAR-OTP-2127-4289, at 4310, para. 52.

³⁷⁹⁴ P-2926 Report, CAR-OTP-2127-4289, at 4310, para. 52.

Ndjo, Bossembélé, and other locations to come as far as Bossembélé.³⁷⁹⁵ According to P-1847, the attacks of Ndjo and Bossembélé were coordinated by Dedane and Kema, and the attacks in Damara and Bouca by Andjilo.³⁷⁹⁶

1427. As regards the materiel needed for these attacks, [REDACTED] near the mosque they ran out of ammunition and since they had been promised some ammunition which had not yet arrived, and 'Mokom father' had sent some money which was held up in Bouar, he was now burying about three people in the bush in Bossembélé.³⁷⁹⁷ They got blocked at Bossembélé for about ten days to two weeks, then went up to Boali, and the Andjilo group which was in the Batangafo area attacked as well; at the time, [REDACTED] the weapons they had to counterattack were weapons that were in Bossangoa and 'Bongofi',³⁷⁹⁸ in Bozizé's village, along with the hunting weapons that 'Mokom fils' had provided, along with ammunition through the intermediary of a woman whom P-1847 did not know.³⁷⁹⁹ Dedane [REDACTED] received support from Mokom father and son, the latter sending hunting ammunition from the DRC and the father sending money to the elements on the ground; Dedane divided the ammunition he received from Maxime Mokom with Andjilo.³⁸⁰⁰

1428. P-2251 descended with a group led by [REDACTED], taking about four days to walk from Bouca to Bogangolo, through Marali and Bobatoua.³⁸⁰¹ In the bush outside Bogangolo, P-2251 met [REDACTED].³⁸⁰² [REDACTED], but in turn had chiefs above him who gave him orders that he implemented; these were [REDACTED].³⁸⁰³ P-2251 heard [REDACTED] that now they had taken back their native village, he should tell his elements to work for peace and send a message to people hiding in the bush to return.³⁸⁰⁴ In Bogangolo, they clashed with Seleka which eventually fled to Ndjo and Bossembélé.³⁸⁰⁵ P-2251 left [REDACTED]

³⁷⁹⁵ P-1847: T-023, p. 33, line 23 – p. 34, line 3.

³⁷⁹⁶ P-1847 Second Statement, CAR-OTP-2122-8251-R01, at 8256, para. 44.

³⁷⁹⁷ P-1847: T-023, p. 34, lines 4-7.

³⁷⁹⁸ The Chamber notes that the French transcript indicates the location as 'Bongossui' (see P-1847: T-023-FRA, p. 34, line 19).

³⁷⁹⁹ P-1847: T-023, p. 34, lines 8-16; P-1847 Second Statement, CAR-OTP-2122-8251-R01, at 8258-59, para. 64.

³⁸⁰⁰ P-1847 Second Statement, CAR-OTP-2122-8251-R01, at 8256, para. 45.

³⁸⁰¹ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0055, para. 61.

³⁸⁰² P-2251 Statement, CAR-OTP-2093-0045-R01, at 0055, para. 62.

³⁸⁰³ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0055, para. 63.

³⁸⁰⁴ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0055, para. 63.

³⁸⁰⁵ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0055, para. 64.

in Bogangolo and went with [REDACTED] the same day; the Seleka had already left [REDACTED].³⁸⁰⁶ In [REDACTED], another chief called [REDACTED]; he had been with them in Ngobere, but became a chief only in Bouca.³⁸⁰⁷

1429. In addition to this, these attacks and their chronology show a clear overarching and coordinated movement of Anti-Balaka groups from the Bossangoa region in the direction of Bangui in advance of 5 December 2013. The Chamber has assessed these attacks in turn below.

a. Ndjo

1430. The Chamber notes that Ndjo, which is on the road between Bossangoa and Bossembélé, right at the prefecture lines dividing the Ouham and Ombella-M'Poko prefectures,³⁸⁰⁸ was mentioned by witnesses describing their advance towards Bangui in accordance with the agreed plan and assigned locations.³⁸⁰⁹ It is also one of the locations mentioned in the email sent to Mr Ngaïssona on 7 October 2013, transmitting the needs expressed by [REDACTED].³⁸¹⁰

1431. P-2841 stated that around the time of beginning September 2013, there was fighting in various zones and serious clashes between the Seleka and Anti-Balaka in a village named Ndjo, which reinforced the idea and determination to move on to Bangui.³⁸¹¹

1432. Specifically, P-2232 testified that Dedane went north to Bozoum; then Dedane, together with Marabout Leroi, Richard Leroi, and Hippolyte Côme Azounou, deputy chief of staff of the Anti-Balaka started the attack.³⁸¹² P-2232 said that Dedane launched his 'first attack' from Ndjo and 'Maxime' was coordinating it.³⁸¹³ P-2232 said that, after Ndjo, they attacked Gaga, and 'Maxime' succeeded in 'pushing them all the way back to Bangui'.³⁸¹⁴ P-2232 said that

³⁸⁰⁶ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0055, para. 64.

³⁸⁰⁷ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0055, para. 65.

³⁸⁰⁸ See Maps, CAR-OTP-2070-0277; CAR-OTP-2070-0280.

³⁸⁰⁹ See paragraph 1321 above.

³⁸¹⁰ Email, CAR-OTP-2124-0899. See also paragraph 878 above.

³⁸¹¹ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4250-51, para. 71 referring to [REDACTED].

³⁸¹² P-2232: T-075, p. 50, lines 7-14, p. 53, lines 5-9.

³⁸¹³ P-2232: T-075, p. 50, line 15, p. 52, lines 3-4, p. 59, lines 2-18.

³⁸¹⁴ P-2232: T-075, p. 52, lines 3-6.

the attack in Ndjo was the biggest fight of the Anti-Balaka before the Yaloké attack, it was ‘slightly before’ the attack of 5 December 2013,³⁸¹⁵ and they attacked the base of the Peuhls in a camp, with women and children who also received serious injuries by ‘*coupe-coupes*’ or machetes, as was shown on television.³⁸¹⁶ P-2232 said that [REDACTED] saw the women and children injured in Ndjo on the television, but did not make any comment and only talked about war reprisals.³⁸¹⁷ After the attack, a report was made to [REDACTED] that such and such a locality was attacked with such and such a number of victims and injured, as well as the quantities of equipment seized – as coordinator of the operations, he received reports on the various attacks.³⁸¹⁸ P-2232, asked in relation to [REDACTED] reaction to these reports, said that, the ‘essential thing was to achieve the objective’, which was to ‘chase the Seleka from power’ (*chasser les Seleka du pouvoir*), all attacks were aimed at chasing Seleka out of power ‘so as to take their place’.³⁸¹⁹

1433. P-2232 commented on the significance of the attack on Ndjo. P-2232 said that Dedane started fighting at Ndjo and people heard about it, and as whenever information went around that a group had been formed at a certain level, people wanted to find out; at the beginning, the various groups were known as self-defence groups, and whenever he learnt (*il apprenait*) that a self-defence group had been set up, he tried to contact the leader (*il cherchait à rencontrer le chef*), and that is how a chain or a network developed.³⁸²⁰ P-2232 further said that Dedane, after having contacted a chief of a group to organise them, would link them with Mokom and Dedane would do this for each group.³⁸²¹

1434. Similarly, P-0889 stated that ‘12 Puissances’ from Bogangolo started with defending his own village before also descending onto Bangui like the others on the Damara axis; and Ouapoutou Benjamin from Ndjo defended this village before taking the route descending

³⁸¹⁵ P-2232: T-075, p. 55, lines 12-24.

³⁸¹⁶ P-2232: T-075, p. 57, line 22 – p. 59, line 18.

³⁸¹⁷ P-2232: T-075, p. 59, line 22 – p. 60, line 2.

³⁸¹⁸ P-2232: T-075, p. 60, lines 3-6.

³⁸¹⁹ P-2232: T-075-ENG, p. 60, lines 11-22; T-075-FRA, p. 58, lines 24-26.

³⁸²⁰ P-2232: T-075-ENG, p. 53, line 25 – p. 54, line 13. *See also* P-2232: T-075-FRA, p. 53, lines 1-10.

³⁸²¹ P-2232: T-075-ENG, p. 54, lines 14-23. *See also* P-2232: T-075-FRA, p. 53, lines 11-19.

like the others to follow the plan of Maxime, in Yaloké there was Richard Bozando.³⁸²² P-0889 explained [REDACTED].³⁸²³

1435. Michaël Zumstein described how, when travelling from Bossangoa to Bangui in September 2013, in a village called ‘Njoh’ they saw for the first time armed Christian men who presented themselves as ‘*groupe d’auto-défense*’, which would later be commonly referred to as ‘Anti-Balaka’.³⁸²⁴ Similarly, P-1577 went to *inter alia* Ndjo on [REDACTED],³⁸²⁵ [REDACTED] among other things of individuals who identified as members of the Anti-Balaka, wearing *gris-gris*, and speaking to an individual who identified himself as Anti-Balaka spokesperson.³⁸²⁶

b. Bossembélé

1436. Moving further south in the Ombella-M’Poko prefecture to Bossembélé, Jo-Brice Ouabiro Dana testified that near the village of Bobala, they received instruction from Dedane to go to Bossembélé, he dispatched Douze Puissances to Gbozo and Dangba to Bobala to give instructions to march towards Bossembélé where Dedane was based due to the working telephone network, but he also sent instructions by a messenger on foot.³⁸²⁷

1437. Jo-Brice Ouabiro Dana stated that the purpose of going to Bossembélé was to get medicine and reinforce themselves; they all gathered at ‘marabout’ Lundi’s house and spent one week; they were told not to attack the city because there were too many Seleka combatants; while in Bossembélé, the witness became the secretary for chief Alexis Mandago, nickname ‘Sol-Sol’.³⁸²⁸ Jo-Brice Ouabiro Dana explained that as they were leaving Bossembélé, Dedane

³⁸²² P-0889 Interview Transcript, CAR-OTP-2122-7962-R02, at 7977, lines 535-558.

³⁸²³ P-0889 Interview Transcript, CAR-OTP-2122-7962-R02, at 7978-79, lines 580-602.

³⁸²⁴ P-0505 Statement, CAR-OTP-2014-0129-R01, at 0133, para. 25. *See also, for example*, Photographs, CAR-OTP-2095-0985; CAR-OTP-2095-1023; CAR-OTP-2095-1096; CAR-OTP-2095-1109; CAR-OTP-2095-1110; CAR-OTP-2095-1112; CAR-OTP-2095-1120; CAR-OTP-2095-1127; CAR-OTP-2095-1141; CAR-OTP-2095-1146; CAR-OTP-2095-1161; CAR-OTP-2095-1259; CAR-OTP-2095-1389; CAR-OTP-2095-1465; CAR-OTP-2095-1471; CAR-OTP-2095-1510; CAR-OTP-2095-1549.

³⁸²⁵ P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0773, para. 18, at 0779-80.

³⁸²⁶ *See* Photograph, CAR-OTP-2085-0251; Metadata, CAR-OTP-2085-0252; CAR-OTP-2085-2254; Photograph, CAR-OTP-2085-0261; Metadata, CAR-OTP-2085-0262; CAR-OTP-2085-2259. *See also* P-1577: T-027, p. 29, line 21 – p. 30, line 10.

³⁸²⁷ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0251, para. 56.

³⁸²⁸ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0251, para. 58; P-0966 Corrections, CAR-OTP-2135-2583-R01, at 2585.

returned with ‘modibo’ Lundi, and had a meeting with the soldiers and groups were reallocated: one group was to go to Gbozo and the other to Bossangoa.³⁸²⁹

1438. Jo-Brice Ouabiro Dana, who was not at this meeting, was told by Alexis Mandago that since Kema was originally from Bossangoa, and he and Ndangba were the people with ‘rank’, they had been chosen to be the ComZone in the Bossangoa localities with Ndangba being Kema’s deputy.³⁸³⁰ Alexis Mandago and Jo-Brice Ouabiro Dana were in this group and were to go back to Bossangoa; whereas others, including Douze Puissances, were to go to Bogangolo to meet up with Andjilo and join the group for Bogangolo and Gbozo.³⁸³¹

c. Gaga

1439. The Chamber notes that by October 2013, the Anti-Balaka reached the village of Gaga, which is 30-45 kilometres north of Yaloké in the Dawili commune.³⁸³²

1440. P-2416, a Yaloké resident at the time,³⁸³³ heard [REDACTED] in October 2013, from another Central African that Gaga had been attacked by Anti-Balaka, and learned more about the attack after [REDACTED], including that some civilians were killed.³⁸³⁴

1441. P-1779 [REDACTED] from Gaga,³⁸³⁵ stated that two weeks before the first attack of the Anti-Balaka in Gaga, a Christian gold digger warned the population and advised to evacuate the women and children, which the Christians immediately did.³⁸³⁶ The Muslims did not believe him.³⁸³⁷ The attack took place on a Friday, starting at around 05:00 and continuing until 12:00.³⁸³⁸ P-1779 did not see the attackers, but heard shots and left his property only

³⁸²⁹ P-0966: T-117, p. 33, line 12 – p. 35, line 17; P-0966 Statement, CAR-OTP-2031-0241-R03, at 0251, para. 58; P-0966 Corrections, CAR-OTP-2135-2583-R01, at 2585.

³⁸³⁰ P-0966: T-117, p. 33, line 12 – p. 34, line 7.

³⁸³¹ P-0966: T-117-ENG, p. 34, line 24 – p. 35, line 17; T-117-FRA, p. 36, line 27 – p. 37, line 21.

³⁸³² P-1779 Statement, CAR-OTP-2087-9894-R02, at 9896, para. 14; P-2546 Statement, CAR-OTP-2114-0402-R01, at 0411, para. 34.

³⁸³³ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0495, para. 18.

³⁸³⁴ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0498-99, paras 27-28.

³⁸³⁵ P-1779 Statement, CAR-OTP-2087-9894-R02, at 9896, para. 11, at 9897, para. 18.

³⁸³⁶ P-1779 Statement, CAR-OTP-2087-9894-R02, at 9902, para. 50.

³⁸³⁷ P-1779 Statement, CAR-OTP-2087-9894-R02, at 9902, para. 51.

³⁸³⁸ P-1779 Statement, CAR-OTP-2087-9894-R02, at 9903, para. 52. The Chamber notes that the witness indicated that the attack took place in the month of ‘Tabaski’. In the overall context of the evidence before it, the Chamber concludes that the witness may have been mistaken about the month of the attack.

once to see the body of [REDACTED] a Muslim,³⁸³⁹ who was lying covered in blood.³⁸⁴⁰ P-1779 knew of three more victims, one Seleka and two more civilians, [REDACTED].³⁸⁴¹ At around 11:00, still hearing firing, P-1779 left his family property and started looking for means to flee, he heard from a taxi driver, that Ardo Saidou, village chief of Gaga 3, instructed the Muslims to evacuate because the Anti-Balaka outnumbered the Seleka.³⁸⁴² P-1779 stated that the Seleka in Gaga were joined by Muslim youth from the village armed with bow and arrow that usually protected the village against road bandits to counter the Anti-Balaka.³⁸⁴³ P-1779 later saw the village deserted, houses of Muslims burnt, all in Gaga 1 on the north side of the village, where the attack started.³⁸⁴⁴ P-1779 also saw looted shops, while the mosques and churches of the village had not been touched.³⁸⁴⁵ After this attack, the Muslims no longer trusted the Christians who stopped visiting them, and P-1779 was afraid of going about in the village and no longer went out.³⁸⁴⁶

1442. P-2546 stated that in the morning of 7 October 2013, he heard on the news of Radio Ndeke Luka that ‘Gaga was burning’, so he started calling people who were on the ground, who told him that compounds had been burnt, people killed and bodies were lying around.³⁸⁴⁷ P-2546 also met [REDACTED] who told him that Gaga had been attacked.³⁸⁴⁸ P-2546 stated that some of the survivors of Gaga also managed to escape to Yaloké, so people in Bangui were receiving a lot of information regarding the incident in Gaga: according to the information P-2546 received, he understood that the Seleka contingent based in Yaloké/Gaga was responsible for the incident.³⁸⁴⁹

1443. Zenaba Oumar, a Muslim resident of Yaloké at the time,³⁸⁵⁰ did not recall when the first attack on Gaga occurred, but it was more than a month prior to the attack on Bangui on

³⁸³⁹ P-1779 Statement, CAR-OTP-2087-9894-R02, at 9903, para. 53.

³⁸⁴⁰ P-1779 Statement, CAR-OTP-2087-9894-R02, at 9903, para. 55.

³⁸⁴¹ P-1779 Statement, CAR-OTP-2087-9894-R02, at 9903, para. 54.

³⁸⁴² P-1779 Statement, CAR-OTP-2087-9894-R02, at 9903, para. 56.

³⁸⁴³ P-1779 Statement, CAR-OTP-2087-9894-R02, at 9904, para. 59.

³⁸⁴⁴ P-1779 Statement, CAR-OTP-2087-9894-R02, at 9904, paras 61-62.

³⁸⁴⁵ P-1779 Statement, CAR-OTP-2087-9894-R02, at 9905, para. 63.

³⁸⁴⁶ P-1779 Statement, CAR-OTP-2087-9894-R02, at 9905, para. 64.

³⁸⁴⁷ P-2546 Statement, CAR-OTP-2114-0402-R01, at 0411-12, para. 34.

³⁸⁴⁸ P-2546 Statement, CAR-OTP-2114-0402-R01, at 0412, para. 36.

³⁸⁴⁹ P-2546 Statement, CAR-OTP-2114-0402-R01, at 0412, para. 37.

³⁸⁵⁰ P-2422 Statement, CAR-OTP-2110-0801-R02, at 0804, para. 12.

5 December 2013.³⁸⁵¹ On the day Gaga was first attacked, [REDACTED] told her that at about 03:00 the Anti-Balaka came from the bush, injured a Seleka that later died, then the Seleka drove the Anti-Balaka back into the bush and commenced killing all Christian civilians in Gaga.³⁸⁵² Having travelled to Gaga the same morning, Zenaba Oumar saw at least 100 dead bodies, men and some children, all appeared to have been shot with the gun, not chopped with machete.³⁸⁵³ The witness was told that many Christian merchants from Bangui were killed by the Seleka during this attack, she was told all the dead were Christians.³⁸⁵⁴ On the way back to Yaloké, on the road from Gaga to Zawa, Zenaba Oumar saw other dead bodies which she later learnt to be the Christians who were fleeing Gaga and were shot and killed by the Seleka; the bodies had not been there when she went to Gaga.³⁸⁵⁵

1444. Having regard to the above, the Chamber finds that the Anti-Balaka attacked Gaga in October 2013 in the early hours of a Friday, clashing with the Seleka there, which resulted in many civilian deaths, both Muslim and Christian, and Muslims fleeing to other locations.

d. Bouar

1445. The Chamber now turns to the attack in Bouar in the Nana-Mambéré prefecture. The Prosecution submits that an attack on Bouar took place on 26 October 2013 during which the Anti-Balaka targeted the Muslim population as a whole, resulting in the deaths of at least 20 civilians and the displacement of over 10,000 people.³⁸⁵⁶ It argues that Mr Ngaïssona provided ‘the Bouar group’ with organisational support, funds, ammunition and Thurayas.³⁸⁵⁷ It also argues that P-1847’s testimony establishes that Mr Ngaïssona and Bernard Mokom ordered the Bouar attack.³⁸⁵⁸

1446. The Ngaïssona Defence argues that there is no credible evidence that Mr Ngaïssona travelled to the border personally to Bouar to prepare and execute attacks against Seleka positions.³⁸⁵⁹

³⁸⁵¹ P-2422 Statement, CAR-OTP-2110-0801-R02, at 0808, para. 26.

³⁸⁵² P-2422 Statement, CAR-OTP-2110-0801-R02, at 0808, para. 27.

³⁸⁵³ P-2422 Statement, CAR-OTP-2110-0801-R02, at 0808-09, paras 28-29.

³⁸⁵⁴ P-2422 Statement, CAR-OTP-2110-0801-R02, at 0809-10, paras 30-31.

³⁸⁵⁵ P-2422 Statement, CAR-OTP-2110-0801-R02, at 0811, para. 35.

³⁸⁵⁶ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 172.

³⁸⁵⁷ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, paras 153-170.

³⁸⁵⁸ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 172.

³⁸⁵⁹ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 442-446.

It also argues that Mr Ngaïssona did not instruct or provide money, weapons, ammunition, or any other material for the Bouar attack.³⁸⁶⁰

1447. As regards the attack on Bouar, the Chamber received evidence from Nicolas Tiangaye, Jacob Mokpem-Bionli, Jean-Jacques Demafouth, D30-4848, D30-4914, and P-1719, none of whom were present in Bouar during the attack. They recalled information that they received at the time, as discussed in detail below.

1448. Nicolas Tiangaye did not remember what happened in Bouar; there were some soldiers who did not remain in Bangui, elements of the army who were scattered across the country and joined the Anti-Balaka and provided training for them to carry out the counter-attack on Seleka elements.³⁸⁶¹ The witness explained that Bouar is of strategic importance because it was a French military base, with Camp Leclerc; it is some 150 kilometres from the Cameroon border and merchandise coming through the Douala port was taken to the CAR through this route; it is also not too far up north, if going through Bocaranga, which is quite close to Chad; from Bouar one can go to Cameroon through Garam-Boulaï and to Chad by passing through Paramba.³⁸⁶²

1449. The Chamber also takes note in this regard of minutes of a meeting of the CAR national security council held on 30 October 2013, in which it was mentioned that in light of the nature of weapons used during the attack on Bouar, namely heavy weapons, rockets, and other military materiel, it was not Anti-Balaka, as suggested by media, but rather career soldiers from the FACA and PG, estimated at about 80.³⁸⁶³

1450. P-0884 knew Adamou Ndale, Bouar ComZone, but got to know him after December 2013.³⁸⁶⁴ Regarding what happened in Bouar, they ('we') were informed over the radio, Radio Ndeke Luka, RFI, and information circulating amongst the public.³⁸⁶⁵

³⁸⁶⁰ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 479-490, 496, 517-519, 523.

³⁸⁶¹ P-0291: T-051, p. 42, lines 2-19.

³⁸⁶² P-0291: T-051, p. 42, line 20 – p. 43, line 5.

³⁸⁶³ Minutes, CAR-OTP-2079-1004, at 1009-10. *See also* Press article, CAR-OTP-2001-0191.

³⁸⁶⁴ P-0884: T-055, p. 41, lines 3-10.

³⁸⁶⁵ P-0884: T-055, p. 41, lines 14-19.

1451. Jacob Mokpem-Bionli stated that there were attacks in Bouar, but he did not recall when, it was before 5 December 2013.³⁸⁶⁶ They followed closely what was happening in Bangui and the hinterland.³⁸⁶⁷ Later, the ComZone in Bouar defected from the movement because he had asked the national coordination for materiel and money but did not get anything.³⁸⁶⁸

1452. Jean-Jacques Demafouth heard that the military camp at Bouar came under attack and that certain convoys were attacked while travelling.³⁸⁶⁹ It was mostly the FACA soldiers who were in the Anti-Balaka who conducted that operation, because they targeted Camp Leclerc and other military targets only; at the time, the intelligence was that the military camp had been attacked by soldiers because they knew the various positions within the camp.³⁸⁷⁰ The witness confirmed that Mokom was in charge of the Anti-Balaka at that time in that region, but he did not recall the names of the soldiers whom he used.³⁸⁷¹

1453. P-2673 testified, asked if the fighting for Bouar was finished on 31 October 2013, that it was ongoing; in Bouar, mainly Christian civilians were doing the fighting and needed the military to reinforce them.³⁸⁷² P-2673 confirmed that he heard that many FACA had joined in Damara on 29 November 2013.³⁸⁷³ P-2673 did not know who organised the event at which the FACA joined in Damara.³⁸⁷⁴ P-2673 confirmed in relation to other messages [REDACTED] that ‘Kangara’, mentioned as awaiting ‘*le top*’ from, referred to Bozizé, while the message overall referred to soldiers that Mr Ngaïssona had sent to Bouar.³⁸⁷⁵

1454. P-2027 [REDACTED].³⁸⁷⁶ He stated that Ndale and those from Cantonier joined together organised to attack Bouar [REDACTED].³⁸⁷⁷

³⁸⁶⁶ P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0303, para. 97.

³⁸⁶⁷ P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0303, para. 97.

³⁸⁶⁸ P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0303, para. 97.

³⁸⁶⁹ P-2328: T-047, p. 60, lines 14-21.

³⁸⁷⁰ P-2328: T-047-ENG, p. 61, lines 7-15; T-047-FRA, p. 63, lines 19-27.

³⁸⁷¹ P-2328: T-047, p. 61, line 16 – p. 63, line 14.

³⁸⁷² P-2673 Statement, CAR-OTP-2127-6435-R01, at 6453, para. 117.

³⁸⁷³ P-2673: T-041, p. 46, lines 3-16 *referring to* Facebook messages, CAR-OTP-2102-5143, at 5191.

³⁸⁷⁴ P-2673: T-041, p. 46, lines 17-20.

³⁸⁷⁵ P-2673: T-041, p. 23, line 16 – p. 24, line 14 *referring to* Facebook messages, CAR-OTP-2102-5143, at 5175, 5177.

³⁸⁷⁶ P-2027 Statement, CAR-OTP-2078-0059-R03, at 0077, para. 106.

³⁸⁷⁷ P-2027 Statement, CAR-OTP-2078-0059-R03, at 0077, para. 106.

1455. The Chamber further notes a press release published on ‘ohchr.org’ on 8 November 2013, which mentions an attack on Bouar on 26 October 2013 by ‘self-defence militias, known as anti-Balaka’, leading to clashes with the Seleka resulting in the death of at least 20 civilians, while other clashes between the two groups led to unknown number of casualties since September 2013 and the large-scale displacement of the population.³⁸⁷⁸

1456. Within the context of the above evidence, the Chamber does not find credible, or immaterial to its overall assessment, the information provided by D30-4848 and D30-4914.

1457. D30-4848 denied that he would have received real-time, contemporaneous information on the attack in Bouar.³⁸⁷⁹ D30-4848 denied [REDACTED].³⁸⁸⁰ D30-4848 maintained that [REDACTED] there were rumours because ‘people on the other side’ [REDACTED].³⁸⁸¹

1458. D30-4914 testified that the Bouar group around the Ndale family led many combats in Bouar and the surrounding villages, the fighting in Bouar was intense because it was a Seleka logistical base with weapon stocks.³⁸⁸² There were frequent clashes between the Ndale group and the Seleka [REDACTED].³⁸⁸³ [REDACTED].³⁸⁸⁴ D30-4914 considered it ‘absolutely wrong’ that Mr Ngaïssona and Bernard Mokom would have coordinated things from wherever they were to cause an attack in Bouar.³⁸⁸⁵ D30-4914 did not hear of any failed attack on Bouar in October 2013 which would have been prepared by Mr Ngaïssona and Bernard Mokom; when he arrived to Beloko in October, the entire zone was under Seleka control, in a much stronger position.³⁸⁸⁶

1459. The above is not borne out by the other evidence on record. Indeed, as regards Mr Ngaïssona’s alleged involvement in the Bouar attack, the Chamber heard from Joachim Kokaté, P-2673 and P-1847.

³⁸⁷⁸ Press article, CAR-OTP-2001-0191.

³⁸⁷⁹ D30-4848: T-298, p. 23, line 2 – p. 27, line 8 *referring to* [REDACTED].

³⁸⁸⁰ D30-4848: T-297, p. 21, line 15 – p. 23, line 22 *referring to* [REDACTED].

³⁸⁸¹ D30-4848: T-296, p. 70, line 20 – p. 71, line 25 *referring to* [REDACTED].

³⁸⁸² D30-4914 Statement, CAR-D30-0024-0001-R01, at 0015, lines 564-570.

³⁸⁸³ D30-4914: T-303, p. 6, line 17 – p. 7, line 1.

³⁸⁸⁴ D30-4914: T-303, p. 13, line 1 – p. 14, line 1.

³⁸⁸⁵ D30-4914: T-302, p. 55, line 6 – p. 56, line 8.

³⁸⁸⁶ D30-4914: T-303, p. 6, lines 8-16, p. 7, lines 3-5 *referring to* [REDACTED].

1460. Joachim Kokaté testified that Mr Ngaïssona described to him on the phone what they had done during the attack on Bouar; he spoke to the witness about it because they were colleagues in government.³⁸⁸⁷ He said that Mr Ngaïssona told him that he had organised the attack on Bouar, but that there was a logistics problem that cropped up and that things were not completely in place, and that is how the Seleka fighters took back Bouar.³⁸⁸⁸

1461. P-2673 stated that while he did not see Mr Ngaïssona speak to the Anti-Balaka in Bouar, Bossangoa, Bouca, or giving money to them, [REDACTED] those in Bouar, Bouca who said it was Mr Ngaïssona who sent the money.³⁸⁸⁹

1462. The Chamber also recalls its discussion regarding P-1847's prior recorded testimony introduced pursuant to Rule 68(2)(d) of the Rules.³⁸⁹⁰ P-1847 stated that [REDACTED] the attack on Bouar, which was a Seleka base, was prepared following the instructions of Bernard Mokom and Mr Ngaïssona, after their meeting in Yaoundé.³⁸⁹¹ According to P-1847, Mr Ngaïssona was certainly also informed of the attack in Bouar, he was with Mokom father and they supported the fighters at the border; P-1847 could not say if Mr Ngaïssona financed them, but before their divide, Mokom and Mr Ngaïssona were very close.³⁸⁹² P-1847 thought Mr Ngaïssona was aware of the attack in Bouar because he was in constant communication with Godonam and Ndale.³⁸⁹³ Ndale coordinated the attack in Bouar, which P-1847 thought took place before the 5 December 2013 attack.³⁸⁹⁴ [REDACTED] several Anti-Balaka were injured; the Anti-Balaka moved towards the Bokaranga route and [REDACTED] he had tried in vain to reach Mokom father to receive financial means to take care of the injured.³⁸⁹⁵

³⁸⁸⁷ P-0801: T-034, p. 62, lines 17-23.

³⁸⁸⁸ P-0801: T-034, p. 62, line 25 – p. 63, line 5. The Chamber considers of no further import in this regard that the witness had not mentioned this call during his initial interview (see P-0801: T-037, p. 89, line 8 – p. 90, line 12) or that CDR concerning numbers attributed to Mr Ngaïssona and a number used by the witness in France do not show any contact in October 2013 (see P-0801: T-038, p. 7, line 18 – p. 8, line 4, p. 12, line 14 – p. 13, line 19). With regard to the latter, the Chamber recalls its general conclusion that absence of CDR evidence does not exclude the possibility that a communication actually took place (see paragraph 189 above).

³⁸⁸⁹ P-2673: T-042, p. 25, line 14 – p. 26, line 13.

³⁸⁹⁰ See paragraphs 843-846 above.

³⁸⁹¹ P-1847 First Statement, CAR-OTP-2061-1534, at 1556, para. 142.

³⁸⁹² P-1847 Second Statement, CAR-OTP-2122-8251-R01, at 8256, para. 42.

³⁸⁹³ P-1847 Second Statement, CAR-OTP-2122-8251-R01, at 8257, para. 46, at 8264-65, para. 125.

³⁸⁹⁴ P-1847 Second Statement, CAR-OTP-2122-8251-R01, at 8256, para. 41.

³⁸⁹⁵ P-1847 Second Statement, CAR-OTP-2122-8251-R01, at 8256-57, para. 46.

1463. Bearing in mind the above, the Chamber finds not credible P-1847's claim in court that his prior statement about soldiers preparing to attack Seleka bases in Beloko and up to Bouar under orders of Bernard Mokom, Mr Ngaïssona and Marcelin Yaliminde³⁸⁹⁶ concerned the period 'after' the attack on Bangui in 2013.³⁸⁹⁷ This is especially in light of the witness's indication, given in the same context, that the attacks in Beloko and Bouar were 'somewhere between November and December' 2013, with Bouar taking place 'before' Mr Ngaïssona became coordinator,³⁸⁹⁸ as well as the other evidence as outlined above, which dates the attack in Bouar in late October 2013.

1464. In the same vein, the Chamber notes P-1847's suggestion that his prior statement according to which [REDACTED] was preparing the Bouar attack on instructions of Bernard Mokom and Mr Ngaïssona following a meeting in Yaoundé³⁸⁹⁹ involves 'some small points of confusion'. In the view of the Chamber, and especially considering the witness's attempted explanation for this 'confusion' and the sources of his information, P-1847's evidence indicates that Bernard Mokom, Marcelin Yaliminde, Ndale and François Bozizé were involved in the planning and execution of this attack.³⁹⁰⁰

1465. The Chamber further notes its discussion of the evidence showing that Mr Ngaïssona and Bernard Mokom travelled to the Cameroon-CAR border with a view to liaising with the groups led by Achille and Ndale.³⁹⁰¹

1466. Bearing in mind the evidence outlined above, the Chamber considers without merit the arguments of the Ngaïssona Defence in relation to Mr Ngaïssona's role in advance of the Bouar attack. Indeed, D30-4914's generalised claim that it is 'absolutely wrong' that Mr Ngaïssona or Bernard Mokom would have coordinated the attack on the basis of them being civilians is inconsequential. Involvement in preparations of an attack in a coordinating role is not excluded by mere virtue of the fact of someone not having a military role or background. Further, the Chamber's conclusions in this regard are based on witnesses with

³⁸⁹⁶ P-1847 First Statement, CAR-OTP-2061-1534, at 1555-56, para. 138.

³⁸⁹⁷ P-1847: T-023, p. 64, line 17 – p. 65, line 8.

³⁸⁹⁸ P-1847: T-023, p. 64, line 17 – p. 65, line 18.

³⁸⁹⁹ P-1847 First Statement, CAR-OTP-2061-1534, at 1556, para. 142.

³⁹⁰⁰ P-1847: T-023-ENG, p. 46, lines 13-20; T-023-FRA, p. 47, lines 11-17; T-023, p. 65, line 19 – p. 66, line 16; T-024-ENG, p. 27, lines 2-22, p. 28, lines 8-15; T-024-FRA, p. 27, line 20 – p. 28, line 5.

³⁹⁰¹ See paragraphs 914-923 above.

knowledge of the events, rather than solely Facebook messages and witnesses' comments thereon.

1467. Having regard to the above, the Chamber finds that the Anti-Balaka attacked Bouar in late October 2013. Mr Ngaïssona was involved in liaising with the groups executing the attack beforehand, and then informed of this attack.

e. Boali

1468. In their further advance towards Bangui, Anti-Balaka groups reached Boali by December 2013. Boali is located approximately halfway between Bossembélé and Bangui on the Bossembélé-Bangui axis.³⁹⁰²

1469. Nicolas Tiangaye commented on the video footage showing Peuhl victims allegedly of the Boali attack, stating that the events happened on the same day as he went to Paris, the Anti-Balaka had attacked Peuhl Muslims in Boali and Michel Djotodia absolutely wanted Nicolas Tiangaye to visit them.³⁹⁰³ Nicolas Tiangaye talked to some of the victims he saw that day; they told him that they had been attacked; they did not identify the attackers, but it was clear that the attack could only have been carried out by the Anti-Balaka, because he could not imagine the Seleka attacking Peuhl Muslims.³⁹⁰⁴

1470. The Chamber notes that the video footage shows the visit of Nicolas Tiangaye, then-prime minister of the CAR, to individuals, mainly women and children, with bandaged wounds on their heads and/or limbs.³⁹⁰⁵ Another video shows Michel Djotodia visiting the victims, clearly outraged, stating that this is '*pré-génocide*', and insisting that the prime minister be found to also see what is happening.³⁹⁰⁶

1471. Several journalists also visited the victims. P-2377 stated that before 5 December 2013, he visited Peuhl victims in the Bangui community hospital which he thought were injured by Anti-Balaka, and he mainly saw machete injuries to the head and men with cuts to the

³⁹⁰² Map, CAR-OTP-2070-0268.

³⁹⁰³ P-0291: T-051, p. 60, line 1 – p. 62, line 2 *referring to* Video, CAR-OTP-2023-1548; T-052, p. 9, lines 8-25.

³⁹⁰⁴ P-0291: T-051, p. 62, lines 3-21.

³⁹⁰⁵ See Video, CAR-OTP-2023-1548.

³⁹⁰⁶ Video, CAR-OTP-2012-0523, at 00:13:04-00:16:09; Transcript, CAR-OTP-2118-5507; Translation, CAR-OTP-2118-5547, at 5560-62, lines 355-429.

feet.³⁹⁰⁷ Similarly, P-1576 stated that on 3 December 2013 in Bangui they were informed that some Peuhls children had been injured during an attack on their village by the Anti-Balaka, and they were brought to a military barracks to be seen by journalists, a UN investigator and the government authorities before being brought to the hospital.³⁹⁰⁸ P-1576 thought this was a propaganda stunt by the Seleka government, and confirmed that while the children were clearly injured, he was not able to check the veracity of the allegations.³⁹⁰⁹

1472. Another journalist, Michaël Zumstein, travelled on the road to Sibut, a town 100 kilometres from Bangui, on 1 December 2013 and saw a convoy of three Seleka vehicles going in direction of Sibut, with the Seleka all nervous.³⁹¹⁰ Having seen around five wounded Peuhl children at a hospital in Bangui who, they were told, had come from Boali where they were attacked by ‘Christians’,³⁹¹¹ Michaël Zumstein went to Boali; on the road from Bangui to Boali on 4 December 2013, they met both Muslims and Christians, all fearing inter-communitarian violence; for example, they met a Christian at PK47 and met the Muslim community in Bougoula.³⁹¹² The witness stated that, when he returned to Bougoula a month later, there were ‘no Muslims left’; near Bougoula, further down the road to Boali, they met a fleeing Christian, pushing a cart with his families’ belongings, who told them that they had been attacked by Peuhl.³⁹¹³ Michaël Zumstein found several destroyed houses in Boali; they were told that they belonged to Christians; whilst at the Boali mosque, ‘Muslim men’ armed with bows and arrows and machetes were gathered to protect the mosque, fearing that the mosque would be destroyed if they did not guard it.³⁹¹⁴

1473. P-2546, [REDACTED] who lived in Yaloké at the relevant time,³⁹¹⁵ passed through Boali [REDACTED], seeing in Boali some local civilian Muslims including some Peuhls armed

³⁹⁰⁷ P-2377 Statement, CAR-OTP-2108-0609-R02, at 0618, para. 43. See Video, CAR-OTP-2108-1312; Transcript, CAR-OTP-2127-6793. See also Video, CAR-OTP-2108-0681; Translation, CAR-OTP-2130-1400.

³⁹⁰⁸ P-1576 Statement, CAR-OTP-2060-0280-R01, at 0283, para. 17. See Photographs, CAR-OTP-2061-4475; CAR-OTP-2061-4476; CAR-OTP-2061-4477; CAR-OTP-2061-4478; CAR-OTP-2061-4479; CAR-OTP-2061-4480; CAR-OTP-2061-4481.

³⁹⁰⁹ P-1576: T-239, p. 53, line 15 – p. 54, line 7.

³⁹¹⁰ P-0505 Statement, CAR-OTP-2014-0129-R01, at 0134, para. 31.

³⁹¹¹ P-0505 Statement, CAR-OTP-2014-0129-R01, at 0134, para. 32. See Photographs, CAR-OTP-2095-7960; CAR-OTP-2095-7976; CAR-OTP-2095-7978; Videos, CAR-OTP-2095-8354; CAR-OTP-2095-8355.

³⁹¹² P-0505 Statement, CAR-OTP-2014-0129-R01, at 0134-0135, para. 33.

³⁹¹³ P-0505 Statement, CAR-OTP-2014-0129-R01, at 0134-0135, para. 33.

³⁹¹⁴ P-0505 Statement, CAR-OTP-2014-0129-R01, at 0135, para. 34.

³⁹¹⁵ P-2546 Statement, CAR-OTP-2114-0402-R01, at 0408, para. 22.

with homemade bows and arrows and bladed weapons such as knives.³⁹¹⁶ According to what P-2546 knew at the time, the Seleka in Boali were CAR Goula, including some Peuhls, and the non-CAR mercenary branch.³⁹¹⁷ P-2546 said that there had been killings of Peuhls on the outskirts of Boali, which caused tension, and the general Boali population was accused by the Seleka of hiding the Anti-Balaka, putting an ultimatum to identify the Anti-Balaka and people who were hiding them.³⁹¹⁸ According to P-2546, the Seleka used the name ‘Anti-Balaka’ because the young men who had organised themselves into a group called themselves Anti-Balaka.³⁹¹⁹ P-2546 said that the ‘several hundred’ Christians who had sought refuge at the church in Boali eventually went back home.³⁹²⁰ The next day, P-2546 learned a ‘boy’ nicknamed ‘Young Man’ had been killed by the Seleka because he was believed to be the Anti-Balaka leader in the area, there was general talk that the Seleka suspected him of being Anti-Balaka because he kept on disappearing and re-appearing, and the Seleka thought he was going to the bush to pass information.³⁹²¹ P-2546 went to Bangui and sometime after the 5 December 2013 incident in Bangui saw on France 24 that the situation in Boali had gotten worse and some Peuhls had been killed; [REDACTED] said he had taken in some Peuhls and had to stand between them and the Anti-Balaka to stop the Peuhls from being killed.³⁹²²

1474. P-0567 said that on 3 December 2013, five men were killed by the Seleka in Boali, and the Seleka systematically and mostly targeted males considered to have ties to the Anti-Balaka, while the Anti-Balaka killed Muslims indiscriminately.³⁹²³

1475. P-1847 testified he was informed about attacks by [REDACTED] who coordinated issues around Bossembélé, Bossangoa, and P-1847 confirmed the Boali attack as well, which was rather serious on the Peuhl and the Muslims, so the prime minister had to go there to see what to do.³⁹²⁴ He indicated that [REDACTED] to confirm that his group and that of Andjilo

³⁹¹⁶ P-2546 Statement, CAR-OTP-2114-0402-R01, at 0414, para. 45, at 0415, para. 46.

³⁹¹⁷ P-2546 Statement, CAR-OTP-2114-0402-R01, at 0415, para. 47.

³⁹¹⁸ P-2546 Statement, CAR-OTP-2114-0402-R01, at 0415, para. 48.

³⁹¹⁹ P-2546 Statement, CAR-OTP-2114-0402-R01, at 0415, para. 48.

³⁹²⁰ P-2546 Statement, CAR-OTP-2114-0402-R01, at 0415-16, para. 49.

³⁹²¹ P-2546 Statement, CAR-OTP-2114-0402-R01, at 0416, para. 50.

³⁹²² P-2546 Statement, CAR-OTP-2114-0402-R01, at 0416, paras 51-52.

³⁹²³ P-0567 Statement, CAR-OTP-2059-0084-R04, at 0108-09, paras 163-164.

³⁹²⁴ P-1847: T-023, p. 90, line 24 – p. 91, line 7.

had attacked Boali, the Peuhl, and that they had inflicted some damage, there were a few excesses and violence, and shortly thereafter it was announced on France 24 and RFI.³⁹²⁵ P-1847 denied the question whether his knowledge of any crimes that might have been committed by Anti-Balaka went beyond the information he received from public media.³⁹²⁶

1476. In addition to the news in Boali being in the public sphere, the Chamber notes that Mr Ngaïssona was directly informed of Anti-Balaka activities in Boali. In an email of 4 December 2013 sent by '[REDACTED]', the sender mentions that the day before, Anti-Balaka killed 15 Seleka at Boali.³⁹²⁷

1477. P-0965 stated that when the Anti-Balaka descended to Bangui, they took different routes, some came on the Mbaïki road, some on the Damara road, and others came from the Boali road; on the way, they attacked Muslims, including in Boali where also Muslim children were killed.³⁹²⁸ On the Mbaïki road, the leader was 'Rhambot', on the Damara road people came from several directions, Bouca, Damara and others; Andjilo also came from Bouca.³⁹²⁹

1478. P-1577 travelled to Boali on [REDACTED].³⁹³⁰ There, he found a mixed group of Muslims and Peuhls who were being taken care of by a Catholic priest.³⁹³¹ It was clear from his discussions with them that these people had been there for a few weeks prior to the date, seeking sanctuary from the Anti-Balaka.³⁹³² On the way to Boali, P-1577 came across checkpoints manned by self-identified Anti-Balaka.³⁹³³

³⁹²⁵ P-1847 First Statement, CAR-OTP-2061-1534, at 1559, para. 162; P-1847: T-023-ENG, p. 89, line 20 – p. 90, line 3; T-023-FRA, p. 88, line 26 – p. 89, line 4.

³⁹²⁶ P-1847: T-023, p. 90, lines 6-8.

³⁹²⁷ See Email, CAR-OTP-2124-0952, at 0952.

³⁹²⁸ P-0965 Interview Transcript, CAR-OTP-2046-0195-R01, at 0202-03, lines 242-287.

³⁹²⁹ P-0965 Interview Transcript, CAR-OTP-2046-0195-R01, at 0203-04, lines 288-304.

³⁹³⁰ P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0794, para. 54.

³⁹³¹ P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0796; P-1577: T-027, p. 87, lines 10-24. See Satellite image (annotated by P-1577), CAR-OTP-2088-0736; Photograph, CAR-OTP-2086-0390; Metadata, CAR-OTP-2086-0391; CAR-OTP-2087-0131; CAR-OTP-2091-5684; Photograph, CAR-OTP-2086-0400; Metadata, CAR-OTP-2086-0401; CAR-OTP-2086-0401; CAR-OTP-2087-0134; CAR-OTP-2091-5687; Photograph, CAR-OTP-2086-0410; Metadata, CAR-OTP-2086-0411; CAR-OTP-2087-0139; CAR-OTP-2091-5693; Photograph, CAR-OTP-2086-0420; Metadata, CAR-OTP-2086-0421; CAR-OTP-2087-0142; CAR-OTP-2091-5696.

³⁹³² P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0796; P-1577: T-027, p. 87, lines 10-24.

³⁹³³ P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0796.

1479. The Chamber notes further that in the emails sent to Mr Ngaïssona with requests for materiel, Boali is one of the locations mentioned as being under [REDACTED] responsibility.³⁹³⁴ The Chamber also recalls that in his emails to '[REDACTED]' from September 2013, P-0876 had made reference to activities in Boali.³⁹³⁵

1480. Having regard to the above, the Chamber finds that the Anti-Balaka attacked Boali, resulting in the killing of Muslim civilians, especially the Peuhl, and fleeing of these populations to other locations. This attack was widely covered by the media. Mr Ngaïssona was directly informed of this attack and the involvement of the Anti-Balaka in 'killing the Seleka'.

iv. Other general information on hostilities during advance

1481. The evidence before the Chamber as outlined below shows that information on the advance of Anti-Balaka groups towards Bangui, and hostilities they engaged in the course of this advance was generally known and available.

1482. P-1847 thought that Mr Ngaïssona and Bernard Mokom were informed of the attacks in the area Bossembélé, Ndjo, Bouca, Bossangoa.³⁹³⁶ He stated that Andjilo was very mobile in that zone; Dedane, Bama Clément and Florent Kema were the leaders that coordinated this zone; the attacks in Ndjo and Bossembélé were coordinated by Dedane and Kema, the attacks in Damara and Bouca were coordinated by Andjilo.³⁹³⁷

1483. P-0884 testified that he was aware of attacks in Bouar (26 October 2013), Bossembélé (end October 2013, 5 December 2013), Beloko (November 2013), Boali (2 December 2013), Yaloké and Gaga (October 2013) from the radio and by the print media; everyone was informed, all Central Africans were aware.³⁹³⁸

1484. P-2673 stated that Mr Ngaïssona was involved with the Anti-Balaka in Bouar, Bossangoa and Bouca; he wanted to be a leader, the goal of his group was also to take power.³⁹³⁹ P-2673 heard that if they took power, Bozizé would be president; Mr Ngaïssona was always in

³⁹³⁴ See paragraph 876 above.

³⁹³⁵ See paragraphs 945-946 above.

³⁹³⁶ P-1847 Second Statement, CAR-OTP-2122-8251-R01, at 8256, para. 45.

³⁹³⁷ P-1847 Second Statement, CAR-OTP-2122-8251-R01, at 8256, para. 44.

³⁹³⁸ P-0884: T-055, p. 40, line 20 – p. 41, line 2.

³⁹³⁹ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6459, para. 153.

contact with Bozizé and Mokom father.³⁹⁴⁰ P-2673 did not recall the date, but insisted that Mr Ngaïssona was in contact with the Anti-Balaka of Bouar, Bossangoa, Bouca, when he arrived in Bangui, they were together, in contact with each other.³⁹⁴¹ P-2673 did not see Mr Ngaïssona speaking to Anti-Balaka in Bouar, Bossangoa, Bouca, but those in Bouar, Bouca said it was Mr Ngaïssona who sent the money.³⁹⁴² P-2673 thought the Anti-Balaka fought in Baoro and Yaloké, he thought it was civilians, not the military [REDACTED].³⁹⁴³ P-2673 also heard about attacks on Bossemtélé and Bossembélé.³⁹⁴⁴

1485.P-2027 stated that the Anti-Balaka groups attacked Bouar, Yaloké, Baoro, Boda, Damara, Bossembélé, Bossemtélé, Cantonier, maybe even Berbérati.³⁹⁴⁵

1486.Nicolas Tiangaye explained that the CAR government at the time was aware of non-Muslims organising in a self-defence movement which then also formed a political direction for their coordination, with a structure in place by 30 October 2013, leaders in various zones and some coordination between the various groups, based on the witness's various sources which included elements from the army, gendarmerie, police, FOMAC.³⁹⁴⁶

1487.Adrien Poussou testified that in the public opinion, François Bozizé was considered responsible for attacks like in Benzambé, Bossangoa, Lere, because he and his entourage were seen as instrumentalising, organising, and launching groups to carry out attacks against Muslims, in addition to calls by FROCCA to defend the country, which could not be done with pieces of wood or words.³⁹⁴⁷ Mr Ngaïssona was someone close to François Bozizé and his inner circle.³⁹⁴⁸ At the time of Adrien Poussou's phone call with Mr Ngaïssona around 30 November 2013 when Adrien Poussou had been appointed minister in the Djotodia administration,³⁹⁴⁹ they knew that the Anti-Balaka were in the regions of Bossangoa in the north, in the Lobaye, in the south close to Bangui, and they also knew that many former

³⁹⁴⁰ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6459, para. 153.

³⁹⁴¹ P-2673: T-042, p. 19, line 13 – p. 20, line 4.

³⁹⁴² P-2673: T-042, p. 25, line 14 – p. 26, line 13.

³⁹⁴³ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6461, para. 172.

³⁹⁴⁴ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6461, para. 172.

³⁹⁴⁵ P-2027 Statement, CAR-OTP-2078-0059-R03, at 0077, para. 105.

³⁹⁴⁶ P-0291: T-051, p. 39, line 4 – 42, line 1 *referring to* Report, CAR-OTP-2079-1004, at 1011-12.

³⁹⁴⁷ P-2625: T-190, p. 16, lines 4-15.

³⁹⁴⁸ P-2625: T-190, p. 16, lines 16-19.

³⁹⁴⁹ P-2625: T-190, p. 17, line 12 – p. 20, line 7; T-193, p. 42, line 16 – p. 43, line 20.

FACA and PG had crossed the river and were in Zongo; information about various Anti-Balaka positions was in the public domain since every time the Anti-Balaka attacked or there were clashes, the press talked about it.³⁹⁵⁰

1488. Indeed, several witnesses mentioned being aware of the Anti-Balaka's progression towards Bangui and attacking various locations in that context through media reporting.³⁹⁵¹ Also Stéphane Chrisostome Dawili confirmed that he was aware of the Anti-Balaka coming from Bossangoa killing Muslim civilians on the way down from Bossangoa into Bangui, and confirmed that Muslims in Mbaïki thought they had come to kill them because they had heard about the Anti-Balaka doing the same thing in Bossangoa.³⁹⁵²

1489. The Chamber notes in this regard that various media reported contemporaneously about attacks and clashes in Bossangoa and its surroundings.³⁹⁵³ Further, it recalls the emails exchanged between Mr Ngaïssona and Alfred Legrand Ngaya in September 2013 refer to the situation in Bossangoa, Bouca and other places.³⁹⁵⁴ In the same month, the French president at the time, François Hollande, asked the UN General Assembly to give mandate to an African force to restore security in the CAR, in light of the situation in the country at the time.³⁹⁵⁵ Also Nicolas Tiangaye, then-prime minister of the CAR, referred to the violence in Bossangoa and surrounding areas when addressing the UN General Assembly in September 2013.³⁹⁵⁶

1490. P-2673 stated that he heard [REDACTED] that the Anti-Balaka were moving from Bossangoa.³⁹⁵⁷ In a similar vein, P-2841 explained that he had information from

³⁹⁵⁰ P-2625: T-190, p. 22, line 12 – p. 23, line 2.

³⁹⁵¹ P-0974: T-243, p. 17, lines 3-20; P-1193: T-124, p. 23, lines 8-12, p. 23, line 25 – p. 24, line 4; P-0884: T-055, p. 40, lines 9-14.

³⁹⁵² P-1647: T-194, p. 61, lines 1-12.

³⁹⁵³ See Press articles, CAR-OTP-2091-1725; CAR-OTP-2074-0278, at 0287; CAR-OTP-2082-0793; CAR-OTP-2079-0622; CAR-OTP-2079-1940; CAR-OTP-2001-4118.

³⁹⁵⁴ See paragraphs 1035-1036 above.

³⁹⁵⁵ Video, CAR-OTP-2092-1001, at 00:11:31-00:12:22. The Chamber notes that the Ngaïssona Defence argued that this item should not be admitted by the Chamber in light of its lack of relevance and probative value (see Annex 1 to Defence Response to the "Prosecution's Eight Application for Submission of Audio/Videos Evidence from the Bar Table" ICC-01/14-01/18-1945-Conf, 18 August 2023, ICC-01/14-01/18-2035-Conf-Anx1, p. 8). However, the Chamber has not assessed this item on its own, but in the context of its holistic assessment of all the evidence before it. Therefore, while this statement by itself may not be conclusive as regards the allegations presented by the Prosecution, it has certain probative value when assessed in the context of other evidence.

³⁹⁵⁶ Video, CAR-OTP-2092-1017, at 00:13:04-00:13:50.

³⁹⁵⁷ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6455, para. 131 referring to [REDACTED].

[REDACTED], who had information on the ground, that the Anti-Balaka had already taken a number of towns from the Seleka as they advanced and that the entire country and particularly Bangui had been marked out for an attack, by taking towns one by one, Seleka had to fall back to Bangui mostly and as the Anti-Balaka were moving closer to Bangui, they tried to surround most of the town.³⁹⁵⁸

1491. For his part, Bi Bouba Waziri Housseni sent letters to the CAR and international authorities in September and October 2013 with details on events in Djobe, Bouca, Bossangoa, Benzambé, Koro-M'Poko, Djöh, Kana, Angouara and Oumara, specifically pointing out the victimisation of Peuhls.³⁹⁵⁹

1492. The CAR Panel concluded in its 2014 interim report that the armed insurgency against the Seleka spread into the districts of Bouca (Ouham), Boali, Bossembélé and Bossemptélé (Ombella-M'Poko) following 'coordinated attacks' in the outskirts of Bossangoa on 6 and 7 September 2013 by militia then described by media as 'pro-Bozizé armed men'.³⁹⁶⁰ An NGO report of May 2014 concluded that 'the Anti-Balaka led their first successful attacks in September and October 2013 on small trade towns and villages outside Bossangoa and other regional capitals in the west', with their primary target being Muslim communities that they identified as allies or members of the Seleka because some Seleka were Muslim.³⁹⁶¹

1493. In the above context, the Chamber consider of lesser significance the assessment of P-2467, who opined that in November 2013, the Anti-Balaka as active group committing acts of violence against Muslims was an 'emerging phenomenon' and people closely following such things were aware of it, but it was not necessarily common knowledge all around.³⁹⁶² While P-2467 had seen some press articles on Anti-Balaka violence against Muslims prior [REDACTED], few, if any, of these reports had already been verified by credible organisations.³⁹⁶³ P-2467 did not know if he saw local (CAR) reports on Anti-Balaka

³⁹⁵⁸ P-2841: T-029, p. 26, line 3 – p. 27, line 10 *referring to* [REDACTED].

³⁹⁵⁹ P-0520 Statement, CAR-OTP-2050-0788-R02, at 0800, para. 59, at 0802-03, paras 65-68, at 0803, para. 70. *See* Letters, CAR-OTP-2050-0822; CAR-OTP-2050-0824.

³⁹⁶⁰ Annex 5 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0875, para. 1.

³⁹⁶¹ Report 'Behind the Headlines', CAR-OTP-2001-2564, at 2578.

³⁹⁶² P-2467 Statement, CAR-OTP-2109-0520-R01, at 0526, para. 33, at 0527, para. 34 *referring to* [REDACTED].

³⁹⁶³ P-2467 Statement, CAR-OTP-2109-0520-R01, at 0527, para. 34.

violence against Muslims [REDACTED].³⁹⁶⁴ Yet, [REDACTED] information on [REDACTED] clashes between Seleka and Anti-Balaka groups, attacks of Seleka against non-Muslim civilians and attacks of Anti-Balaka against Muslim civilians.³⁹⁶⁵

1494. On the basis of this evidence, and further considering Mr Yekatom's own involvement in coordinating his own group's advance through the provinces towards Bangui for purposes of the attack on Bangui on 5 December 2013,³⁹⁶⁶ the Chamber finds that Mr Yekatom knew of the advance of the Anti-Balaka groups through the provinces towards Bangui, including the hostilities, as well as killings and dislocation of Muslim civilians, taking place in this context.

1495. Having regard to the above, the Chamber finds that Mr Ngaïssona was informed of the attacks in Bossembélé, Ndjo, Bouca, Bouar, and Bossangoa in September and October 2013. The Chamber also finds that Mr Ngaïssona was in contact with the Anti-Balaka during this period.

7. Anti-Balaka in the aftermath of the attacks on 5 December 2013

Between the coordinated attacks on Bangui and Bossangoa of 5 December 2013 and his return to Bangui on 14 January 2014, Mr Ngaïssona remained informed of the continued activities related to the Anti-Balaka, and continued liaising with various individuals in this regard.

i. Lead-up to the resignation of Michel Djotodia

1496. The evidence before the Chamber as further outlined below shows that following the coordinated attacks of 5 December 2013 and with the removal of Michel Djotodia and the Seleka from power in reach, various individuals engaged in efforts to re-consolidate Anti-Balaka groups with a view to finally achieving this goal of removing Michel Djotodia and the Seleka, and strengthen their position in what would inevitably follow from such change in power.

³⁹⁶⁴ P-2467 Statement, CAR-OTP-2109-0520-R01, at 0527, para. 35.

³⁹⁶⁵ See Posts, CAR-OTP-2109-0403; CAR-OTP-2109-0404.

³⁹⁶⁶ See section IV.B.2 below.

a. Meetings at Yamwara school at the end of December 2013

1497. In this context, the Yekatom Defence argues that, contrary to the Prosecution's assertions, the evidence does not show that the various Anti-Balaka groups were 'unified, structured, and ideologically homogenous'.³⁹⁶⁷ In support of this argument, the Yekatom Defence submits that P-0876 engaged in various coordination attempts directly before and in the aftermath of the Bangui Attack, through meetings with [REDACTED]'s group and meetings with the 'RFACPP' and then also others at the base of Mr Yekatom's group in a school in Yamwara (hereinafter: 'Yamwara').³⁹⁶⁸

1498. In light of these arguments, the Chamber has considered the evidence regarding meetings that took place at Yamwara at the end of December 2013, as provided by individuals who attended these meetings.

1499. The Chamber finds that the meetings attest to the emerging individual political ambitions of the various Anti-Balaka group leaders following the Bangui Attack. They also show that, at this time, not every Anti-Balaka leader may have had a sustained interest in supporting the return of François Bozizé to power. At the same time, the Chamber considers that the meetings do not attest to a divided movement or separately existing movements. Rather, the meetings show attempts at pivoting the Anti-Balaka's combined force towards securing political leverage and, in some cases, ministerial positions in a potential future government.

³⁹⁶⁷ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 167; *see also* paras 168-175.

³⁹⁶⁸ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 176-184. The Chamber notes that 'Yamwara school' is also called Kokoro 2 (*see* P-1990 Statement, CAR-OTP-2124-0247-R02, at 0250, para. 15), and that some witnesses used variations of the name to refer to this school, including 'Yanwara', 'Yawara', 'Niawara' or 'Gnawara' (*see e.g.* P-1647 Statement, CAR-OTP-2050-0654-R02, at 0658, para. 28; P-1654 Statement, CAR-OTP-2053-0112-R04, at 0116, para. 28; P-1858 Statement, CAR-OTP-2063-0050-R04, at 0056, para. 39; P-0888 Statement, CAR-OTP-2031-0217-R03, at 0222, para. 33; P-1558 Statement, CAR-OTP-2105-0195-R01, at 0210, para. 117; P-0974 Statement, CAR-OTP-2058-0165-R01, at 0175, para. 66; P-0876 Interview Transcript, CAR-OTP-2046-0267-R01, at 0289, lines 829-835; P-0954 Statement, CAR-OTP-2048-0171-R03, at 0176, para. 31). It is clear from context that these witnesses referred to the same location, namely Yamwara, located at the south-western side of the Bangui airport (*see* Map, CAR-OTP-2118-9146). For a further discussion of this school being used as base by Mr Yekatom's group, *see also* sections IV.D.1 and IV.D.2 below.

1500. Turning to the evidence concerning the meetings at Yamwara, the Chamber notes that Mr Yekatom, Ngremangou and Kamezolaï attended all or some of these meetings, while P-1858, P-0876, P-0954, P-0974, and P-0884 had information thereon.³⁹⁶⁹

1501. [REDACTED] recalled several visits between 6 and 30 December 2013 by [REDACTED] to ‘Rombhot’ at Yamwara, [REDACTED].³⁹⁷⁰ [REDACTED] also recalled visits by ‘Leopold Bara-Dessi’ to their base from time to time, as well as meetings between Mbomon and the Sangaris to discuss the security of the area, especially between their elements and the Seleka elements of Colonel Moussa at PK9.³⁹⁷¹ According to [REDACTED], it was decided to have meetings at Yamwara to unify and coordinate the Anti-Balaka ‘movement’ as there was no communication and coordination between Mbomon’s group and other Anti-Balaka groups before the attack of 5 December 2013.³⁹⁷² [REDACTED] recalled that ‘Leopold Bara-Dessi’, who was in contact with the international community and called for these meetings at Yamwara, later became responsible for the ‘political branch of the Anti-Balaka’.³⁹⁷³

1502. P-0876 recalled eight or nine meetings between November and December 2013 with the ‘various strains’ of the Anti-Balaka in Bangui and at least four meetings during this period at Yamwara.³⁹⁷⁴ As regards the meetings at Yamwara, P-0876 recalled a first introductory meeting,³⁹⁷⁵ followed by a meeting to set up a committee (*‘le Bureau’*) where 12 demands of the Anti-Balaka were also discussed and at which Ngremangou was present,³⁹⁷⁶ a third meeting at which Ngremangou withdrew, having spoken to Bozizé in the meantime,³⁹⁷⁷ and

³⁹⁶⁹ The Chamber notes that P-0487 [REDACTED]. However, given the Chamber’s views on his credibility, it has not considered his evidence for the purposes of its determinations. See paragraphs 223-232 above.

³⁹⁷⁰ [REDACTED]

³⁹⁷¹ [REDACTED]

³⁹⁷² [REDACTED]

³⁹⁷³ [REDACTED]

³⁹⁷⁴ P-0876 Interview Transcript, CAR-OTP-2046-0324-R01, at 0335-37, lines 377-472; P-0876: T-085, p. 51, line 13 – p. 52, line 6. See also P-0876 Interview Transcript, CAR-OTP-2046-0295-R01, at 0298, line 72.

³⁹⁷⁵ P-0876 Interview Transcript, CAR-OTP-2046-0427-R01, at 0430-31, lines 92-129.

³⁹⁷⁶ P-0876 Interview Transcript, CAR-OTP-2046-0427-R01, at 0431, lines 131-145, at 0434, lines 236-241; P-0876: T-086-ENG, p. 62, line 23 – p. 63, line 7; T-086-FRA, p. 64, line 21 – p. 65, line 3. See also T-086, p. 45, line 18 – p. 47, line 4.

³⁹⁷⁷ P-0876 Interview Transcript, CAR-OTP-2046-0427-R01, at 0434-35, lines 244-255; P-0876: T-085, p. 42, line 3 – p. 44, line 16; T-086, p. 60, lines 15-25.

a fourth, where they said that they were going to engage with the international community regardless.³⁹⁷⁸ The Chamber has considered these meetings in turn below.

1503. The Chamber notes that P-0974 and P-0954 recalled a meeting at Yamwara together with ‘zone commanders’ coming from Boy-Rabe, Boeing, and other parts of Bangui, including Kamezoulai, Ngremangou, and Mr Yekatom. The witnesses are unclear on the exact date of this first meeting, but recall it taking place between 27 and 30 December 2013.

1504. P-0974 testified that [REDACTED] shared information concerning the zones commanded by each person and discussed strategies with [REDACTED] ‘zone commanders’, such as from Combattants, and started talking to one another by phone from different areas: Boy-Rabe, Boeing and Gobongo.³⁹⁷⁹ In the last week of December, [REDACTED] decided that all commanders should meet; two to three per zone coming from Boy-Rabe, Damala, Boeing met at Yamwara, and others present were ‘Kamezoulai’ (chief of ‘Niawara’ base), Ngremangou (chief of Boeing-Bercail base), Mr Yekatom (chief of Bimbo area), and Léopold Bara, who [REDACTED] nominated to be their civilian spokesperson to talk to the media.³⁹⁸⁰

1505. P-0954 stated that in December 2013, Mr Yekatom had set up his base at Yamwara [REDACTED].³⁹⁸¹ [REDACTED].³⁹⁸²

1506. P-0876 described [REDACTED] the group led by Kamezoulai, Mr Yekatom and Donon based at Yamwara with a view to setting up a bureau and engaging with the international community, as this group was against the return of François Bozizé to power.³⁹⁸³ He said that [REDACTED] stated they were not ‘fighting for Bozizé’, but to ‘defend’ their

³⁹⁷⁸ P-0876: T-085, p. 51, line 13 – p. 52, line 6.

³⁹⁷⁹ P-0974 Statement, CAR-OTP-2058-0165-R01, at 0175, para. 65; P-0974: T-244, p. 12, line 22 – p. 13, line 9.

³⁹⁸⁰ P-0974 Statement, CAR-OTP-2058-0165-R01, at 0175, paras 66-67; P-0974: T-243, p. 46, lines 10-25, p. 48, lines 5-11, p. 49, line 17 – p. 50, line 14.

³⁹⁸¹ P-0954 Statement, CAR-OTP-2048-0171-R03, at 0176-77, para. 36.

³⁹⁸² P-0954 Statement, CAR-OTP-2048-0171-R03, at 0177, para. 36.

³⁹⁸³ P-0876 Interview Transcripts, CAR-OTP-2046-0249-R01, at 0262, lines 493-503; CAR-OTP-2046-0267-R01, at 0289-90, lines 828-858, at 0293, lines 958-965; CAR-OTP-2046-0295-R01, at 0297-98, lines 67-81; CAR-OTP-2046-0407-R01, at 0421, lines 492-525; P-0876: T-085, p. 40, line 15 – p. 42, line 2; T-086, p. 48, lines 8-14, p. 49, lines 7-10; T-086-ENG, p. 62, lines 14-21; T-086-FRA, p. 64, lines 11-19. *See also* Video, CAR-OTP-2084-1323, at 00:02:02-00:03:48; Transcript, CAR-OTP-2107-1580, at 1581, lines 25-43.

population, with Mr Yekatom adding that ‘Bozizé’ got them into ‘this situation’.³⁹⁸⁴ P-0876 seemed to suggest that there was a first meeting, without Charles Ngremangou, at which a ‘bureau’ was set up with Léopold Bara as political coordinator/spokesperson.³⁹⁸⁵

1507. P-0876 said that the next day, another meeting was held with Ngremangou, a new ‘bureau’ was set up, with Léopold Bara holding the same position, Kamezolaï as chief of general staff, and Ngremangou as chief of operations.³⁹⁸⁶ They discussed the idea of having a political structure to discuss with the international community, present conditions on Michel Djotodia’s departure without going to war, and they took this ‘positively’ because in reality they did not have sufficient weaponry and ammunition to go to war unless, from time to time, the Seleka sold their arms and ammunition, which they used to defend themselves.³⁹⁸⁷ P-0876 said that Léopold Bara suggested that they could work with the name ‘FRAP’ to differentiate from the Anti-Balaka because their objective was not the same, but in the end, since the Anti-Balaka were more, they were obliged to stay under the banner of the Anti-Balaka, including the internal divisions.³⁹⁸⁸

1508. [REDACTED] recalled a meeting having taken place on 30 December 2013 with the objective to create a structure for the Anti-Balaka, as there were many Anti-Balaka groups scattered everywhere and they needed to have a unified structure with one chief; ‘Bara-Dessi’ had argued that if they remained scattered and dispersed they would be considered as gangs by the people and the international community; this was the reason why FRAPPE joined the Anti-Balaka.³⁹⁸⁹ P-1858 agreed with the suggestion that the objective of the people at the first meeting was to obtain the departure of Djotodia and mercenaries and leave people

³⁹⁸⁴ P-0876: T-086, p. 56, lines 1-10.

³⁹⁸⁵ P-0876 Interview Transcripts, CAR-OTP-2046-0249-R01, at 0262, lines 509-523; CAR-OTP-2046-0407-R01, at 0422, lines 558-565; CAR-OTP-2046-0427-R01, at 0429, lines 46-70, at 0430-31, lines 92-129; P-0876: T-086, p. 57, lines 12-19.

³⁹⁸⁶ P-0876 Interview Transcripts, CAR-OTP-2046-0249-R01, at 0262, lines 523-532; CAR-OTP-2046-0427-R01, at 0431, lines 131-145, at 0433, lines 194-196.

³⁹⁸⁷ P-0876 Interview Transcript, CAR-OTP-2046-0267-R01, at 0291, lines 886-904.

³⁹⁸⁸ P-0876 Interview Transcript, CAR-OTP-2046-0500-R01, at 0504, lines 116-127; P-0876: T-086, p. 44, lines 7-21.

³⁹⁸⁹ [REDACTED]

with the choice to ‘choose a new president’.³⁹⁹⁰ He further agreed with the suggestion that Bara’s attempt to unify was not successful.³⁹⁹¹

1509. The evidence indicates that attendees at this meeting included Kamezolaï, Ngremangou, Mr Yekatom, Donon, Cœur de Lion, Wenezoui, Kome (a civilian Anti-Balaka chief), Léopold Bara, Yamodo Momokama, Habib Beina, Kengwa, Basile Mbomon, Paulin Mossio, Julius Ymby, Maurice Badha and others.³⁹⁹² P-0974 said that in reality, the coordinator of the Anti-Balaka group was Joachim Kokaté and his deputy was Léopold Bara, who was the spokesperson and had contacts through the national and international press, while Ngremangou was coordinator of the Anti-Balaka and Kamezolaï his deputy.³⁹⁹³

1510. As regards the decisions taken at this meeting, P-0954 agreed with the suggestion that Bara organised the meetings at Yamwara and became political spokesperson of the Anti-Balaka ‘south’ because he had contacts with the international community.³⁹⁹⁴ P-0954 stated that during the meeting they also appointed Kamezolaï as chief of staff, Ngremangou as deputy chief of staff, and decided to change the name to the group to ‘Anti-Balaka’, with Mr Yekatom also bringing up enforcement of discipline and suggesting to discuss rankings, because if Djotodia lost power, they would have to ‘take over with a rank structure’.³⁹⁹⁵

1511. [REDACTED] similarly recalled that it was decided that Kamezolaï would be ‘the military leader’ with Ngremangou as his deputy, and ‘Bara-Dessi’, who coordinated all the groups and organised the two meetings, ‘the political leader’ to continue dialogue with the international community.³⁹⁹⁶ P-0974 stated that Kamezolaï and Ngremangou were most senior [REDACTED].³⁹⁹⁷ [REDACTED] the first bureau set up at Yamwara was made up

³⁹⁹⁰ P-1858: T-186, p. 37, line 23 – p. 38, line 3.

³⁹⁹¹ P-1858: T-187, p. 10, line 19 – p. 11, line 25.

³⁹⁹² P-0954 Statement, CAR-OTP-2048-0171-R03, at 0177, para. 41; P-0954 Corrections, CAR-OTP-00000303, at 000007; P-0954: T-167, p. 76, line 19 – p. 77, line 5; P-0974: T-243, p. 47, line 25 – p. 48, line 4, p. 49, lines 12-16; P-0876: T-086, p. 57, line 25 – p. 58, line 22. *See also* List, CAR-OTP-2063-0074; P-1858 Statement, CAR-OTP-2063-0050-R04, at 0059, para. 56; P-1858: T-186, p. 31, line 12 – p. 32, line 1, p. 36, line 5 – p. 37, line 10, p. 47, line 7 – p. 49, line 14; P-0954: T-166, p. 16, lines 3-17.

³⁹⁹³ P-0974 Statement, CAR-OTP-2058-0165-R01, at 0175, para. 67; P-0974: T-243, p. 48, lines 16-24.

³⁹⁹⁴ P-0954: T-167, p. 71, lines 8-14.

³⁹⁹⁵ P-0954 Statement, CAR-OTP-2048-0171-R03, at 0178, para. 42; P-0954: T-167, p. 72, line 20 – p. 73, line 10.

³⁹⁹⁶ [REDACTED]

³⁹⁹⁷ P-0974 Statement, CAR-OTP-2058-0165-R01, at 0175, para. 68.

of Kamezolai, Ngremangou, Bara, Paulin Mossio, Ymby Gouga, Caroline Deboulet, Dib Lina and pastor Maurice Badha.³⁹⁹⁸

1512. One of the points of discussion, and disagreement, at this meeting appears to have centred around the question whether François Bozizé should return to power. [REDACTED] Ngremangou raising the issue of ‘restoring constitutional order’ and Mr Yekatom said if they took power, they should ‘destroy all the FACA’ who did not participate in the movement, while [REDACTED] said the power needed to be given back to the Central African people, killing people was not good.³⁹⁹⁹ P-0954 agreed with the suggestion that one of the objectives of the meetings was to try to convince the ‘others’ to drop ‘the idea of returning to the constitutional order’ and rather follow the ‘south’ group in cooperating with the international community to call for Djotodia’s departure.⁴⁰⁰⁰ P-0974 agreed with the suggestion that the ‘south’ group did not want François Bozizé’s return to power but wanted the people to choose the president democratically.⁴⁰⁰¹

1513. Further, P-0974 recalled that [REDACTED] wanted Michel Djotodia to resign, ‘free the CAR population’, and ‘force the mercenaries to leave’.⁴⁰⁰² P-0974 said that [REDACTED] 12 demands in total, the first being that ‘Djotodia must resign’, that the Seleka ‘go home’, and they asked ‘Bara’ to present these demands to the MISCA.⁴⁰⁰³ [REDACTED] agreed with the suggestion that the main demands among the 12 which Léopold Bara eventually presented in N’Djamena included ‘return to peace’, ‘democratic choice’ of a new president, ‘departure of Djotodia and the mercenaries through a dialogue’, ‘cooperation with the international community’ to bring peace, and that the Seleka ‘not continue with tyranny’.⁴⁰⁰⁴ P-0876 also said that Léopold Bara drafted the ‘12 demands’ of the Anti-Balaka.⁴⁰⁰⁵

³⁹⁹⁸ [REDACTED]

³⁹⁹⁹ [REDACTED]

⁴⁰⁰⁰ P-0954: T-167, p. 71, line 15 – p. 72, line 4.

⁴⁰⁰¹ P-0974: T-243, p. 53, lines 3-10.

⁴⁰⁰² P-0974 Statement, CAR-OTP-2058-0165-R01, at 0176, para. 69.

⁴⁰⁰³ P-0974 Statement, CAR-OTP-2058-0165-R01, at 0176, para. 69; P-0974: T-243, p. 52, line 11 – p. 53, line 2, p. 53, line 11 – p. 54, line 2.

⁴⁰⁰⁴ [REDACTED]

⁴⁰⁰⁵ P-0876 Interview Transcripts, CAR-OTP-2046-0249-R01, at 0263, lines 540-561; CAR-OTP-2046-0427-R01, at 0434, lines 240-241; P-0876 Corrections, CAR-OTP-2135-1449, at 1450; P-0876: T-086-ENG, p. 62, line 23 – p. 63, line 7; T-086-FRA, p. 64, line 21 – p. 65, line 3.

1514.P-0884 said that at a meeting at Yamwara ‘between the military and the Anti-Balaka’, they discussed choosing someone in case they got back into power and the question was ‘who would be president’, to which some said to choose Ngremangou or Kamezolai, but there was no consensus and no real outcome.⁴⁰⁰⁶ While P-0884 did not seem to recall a meeting at Yamwara [REDACTED], he said that Mr Yekatom was indeed saying at the time that their fight was not to get François Bozizé back to power, but the aim was for Djotodia and ‘his mercenaries’ to leave.⁴⁰⁰⁷ According to P-0884, the groups were between Mr Yekatom and some others who wanted Kamezolai to become president, and another wanted Ngremangou, but they were unable to agree and the meeting finished without answer.⁴⁰⁰⁸ P-0884 confirmed that ‘Bara’ tried to create a coordination during this meeting in Boeing.⁴⁰⁰⁹

1515.Further, according to P-0876, they all introduced themselves with their ethnic groups and they came from several groups.⁴⁰¹⁰

1516.[REDACTED] Wenezoui did not accept Léopold Bara as the choice of spokesperson, and the meeting ended around 15:00 without further strategic discussions.⁴⁰¹¹

1517.Another meeting at Yamwara took place in the morning of 31 December 2013,⁴⁰¹² and shows how the previous discussion evolved into an express disagreement about François Bozizé’s return to power and assignment of leadership positions within this Anti-Balaka group.

1518.Before this meeting was held, P-0954 described how Ngremangou called Kamezolaï [REDACTED] and informed him that the choice had not been accepted by the outside, and that constitutional order had to be restored, meaning bringing François Bozizé back to power, but Kamezolaï refused.⁴⁰¹³ [REDACTED] they pressured Ngremangou who eventually said that ‘Bozizé’ had called him, and this was the split in the Anti-Balaka.⁴⁰¹⁴ Similarly, [REDACTED] said that in the morning following this meeting, Ngremangou called to

⁴⁰⁰⁶ P-0884: T-056, p. 46, lines 2-14.

⁴⁰⁰⁷ P-0884: T-057, p. 68, line 9 – p. 69, line 5.

⁴⁰⁰⁸ P-0884: T-057, p. 69, lines 6-16; T-058, p. 28, lines 1-14.

⁴⁰⁰⁹ P-0884: T-058, p. 27, lines 18-25.

⁴⁰¹⁰ P-0876: T-086, p. 56, line 25 – p. 57, line 11.

⁴⁰¹¹ [REDACTED]

⁴⁰¹² [REDACTED]

⁴⁰¹³ P-0954 Statement, CAR-OTP-2048-0171-R03, at 0178, para. 43; P-0954: T-166, p. 71, line 21 – p. 72, line 9.

⁴⁰¹⁴ [REDACTED]

inform that he had talked to ‘the sun’, who did not agree, so Ngremangou could not identify with the bureau.⁴⁰¹⁵

1519. The evidence indicates that at this meeting all the persons listed for the earlier meeting were also present and included Mr Yekatom, Cœur de Lion, Kome, Donon, Léopold Bara, Ngremangou, Wenezoui, Ndotoy, Modibo, Yangana, Sylvain Beorofei, Come Hippolyte Azoumi (from Boy-Rabe), Yamodo (aka Rombot), Sylvestre Yagouzou and Mamadou Guiyegba.⁴⁰¹⁶ There were far more people in attendance at the meeting of 31 December 2013.⁴⁰¹⁷

1520. [REDACTED] the main agenda topic of this meeting was the call Ngremangou made to Kamezolaï, with the latter explaining the call and people in the meeting being angry.⁴⁰¹⁸ [REDACTED], this was the split of the Anti-Balaka into ‘south’, which included Mr Yekatom, Cœur de Lion, Kamezolaï, Bara, Mamadou and [REDACTED], who wanted a new government, and ‘north’, which wanted to ‘restore the constitutional order’ – meaning François Bozizé’s return to power –, and included Wenezoui, Kome, Donoh, Ngremangou and Yamodo.⁴⁰¹⁹ P-0954 said that Kamezolaï continued to be chief of staff of the Anti-Balaka ‘south’ until the wings joined forces again in June 2014.⁴⁰²⁰ P-0954 stated that Maxime Mokom went to the ‘north’ Anti-Balaka when he returned to Bangui from Zongo, and also in the ‘north’ Anti-Balaka were Andjilo, Mazimbele Guy, 12 Puissances, Dieudonné Houronti, and Konaté.⁴⁰²¹ P-0954 agreed with the suggestion that when they appointed Sebastien Wenezoui as head of the Anti-Balaka ‘south’, they used the name ‘Anti-Balaka’.⁴⁰²²

1521. Similarly, [REDACTED] stated that the ‘Boy-Rabe Anti-Balaka’, the Anti-Balaka from Boeing, Combattants, as well as Ngremangou and Mokom were Bozizé supporters and wanted his return, and did not want Kamezolaï to be their coordinator, even though ‘Bara-

⁴⁰¹⁵ [REDACTED]

⁴⁰¹⁶ [REDACTED]

⁴⁰¹⁷ P-0954: T-167, p. 77, lines 6-12.

⁴⁰¹⁸ [REDACTED]

⁴⁰¹⁹ [REDACTED]

⁴⁰²⁰ P-0954: T-167, p. 74, lines 10-23.

⁴⁰²¹ P-0954: T-166, p. 69, line 14 – p. 70, line 13.

⁴⁰²² P-0954: T-167, p. 25, lines 8-12.

Dessi' told them that François Bozizé would not be accepted by the international community and attempted to change their minds.⁴⁰²³ [REDACTED] confirmed the suggestion that the group including Mr Yekatom, Paulin Mossio, Basile Mbomon, Kamezalai, Léopold Bara and others, was against the return of François Bozizé to power.⁴⁰²⁴

1522.P-0974 stated that [REDACTED] the 'Boy-Rabe Anti-Balaka groups' had rejected the coordination structure entirely [REDACTED].⁴⁰²⁵ P-0974 testified that, at this meeting, they all agreed to continue with the coordination office whose chief was Kamezalai.⁴⁰²⁶ P-0974 said that there were several groups and leaders in Boy-Rabe, including Konaté, Andjilo, 12 Puissances, that the 'Boeing-Bercail group' under Ngremangou joined the 'Boy-Rabe group', and that 'Niawara', 'Bimbo' and 'Damala' stayed together and continued to have meetings.⁴⁰²⁷ P-0974 emphasised that to them, Kamezalai was their chief and they referred to themselves as 'coordination south', while the 'Boy-Rabe group' was more 'complicated' and not in favour of mediation.⁴⁰²⁸

1523.P-0876 stated that when Ngremangou said that he could not accept the 'bureau', it was over, and he with the group of Kamezalai and Mr Yekatom set up another bureau in which Léopold Bara was again the political spokesperson, Kamezalai chief of staff, and also Côme Azounou and Konaté 'from the other side'.⁴⁰²⁹

1524.[REDACTED] recalled that during this second meeting, 'Bozizé' was in phone contact with Sylvain Beorofei, who had to go out to take a call and on return said that 'General Bozizé' had called him.⁴⁰³⁰

1525.P-0954 further stated that thereafter, at the time of the N'Djamena meeting in January 2014, [REDACTED] Léopold Bara to 'defend the cause of the Anti-Balaka', and Bara then took

⁴⁰²³ [REDACTED]

⁴⁰²⁴ [REDACTED]

⁴⁰²⁵ P-0974 Statement, CAR-OTP-2058-0165-R01, at 0176, para. 71; P-0974: T-243, p. 23, line 16 – p. 24, line 1, p. 47, lines 3-15.

⁴⁰²⁶ P-0974: T-243, p. 51, lines 11-22.

⁴⁰²⁷ P-0974 Statement, CAR-OTP-2058-0165-R01, at 0176, para. 72; P-0974: T-243, p. 24, lines 13-23.

⁴⁰²⁸ P-0974 Statement, CAR-OTP-2058-0165-R01, at 0176, paras 73-74, at 0177, paras 76, 78; P-0974: T-243, p. 47, lines 13-15, p. 50, lines 4-20; T-244, p. 16, line 8 – p. 17, line 1, p. 45, line 20 – p. 46, line 4.

⁴⁰²⁹ P-0876: T-086, p. 45, line 18 – p. 47, line 4, p. 61, line 1 – p. 62, line 4.

⁴⁰³⁰ [REDACTED]

the 12 demands of the ‘south’ Anti-Balaka group to N’Djamena.⁴⁰³¹ Similarly, P-0974 stated that MISCA [REDACTED] chose Bara, Banda (a civilian advisor) and Kokaté to represent them at the N’Djamena summit.⁴⁰³²

1526. The evidence as outlined attests to the emerging individual political ambitions of the various Anti-Balaka group leaders following the Bangui Attack and that, at this time, not every Anti-Balaka leader may have had a sustained interest in supporting the return of François Bozizé to power. At the same time, the Chamber considers that the meetings do not attest to a divided movement or separately existing movements. Importantly, the Chamber is of the view that the various Anti-Balaka groups did not have to be a monolithic or singular entity and/or ideologically homogeneous at any stage of the events. Indeed, as outlined above, despite apparent political or personal viewpoints and ambitions, the Anti-Balaka groups coordinated their actions around their core objective of removing Michel Djotodia and the Seleka from power. That this was the common core is also amplified by the discussions at the meetings at Yamwara as outlined, which centred around what would happen once this core objective would have been achieved – and indeed did not question it as common baseline. The Chamber therefore considers that the suggestion that Mr Yekatom’s purported objective was ‘not to fight for Bozizé’s return’⁴⁰³³ does not mean that Mr Yekatom’s group was not Anti-Balaka, or that it did not share the core objective of wanting to remove Michel Djotodia and the Seleka from power, including the way in which this objective was pursued and achieved on the ground.

b. Continued liaison by Mr Ngaïssona in the lead-up

1527. The evidence before the Chamber as outlined below further shows that Mr Ngaïssona remained informed of continued activities related to the Anti-Balaka during the period between the coordinated attacks of 5 December 2013 and his return to Bangui on 14 January 2014.

⁴⁰³¹ P-0954: T-167, p. 70, lines 3-25.

⁴⁰³² P-0974 Statement, CAR-OTP-2058-0165-R01, at 0176, para. 70.

⁴⁰³³ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 181.

1528. Alfred Legrand Ngaya agreed with the suggestion that before and just after the attack on Bangui, the Anti-Balaka did not have any political aims, just wanted to get rid of the Seleka, and said that, after the attack, they had to try and find some ‘point of contact’.⁴⁰³⁴ Alfred Legrand Ngaya said that after the attack, they had a meeting in Boeing, at which he was not present, with Wenezoui, Ngremangou, at which the Anti-Balaka asked Sébastien Wenezoui to be their spokesperson.⁴⁰³⁵ Alfred Legrand Ngaya said that people wanted to position themselves as representative, on a political level, and also Léopold Bara suggested to them he should be one because he had been to the summit in N’Djamena.⁴⁰³⁶ The witness agreed with the suggestion that the absence of leadership and people juggling for positions contributed to the lack of discipline and commission of opportunistic crime.⁴⁰³⁷ The witness further agreed with the suggestion that in December 2013 and beginning 2014, before Mr Ngaïssona arrived, the Anti-Balaka tried to organise slowly and began to shape political demands, they had to get out of the crisis which would not be done if one did not have some degree of organisation, and there were some roughly 50,000 young people with some familiarity of handling weapons.⁴⁰³⁸

1529. The Chamber has before it email exchanges between Alfred Legrand Ngaya and Mr Ngaïssona between the end of December and early January 2014, in which Alfred Legrand Ngaya kept Mr Ngaïssona informed about activities of the ‘CLPC’ or Anti-Balaka in the run-up to the meeting at N’Djamena, and eventually Michel Djotodia’s resignation, followed by Mr Ngaïssona’s return to Bangui.

1530. Alfred Legrand Ngaya testified that he transmitted various CLPC documents to Mr Ngaïssona, in the framework of which he worked with Emotion Namsio for persuasion and mobilisation, not military actions.⁴⁰³⁹ One document outlined demands related to them hearing that the Anti-Balaka would not be taken into consideration within the DDR programmes, and one of their demands was that they should.⁴⁰⁴⁰ Alfred Legrand Ngaya

⁴⁰³⁴ P-0808: T-070, p. 35, line 13 – p. 36, line 14.

⁴⁰³⁵ P-0808: T-070, p. 36, lines 2-14.

⁴⁰³⁶ P-0808: T-070, p. 36, line 15 – p. 37, line 18.

⁴⁰³⁷ P-0808: T-070, p. 38, lines 2-20.

⁴⁰³⁸ P-0808: T-070, p. 39, lines 13-21.

⁴⁰³⁹ P-0808: T-069, p. 40, line 4 – p. 41, line 16 *referring to* Email, CAR-OTP-2124-0995; Press statement, CAR-OTP-2124-0996.

⁴⁰⁴⁰ P-0808: T-069, p. 41, line 17 – p. 42, line 16 *referring to* Demands, CAR-OTP-2124-0998.

recognised a number of emails which he sent to Mr Ngaïssona at the time, explaining that the Seleka targeted them based on ethnicity, and given that François Bozizé was the president-elect, they focused their action towards re-establishing him to the position of president.⁴⁰⁴¹ The witness stated he had exchanges with Mr Ngaïssona because the latter was an influential person in the country and, given they were ‘all in the same basket’, it was ‘necessary at that time to commit oneself to the normalisation process’.⁴⁰⁴²

1531. In one email of 28 December 2013, Alfred Legrand Ngaya sent two CLPC documents, stating that this is transmitting ‘the documents of our little ones’ (*les documents de nos petits*) which will be subject of possible negotiations, and that Mr Ngaïssona’s reaction on the CLPC demands is expected.⁴⁰⁴³

1532. The first document which appears to have been attached to this email is entitled ‘Communiqué de presse no 01’, dated 27 December 2013, with the typed name of Brice Emotion Namsio at the bottom.⁴⁰⁴⁴ It states that the CLPC, generally called ‘Anti-balaka’ wants to make some points, including that (i) since the start of the hostilities by the nebulous Seleka coalition, composed essentially of Chadian and Sudanese mercenaries, the Central African populations mobilise to oppose and denounce exactions, while MICOPAX helped the Seleka take power; (ii) since March, Michel Djotodia and the Seleka persecute the defenceless population; (iii) in light of the desperate situation, young villagers and some elements of the FACA took their responsibility, without any appropriate means, to fight Michel Djotodia and the Seleka; (iv) the CLPC regrets that during its military operations, there were some innocent victims; (v) the CLPC is available to start a dialogue with the international forces in Bangui to think about conditions for the return to peace and security; (vi) attention of these international institutions is drawn that any attempt to kerfuffle or not take into account the Central African populations ‘*meurtries*’ over the preceding nine months would only ‘poison’ an already chaotic situation (*‘ne fera qu’envenimer une situation déjà*

⁴⁰⁴¹ P-0808: T-069, p. 48, lines 3-22, p. 49, lines 9-15, p. 49, line 23 – p. 51, line 7 referring to Email, CAR-OTP-2124-0495; CNPS Release, CAR-OTP-2124-0497; Email, CAR-OTP-2124-0500; Email, CAR-OTP-2124-0503; Email, CAR-OTP-2124-0515; Letter, CAR-OTP-2124-0516.

⁴⁰⁴² P-0808: T-069, p. 52, line 22 – p. 54, line 3 referring to Email, CAR-OTP-2124-0526; Press statement, CAR-OTP-2124-0527.

⁴⁰⁴³ Email, CAR-OTP-2124-0995, at 0995.

⁴⁰⁴⁴ Press statement, CAR-OTP-2124-0996, at 0996-97.

chaotique’); (vii) the CLPC remains convinced that only the involvement of true representatives of the Central African population, within the dynamic of inclusive negotiation, could get the CAR out of this cycle of violence (*‘implication des véritables représentants de la population centrafricaine, dans une dynamique de négociation inclusive, pourra sortir la République Centrafricaine de cette ornière de violence’*).⁴⁰⁴⁵

1533. The second document which appears to have been attached to the email is entitled *‘Exigences des CLPC relatives à la crise militaro-politique en République Centrafricaine’*, dated 27 December 2013, with the typed name of Brice Emotion Namsio at the bottom.⁴⁰⁴⁶ This document lists several demands: (i) the unconditional and dismissal without delay of Michel Djotodia, dissolution of transition government and re-development of the national transitional council (*‘Conseil National de Transition’*); (ii) the annulment of the constitutional charter and restoration of the constitution of 27 December 2004; (iii) the relaunch of political negotiations on the basis of the Libreville agreements signed in January 2013 and the designation of a neutral person of integrity, agreed on by consensus, to lead the transition; (iv) the transfer of Michel Djotodia and his accomplices to the ICC; (v) the withdrawal of the Chadian contingent of the MISCA; (vi) the disarmament and billeting of all Central African elements of the Seleka, and repatriation of all Chadian and Sudanese ‘Jihadist mercenaries’ to their respective countries; (vii) the rehabilitation and provision of appropriate equipment to FACA; (viii) the return of all exiled Central Africans to the CAR and their rehabilitation, in all rights, and reimbursement for their property looted by the Seleka; (ix) taking charge of all ‘CLPC (Anti-Balaka)’ elements in the DDR programme.⁴⁰⁴⁷

1534. The Chamber notes that these documents appear to show the same font type and style as can be observed in later documents ascribed to the Anti-Balaka. Brice Emotion Namsio explained in this regard that he did not sign the first document, Alfred Ngaya basically signed it, but during the initiatives of this memo, they were at Andjilo’s house because ‘Mr Mokom’ had called and said that if you have to say something, say it on behalf of the CLPC – this document showed the flag of the CAR and when they later used the name Anti-Balaka it was

⁴⁰⁴⁵ Press statement, CAR-OTP-2124-0996, at 0996-97.

⁴⁰⁴⁶ Demands, CAR-OTP-2124-0998, at 0998-99.

⁴⁰⁴⁷ Demands, CAR-OTP-2124-0998, at 0998-99.

the logical consequence.⁴⁰⁴⁸ As regards the second document, Brice Emotion Namsio stated that he was designated as the spokesperson to review the document when meetings were held, for which reason his name was mentioned, but he had not signed it as it was an initiative; he agreed that the underlying idea of this initiative was to denounce the fact that peaceful demonstrations did not serve any purpose because the state authority was incompetent and did not ensure the security of the citizens.⁴⁰⁴⁹ The witness agreed that they asked for billeting of the ‘Seleka Central African Muslims’ and said that this was to avoid partition of the country, while demanding that Chadian and Sudanese mercenaries should be repatriated.⁴⁰⁵⁰

1535. In an email of 8 January 2014, less than a week before Mr Ngaïssona’s return to Bangui, Alfred Legrand Ngaya appeared to send a press release of the ‘CNPS’ of which, he wrote, 400 copies were distributed in Bangui, with a second press release to follow, of which a copy would also be sent.⁴⁰⁵¹

1536. The Chamber has before it a typed document of the ‘*Coordination nationale pour la paix et la sécurité en République Centrafricaine (CNPS)*’, with two date indications of 3 January 2014 and 31 December 2013, providing as reference the telephone number +23672284645 in the footer.⁴⁰⁵² The Chamber notes in this regard that this telephone number also appears on later press statements under the name of Mr Ngaïssona which appear to have been issued for purposes of the Anti-Balaka,⁴⁰⁵³ as well as in the Facebook business record for the account with user name ‘CLPC Antibalaka’,⁴⁰⁵⁴ connected to the email address ‘cantibalaka’, operated by Alfred Legrand Ngaya.⁴⁰⁵⁵

⁴⁰⁴⁸ P-0446: T-096, p. 49, line 21 – p. 51, line 10 referring to Press statement, CAR-OTP-2124-0996; T-096-ENG, p. 52, line 16 – p. 53, line 1; T-096-FRA, p. 57, line 24 – p. 58, line 10.

⁴⁰⁴⁹ P-0446: T-096, p. 53, line 9 – p. 54, line 9 referring to Demands, CAR-OTP-2124-0998; T-099, p. 7, lines 10-13.

⁴⁰⁵⁰ P-0446: T-099, p. 8, line 7 – p. 9, line 12.

⁴⁰⁵¹ Emails, CAR-OTP-2124-0495, at 0495; CAR-OTP-2124-0496, at 0496. The Chamber notes in this regard that the first email does not seem to include any indication of an attachment to the email, whereas the second email, sent three minutes later, includes such indication with the text that herewith the attachment is sent.

⁴⁰⁵² CNPS Release, CAR-OTP-2124-0497, at 0497-98.

⁴⁰⁵³ See Press statements, CAR-OTP-2084-0147; CAR-OTP-2084-0148; CAR-OTP-2084-0150; CAR-OTP-2084-0153; CAR-OTP-2084-0157; CAR-OTP-2084-0166; CAR-OTP-2084-0174.

⁴⁰⁵⁴ See Facebook business record, CAR-OTP-2066-1510, at 1510. See also Email, CAR-OTP-2080-1838.

⁴⁰⁵⁵ See Emails, CAR-OTP-2080-2828-R01, at 2829; CAR-OTP-2080-2491. See also P-0808: T-069, p. 63, line 22 – p. 64, line 12.

1537. The CNPS release denounces *inter alia* (i) the appointment of illiterate and incompetent Muslims to positions of civilian and military responsibility; (ii) around ‘5,000’ deaths; (iii) burning of villages; (iv) systematic looting across the country; (v) villagers being deprived of means for production; (vi) rapes on a large scale; (vii) theft of public and private vehicles; (viii) destruction of public buildings and infrastructure; (xi) desecration of religious places and graves; and that the MISCA acted in connivance with the Seleka.⁴⁰⁵⁶ It avers that the steps to come out of the crisis include (i) denunciation of the Libreville agreements; (ii) dismissal of Michel Djotodia; (iii) dissolution of the transition government and all institutions set up by the Libreville agreements; (iv) setting up of new transition organs, representing the entire Central African nation, under the aegis of the UN and supervision by France; (v) withdrawal of the Chadian MISCA contingent; (vi) repatriation of Chadian and Sudanese Seleka mercenaries; and (vii) disarmament and billeting of all Seleka and ‘Anti-balaka’.⁴⁰⁵⁷

1538. In response to the emails, Mr Ngaïssona informed Alfred Legrand Ngaya on 9 January 2014 that he was unable to see the second press release, asking for it to be sent to him.⁴⁰⁵⁸ This is followed, only minutes later, by an email from Mr Ngaïssona to ‘[REDACTED]’, forwarding the CNPS release discussed above ‘for your reading’ (*‘pour votre lecture’*).⁴⁰⁵⁹

1539. These were not the only emails exchanged between Mr Ngaïssona and ‘[REDACTED]’ that day. Indeed, following an email seemingly sending an attachment in ‘jpg’-format from ‘[REDACTED]’ with email address ‘[REDACTED]’ to Mr Ngaïssona on 8 January 2014,⁴⁰⁶⁰ Mr Ngaïssona in turn sent an email to ‘[REDACTED]’ with email address ‘[REDACTED]’, seemingly in response, on 9 January 2014, stating that the document was well received, and that it is ‘necessary’ to add ‘hunting items for the Anti-Balaka’ and ‘the financial needs’ for ‘the work’ ‘it is urgent’ (*‘il faut ajouter les articles de chasses pour les*

⁴⁰⁵⁶ CNPS Release, CAR-OTP-2124-0497, at 0497.

⁴⁰⁵⁷ CNPS Release, CAR-OTP-2124-0497, at 0498.

⁴⁰⁵⁸ Email, CAR-OTP-2124-0500, at 0500.

⁴⁰⁵⁹ Email, CAR-OTP-2124-0503, at 0503. The Chamber notes that the Prosecution submits that this email address was used by Franklin Bozizé, based on the user name ‘[REDACTED]’, the address to ‘Bonjour Capi’ by Mr Ngaïssona, and Franklin Bozizé being referred to as ‘Capitaine Franklin’ ‘by his close entourage’ (see Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, para. 264, n. 538). Without more, the Chamber is unable to reach this conclusion.

⁴⁰⁶⁰ Email, CAR-OTP-2124-0489, at 0489.

Antis balaca et les besoins financier pour le travail sa urge').⁴⁰⁶¹ At the same time, Mr Ngaïssona forwarded the email initially sent by '[REDACTED]' with email address '[REDACTED]', including its attachment, on 10 January 2014 to '[REDACTED]'.⁴⁰⁶²

1540. The Chamber has before it a typed list in table format which lists various items and related quantities, in English, including, *inter alia*, 2,500 'AK 47 SMG56', and various other weapons and ammunition, 40 'Toyota Pickups', 5 'Army Lorries (Trucks)', 5 'Fuel Tankers', fuel and petrol, 30 'Thuraya Phones and airtime', radios, uniforms, boots, food and medial items.⁴⁰⁶³

1541. The Chamber notes in this regard that several days before this, Mr Ngaïssona had exchanged emails with '[REDACTED]'. These exchanges start with wishes for the new year sent from Mr Ngaïssona to '[REDACTED]' on 31 December 2013, followed by '[REDACTED]' wishing Mr Ngaïssona that 2014 be a year of success and that 'the team takes back the trophy' ('*que l'équip [sic] reprend le trophet*'), and further informing him that he talked to '*le president de mon club il dit vous avez 90% de chance pour prendre la coupe a la final eceke [sic] vous pouvez vous deplacer avec une lettre signee par capitain*'.⁴⁰⁶⁴ Mr Ngaïssona then asked '[REDACTED]' for the name of the 'team' to prepare the '*feuille du match*', to which 'Desire' responded that his team is called '[REDACTED]'.⁴⁰⁶⁵ Mr Ngaïssona, the following day, forwarded this exchange to '[REDACTED]'.⁴⁰⁶⁶ The Chamber recalls that this email account appears to have been associated with Eric Danboy, and that Mr Ngaïssona communicated with this email address also in October 2013, forwarding a request for materiel, including weapons and ammunition.⁴⁰⁶⁷

1542. In this context, the Chamber notes the Prosecution's submission that these exchanges were in coded language, with '[REDACTED]' being a provider of military and paramilitary forces.⁴⁰⁶⁸ The Ngaïssona Defence argues, in contrast, that the meaning of the emails is

⁴⁰⁶¹ Email, CAR-OTP-2124-0499, at 0499 (quote as written in original).

⁴⁰⁶² Email, CAR-OTP-2124-0506, at 0506. *See also* List, CAR-OTP-2124-0507.

⁴⁰⁶³ List, CAR-OTP-2124-0490, at 0490.

⁴⁰⁶⁴ Email, CAR-OTP-2124-1005, at 1005 (quote as written in original).

⁴⁰⁶⁵ Email, CAR-OTP-2124-1005, at 1005.

⁴⁰⁶⁶ Email, CAR-OTP-2124-1007, at 1007.

⁴⁰⁶⁷ *See* paragraph 884 above.

⁴⁰⁶⁸ Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, para. 265.

unclear and thus any interpretation amounts to pure speculation, and that, in any event, the Prosecution did not substantiate that the meaning of the language used was that Mr Ngaïssona intended to plan Anti-Balaka military operations.⁴⁰⁶⁹ The Chamber considers the fact of Mr Ngaïssona forwarding the email to '[REDACTED]', with whom he had communicated in the context of requests for materiel some months earlier, noticeable. However, on this basis alone, and without further information on the meaning of these emails, the Chamber is unable to conclude on their interpretation.

1543. On 10 January 2014, the day on which Michel Djotodia announced his resignation at N'Djamena,⁴⁰⁷⁰ Alfred Legrand Ngaya communicated to Mr Ngaïssona the minutes of a meeting between 'Anti-Balaka leaders' held the preceding day.⁴⁰⁷¹ This is forwarded by Mr Ngaïssona to '[REDACTED]' on 11 January 2014.⁴⁰⁷²

1544. The Chamber has before it a document indicating a date of 9 and 10 January 2014 drafted seemingly on behalf of the '*Combattants de libération de peuple Centrafricain (CLPC)*', entitled '*Procès Verbal de la Réunion de concertation entre les Responsable du Mouvement des "Combattants de libération du Peuple Centrafricain" (CLPC) dénommé "Antibalaka" relative à la Session extraordinaire des Etats membres de la CEEAC*'.⁴⁰⁷³ It refers to a meeting held on 9 January 2014 of the main leaders of the CLPC called 'Anti-balaka' in Boeing, presided over by Charles Ngremangou, 'chief of general staff' of the Anti-Balaka, and Sébastien Wenezoui as secretary.⁴⁰⁷⁴ According to these minutes, discussions centred on the views of the Anti-Balaka regarding the N'Djamena discussions, agreeing on a statement to be addressed to the CEEAC heads of state.⁴⁰⁷⁵ The minutes indicate that the Anti-Balaka at the meeting formulated the following demands: (i) resignation of Michel Djotodia, Nicolas Tiangaye, and Alexandre Nguéndet; (ii) 'return to constitutional order' or '*collège de transition*'; (iii) either way, designation of new transition leaders in consensual manner; and

⁴⁰⁶⁹ Annex 1 to the Defence Response to the "Prosecution's Application for Submission of Yahoo Email Evidence from the Bar Table Pursuant to Article 64(9)" ICC-01/14-01/18-1450-Conf, 15 August 2022, ICC-01/14-01/18-1546-Conf-Anx1, p. 102.

⁴⁰⁷⁰ See paragraph 1554 below.

⁴⁰⁷¹ Email, CAR-OTP-2124-0515, at 0515. See also Email, CAR-OTP-2124-0511.

⁴⁰⁷² Email, CAR-OTP-2124-0515, at 0515.

⁴⁰⁷³ Letter, CAR-OTP-2124-0516, at 0516. See also Letter, CAR-OTP-2124-0512.

⁴⁰⁷⁴ Letter, CAR-OTP-2124-0516, at 0516.

⁴⁰⁷⁵ Letter, CAR-OTP-2124-0516, at 0516.

(iv) organisation of free and transparent elections ‘within six (5)’ (*‘dans un délai de six (5) [sic]’*).⁴⁰⁷⁶

1545. The Chamber considers immaterial in this context that a number of witnesses otherwise associated with an Anti-Balaka group did not know this document, or denied knowing the CLPC.⁴⁰⁷⁷ Similar to its discussion of the meetings at Yamwara above, the Chamber considers this merely to be a further manifestation of organisational efforts in the lead-up to the resignation of Michel Djotodia and removal of the Seleka from power.

1546. P-0884 testified about this meeting, stating that it was held in January, in Boeing behind another base located behind the airport, at the time when Djotodia had been summoned so he could resign, and in the context of which Sebastien Wenezoui was designated as spokesman and to write, since some in the Anti-Balaka did not even know how to write.⁴⁰⁷⁸ P-0884 explained that they gathered to ask that the ‘constitutional order’ be re-established, which meant ‘bringing Bozizé back to power’, so it was an opportunity to collect a number of people and have them manage the transition and have François Bozizé come back to power.⁴⁰⁷⁹ P-0884 appeared to confirm that Alfred Ngaya took part in the meeting.⁴⁰⁸⁰ P-0884 did not recall who [REDACTED].⁴⁰⁸¹ The document was meant to be sent to the CEEAC to ask for Djotodia’s departure and that there had to be an agreement about Bozizé returning to power or a transitional arrangement.⁴⁰⁸²

1547. Alfred Legrand Ngaya testified that his impression during the meeting was that ‘Wenezoui and Ngremangou’ were amongst the ‘main leaders’ of the Anti-Balaka at that time, but he did not know and could not decide the level of responsibility they had in the movement.⁴⁰⁸³

⁴⁰⁷⁶ Letter, CAR-OTP-2124-0516, at 0517.

⁴⁰⁷⁷ See P-0974: T-243, p. 27, line 9 – p. 28, line 1 *referring to* Letter, CAR-OTP-2124-0512; P-0876: T-086, p. 67, line 24 – p. 68, line 8 *referring to* Letter, CAR-OTP-2124-0516 ; P-1858: T-186, p. 40, line 6 – p. 41, line 16 *referring to* Letter, CAR-OTP-2124-0516; P-0992: T-092, p. 55, line 21 – p. 56, line 20 *referring to* Letter, CAR-OTP-2124-0516.

⁴⁰⁷⁸ P-0884: T-056, p. 31, line 12 – p. 32, line 20, p. 33, lines 7-15 *referring to* Letter, CAR-OTP-2124-0512.

⁴⁰⁷⁹ P-0884: T-056, p. 33, line 18 – p. 34, line 4.

⁴⁰⁸⁰ P-0884: T-056, p. 34, lines 17-21.

⁴⁰⁸¹ P-0884: T-056, p. 34, line 22 – p. 35, line 22.

⁴⁰⁸² P-0884: T-056, p. 36, lines 4-12.

⁴⁰⁸³ P-0808: T-070, p. 41, lines 5-25 *referring to* Letter, CAR-OTP-2124-0512.

1548. Further in this context, the Chamber does not find credible the assertion of Alfred Legrand Ngaya that at the time of sending these emails, he ‘did not have any belief that [Mr Ngaïssona] was part of the main leaders of the Anti-Balaka’, but that he sent this information in the ‘same process of sharing information’.⁴⁰⁸⁴ To the Chamber, it is clear from the content of the emails and their attachments that Alfred Legrand Ngaya shared this information with Mr Ngaïssona because he was of the view that Mr Ngaïssona had valid interest therein. The Chamber is of the view that this would not have been the case had Mr Ngaïssona been a mere bystander. In this regard, the Chamber also recalls its discussion of Alfred Legrand Ngaya’s contacts with Mr Ngaïssona long before the coordinated attacks of 5 December 2013.⁴⁰⁸⁵

1549. The exchanges between Alfred Legrand Ngaya and Mr Ngaïssona did not end here. On 13 January 2014, the day before Mr Ngaïssona returned to Bangui, Alfred Legrand Ngaya sent the copy of a ‘*Communiqué de pressedes [sic] antibalaka*’ in relation to the ‘*processus de nromalisation [sic] en centrafrrique*’.⁴⁰⁸⁶

1550. The Chamber has before it a typed document apparently drafted for the ‘*Mouvement des Combattants “Antibalaka”*’, dated 12 January 2014.⁴⁰⁸⁷ This document welcomes the withdrawal of Michel Djotodia and Nicolas Tiangaye, recalls that the aim of the Anti-Balaka movement was fighting for the restoration of peace and security across the CAR, and further makes the following points: (i) the national transitional council in its current composition does not meet the requirements of equality and objectivity necessary to designate the new transition president in a satisfactory manner since, while the Seleka is represented, the Anti-Balaka is not, and because the composition was contested already at the time at which it was set up; and (ii) it is impossible to organise the vote for a new transition president in such imbalanced conditions, at the ‘risk’ of giving rise to ‘other conflicts’ (‘*au risque de faire germer d’autres conflits*’), considering that this needs to be resolved before setting up a transparent and equitable mechanism to designate a new transition president.⁴⁰⁸⁸ The

⁴⁰⁸⁴ P-0808: T-070, p. 40, line 16 – p. 41, line 4 referring to Email, CAR-OTP-2124-0511.

⁴⁰⁸⁵ See paragraphs 1032-1037 above.

⁴⁰⁸⁶ Email, CAR-OTP-2124-0526, at 0526.

⁴⁰⁸⁷ Press release, CAR-OTP-2124-0527.

⁴⁰⁸⁸ Press release, CAR-OTP-2124-0527, at 0527-28.

document ends by saying that any new ‘slips’ could easily make ‘us’ tumble into another ‘spiral of violence’, which is not the intention of the Central African people (*‘tout nouveau dérapage pourrait facilement nous basculer dans une autre spirale de violence, ce qui n’est pas du tout la volonté du peuple centrafricain’*).⁴⁰⁸⁹

1551. In the view of the Chamber, the above foreshadows the position taken by the Anti-Balaka upon Mr Ngaïssona’s return to Bangui, namely, that it wanted to be taken into account in the formation in the new transition government, including with positions to be allocated to representatives of the movement.⁴⁰⁹⁰

1552. Leading towards the discussions in N’Djamena, the Chamber has further considered the testimony of Joachim Kokaté, who described how towards the second week of December 2013, he was in contact with Abakar Sabone about the latter’s statement calling for the division of the country, eventually leading to Joachim Kokaté being informed that [REDACTED].⁴⁰⁹¹ The witness informed Mr Ngaïssona, who had contacted him, that [REDACTED] with Mr Ngaïssona saying to him that he would tell the others about this, meaning talking about it to François Bozizé.⁴⁰⁹² Joachim Kokaté explained that he never did anything without telling Mr Ngaïssona because he knew Mr Ngaïssona was very close to Bozizé, and because Mr Ngaïssona used to tell them that whatever Bozizé said was mostly said to Mr Ngaïssona, so he could not travel to N’Djamena without informing Mr Ngaïssona, he was not the leader of the Anti-Balaka and could not go there on their behalf.⁴⁰⁹³ While Mr Ngaïssona initially approved, he said a few days later that he did not trust Déby and would therefore not come, but he told Joachim Kokaté to contact a number of people, including Ngremangou, providing their phone numbers.⁴⁰⁹⁴ Joachim Kokaté confirmed he talked to Levy Yakété about the meeting as he was also a member of the Anti-Balaka.⁴⁰⁹⁵

1553. The Chamber notes in this context that P-1847 indicated in his prior recorded testimony that he heard from [REDACTED] about a meeting the latter had at the Golf residence with Mr

⁴⁰⁸⁹ Press release, CAR-OTP-2124-0527, at 0528.

⁴⁰⁹⁰ See also paragraphs 1575-1618 below.

⁴⁰⁹¹ P-0801: T-035, p. 13, lines 2-22, p. 15, line 20 – p. 16, line 14; T-037, p. 42, lines 5-17.

⁴⁰⁹² P-0801: T-035, p. 16, lines 3-10.

⁴⁰⁹³ P-0801: T-035, p. 17, line 15 – p. 18, line 2.

⁴⁰⁹⁴ P-0801: T-035, p. 18, line 10 – p. 19, line 6, p. 21, line 21 – p. 22, line 1.

⁴⁰⁹⁵ P-0801: T-035, p. 19, line 25 – p. 20, line 7.

Ngaïssona and Joachim Kokaté at the end of 2013 with a view to designating the person to represent the Anti-Balaka, and as Mr Ngaïssona and Levy Yakété did not want to go, Joachim Kokaté travelled alone.⁴⁰⁹⁶ In court, P-1847 confirmed the suggestion that Levy Yakété gave Joachim Kokaté a message for N'Djamena, concerning the exactions, calling for the resignation of Michel Djotodia and for transition to take place after the disarmament and elections.⁴⁰⁹⁷

ii. Michel Djotodia's resignation and the new transition government

On 10 January 2014, Michel Djotodia resigned, leading to the end of his government, following which the Seleka forces started to withdraw from Bangui, in particular towards the north and north-east of the CAR.

1554. Nicolas Tiangaye himself described that in light of the exacerbating tensions following the attack of 5 December 2013, Michel Djotodia and he were asked to withdraw, and indeed forced to resign, during the CEEAC summit on 10 January 2014.⁴⁰⁹⁸ While Michel Djotodia submitted his resignation at N'Djamena, Nicolas Tiangaye refused to do so given the circumstances, and then handed over his resignation on 14 January 2014, having returned to Bangui.⁴⁰⁹⁹

1555. The CAR Panel in its 2014 interim report concluded that in a combined diplomatic effort, France and ECCAS countries (particularly Chad and Congo) obtained the demise of the Seleka leadership on 10 January 2014.⁴¹⁰⁰ This paved the way to a new transition, led by Catherine Samba-Panza, who was elected by the transitional national council on 20 January 2014.⁴¹⁰¹

1556. Regarding the meeting at N'Djamena, P-1858 stated that Léopold Bara-Dessi went there as a representative of the Anti-Balaka, and that [REDACTED] drafted the report which Bara-

⁴⁰⁹⁶ P-1847: T-023, p. 29, line 11 – p. 30, line 4; P-1847 First Statement, CAR-OTP-2061-1534, at 1564-65, para. 195; P-1847 Second Statement, CAR-OTP-2122-8251-R01, at 8263, para. 113.

⁴⁰⁹⁷ P-1847: T-023, p. 30, line 5 – p. 31, line 1; P-1847 First Statement, CAR-OTP-2061-1534, at 1564-65, para. 195.

⁴⁰⁹⁸ P-0291 Statement, CAR-OTP-2024-0036-R05, at 0054, para. 115; P-0291: T-051, p. 66, line 7 – p. 67, line 1. See also Annex 2 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0866, para. 16; P-2625: T-193, p. 41, line 17 – p. 42, line 14; P-2926 Report, CAR-OTP-2127-4289, at 4305, para. 37; P-2084 Statement, CAR-OTP-2094-0968-R02, at 0980, para. 63.

⁴⁰⁹⁹ P-0291: T-051, p. 66, lines 7-18.

⁴¹⁰⁰ Annex 2 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0866, para. 16.

⁴¹⁰¹ Annex 2 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0866, para. 17.

Dessi presented in N'Djamena.⁴¹⁰² Similarly, P-0954 mentioned that Léopold Bara explained the situation as a representative of the Anti-Balaka, and when Idriss Deby decided that Djotodia could not go back to Bangui as president, [REDACTED] Djotodia had signed his resignation letter.⁴¹⁰³ P-0876 testified that Jean-Jacques Demafouth asked Léopold Bara to represent the Anti-Balaka at N'Djamena, while he later heard that Kokaté went there to represent Bozizé, and Bernard Bonda on behalf of the KNK.⁴¹⁰⁴ [REDACTED].⁴¹⁰⁵

1557. Joachim Kokaté testified that after his discussions with Mr Ngaïssona about who would represent the Anti-Balaka in N'Djamena, and having arrived there, he heard on RFI that François Bozizé stated he had not given a mandate to anybody, including Joachim Kokaté, to speak on behalf of the Anti-Balaka.⁴¹⁰⁶ At N'Djamena, Joachim Kokaté then found Léopold Bara and Bernard Bonda who told him that they had come as part of the delegation to represent the Anti-Balaka, and they said they should work together for purposes of participating in the discussions, which is what they did.⁴¹⁰⁷ While at N'Djamena, Joachim Kokaté also made a statement on the UN radio station, at request of General Mokoko, telling Central Africans that considering that Michel Djotodia had accepted to resign, they should not continue fighting, accept their Muslim brothers, and that they needed peace and reconciliation.⁴¹⁰⁸ While he was still in N'Djamena, this message was contradicted by Yvon Konaté on radio Ndeke Luka.⁴¹⁰⁹

1558. Catherine Samba-Panza explained that following Michel Djotodia's resignation, the Seleka felt they had been abandoned as they no longer had a leader with authority over them in Bangui, so a lot of them started to withdraw from Bangui, going to the north and north-east,

⁴¹⁰² P-1858 Statement, CAR-OTP-2063-0050-R04, at 0061, para. 66.

⁴¹⁰³ P-0954 Statement, CAR-OTP-2048-0171-R03, at 0182, para. 64; P-0954: T-167, p. 78, lines 6-13.

⁴¹⁰⁴ P-0876 Interview Transcript, CAR-OTP-2046-0249-R01, at 0263-64, lines 561-607; CAR-OTP-2046-0295-R01, at 0315, lines 703-712; CAR-OTP-2046-0427-R01, at 0435-36, lines 280-304; CAR-OTP-2046-0530-R02, at 0556, lines 925-935; P-0876: T-086, p. 63, lines 17-22, p. 66, line 7 – p. 67, line 22, p. 69, line 8 – p. 70, line 6.

⁴¹⁰⁵ P-0876 Interview Transcript, CAR-OTP-2046-0249-R01, at 0264, lines 611-615.

⁴¹⁰⁶ P-0801: T-035, p. 18, line 24 – p. 19, line 13.

⁴¹⁰⁷ P-0801: T-035, p. 19, lines 14-24.

⁴¹⁰⁸ P-0801: T-035, p. 23, lines 10-24; T-038, p. 56, line 1 – p. 57, line 21 *referring to* Press article, CAR-D30-0006-0022.

⁴¹⁰⁹ P-0801: T-035, p. 23, line 25 – p. 23, line 13.

but committing violence against the population considered to be favourable to the Anti-Balaka in the course of their withdrawal.⁴¹¹⁰

1559. An NGO report echoed this, concluding that following Michel Djotodia's resignation, senior Seleka leaders fled the country, the alliance broke into smaller groups with many fighters retreating to the central and northeastern part of the country, while an estimated 3,000 to 4,000 Seleka fighters remained confined to military barracks in Bangui under oversight of the AU forces.⁴¹¹¹

1560. More directly, on the ground, P-2324, who was in Berbérati at the time, described [REDACTED] that all Seleka groups from different towns gathered in Berbérati before leaving on 30 January 2014.⁴¹¹² Similarly, P-2393, who was in Carnot at the time, stated that when Michel Djotodia resigned, the Seleka withdrew from Carnot along with the Seleka from other areas, such as Nola and Berbérati, who were also withdrawing and passing through Carnot.⁴¹¹³

On 20 January 2014, Catherine Samba-Panza was elected as new transitional head of state of the CAR. André Nzapayéké was chosen as prime minister, Léopold Narcisse Bara was appointed minister for youth, sports, arts and culture, and Jean-Jacques Demafouth, Charles Ngremangou and Joachim Kokaté also received positions within this new government.

1561. Catherine Samba-Panza explained that during the Djotodia administration, the CAR was going through 'an extremely difficult time' and was 'plunged into chaos', with no state, no administration, no economy, no health system, no school, no education, no justice, no army, it was 'total chaos'.⁴¹¹⁴ Just after the return from N'Djamena, a delegation of eight women from a multi-faith religious platform came to see the witness and told her they wanted 'a woman at the leadership who can replace Michel Djotodia', and eventually the witness

⁴¹¹⁰ P-0952: T-250-ENG, p. 11, lines 3-13; T-250-FRA, p. 9, lines 16-27.

⁴¹¹¹ Report 'Behind the Headlines', CAR-OTP-2001-2564, at 2573. *See also* UNSG Report, CAR-OTP-2001-0409, at 0410, para. 8. The Chamber notes that the Yekatom Defence opposed the submission of the latter report, arguing it is insufficiently probative and that any probative value is outweighed by its prejudicial effect (*see* Annex A to the Response, ICC-01/14-01/18-1978-Conf-AnxA, pp. 5-6). The Chamber notes in this regard that it has considered this report only in the context of other evidence before it, and has not relied on it for reaching any factual conclusions.

⁴¹¹² P-2324 Statement, CAR-OTP-2100-2002-R02, at 2008, para. 25.

⁴¹¹³ P-2393 Statement, CAR-OTP-2108-0140-R03, at 0142, para. 13, at 0146, para. 36.

⁴¹¹⁴ P-0952: T-249, p. 15, lines 17-25.

accepted their proposal.⁴¹¹⁵ Elections were organised by the national transitional council, and on 20 January 2014, Catherine Samba-Panza was elected, running against eight men.⁴¹¹⁶ On the day of her election, Catherine Samba-Panza received an SMS stating, ‘It’s in your best interest that you win the elections, because if you don’t, we will burn everything down. You really can’t afford to have a Seleka or a Muslim overtake you’.⁴¹¹⁷ The witness felt disproportionate hope was invested in her as many other candidates had resources and ran a campaign, which she did not, so when she received this message, she smiled but could not know who was sending it because so many people had her phone number.⁴¹¹⁸

1562. Within the Samba-Panza administration, André Nzapayéké was chosen as prime minister,⁴¹¹⁹ while, *inter alia*, Léopold Narcisse Bara was appointed as minister for youth, sports, arts and culture,⁴¹²⁰ Jean-Jacques Demafouth as ministerial advisor for security and in charge of relations with MISCA and Sangaris, Charles Ngremangou as director of cabinet at the ministry of defence, and Joachim Kokaté as special advisor for DDR.⁴¹²¹ The Chamber notes in this regard that Charles Ngremangou received the position requested for him by the Anti-Balaka.⁴¹²²

iii. Anti-Balaka following Michel Djotodia’s resignation

Immediately following his return to Bangui on 14 January 2014, Mr Ngaïssona was installed as general coordinator of the Anti-Balaka.

As such, Mr Ngaïssona represented the entirety of the Anti-Balaka towards the CAR transition government and international authorities.

With a view to engaging with the transition government and international authorities, the Anti-Balaka structure started being further formalised with the return of Mr Ngaïssona and his appointment as general coordinator. Other individuals within this formalised structure

⁴¹¹⁵ P-0952: T-249, p. 16, line 7 – p. 18, line 11.

⁴¹¹⁶ P-0952: T-249, p. 16, line 7 – p. 18, line 11. *See also* Annex 2 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0866, para. 17; P-2926 Report, CAR-OTP-2127-4289, at 4305, para. 37; Resolution S/RES/2149 (2014), CAR-OTP-2001-1043, at 1047.

⁴¹¹⁷ P-0952: T-249, p. 18, line 12 – p. 19, line 1.

⁴¹¹⁸ P-0952: T-249, p. 19, lines 6-24.

⁴¹¹⁹ P-0291: T-052, p. 18, lines 3-7. *See also* P-2926 Report, CAR-OTP-2127-4289, at 4305, para. 37; Resolution S/RES/2149 (2014), CAR-OTP-2001-1043, at 1047.

⁴¹²⁰ Decree, CAR-OTP-2094-0295, at 0297.

⁴¹²¹ Official Gazette, CAR-OTP-2004-1180, at 1185-87 (decree 14.016 of 3 February 2014), 1191 (decree 14.023 of 4 February 2014), 1217-19 (decree 14.052 of 27 February 2014). *See also* P-0801: T-037, p. 6, line 12 – p. 7, line 3.

⁴¹²² *See* paragraph 1585 below.

included Maxime Mokom as operations coordinator and zone commanders, or ‘ComZones’ as group leaders. Mr Ngaïssona continued to provide financial assistance to the Anti-Balaka and actively engaged in formalising the structure of the Anti-Balaka.

Throughout the period relevant to the charges, Mr Yekatom retained and exercised control over an active group of elements which was seen as and understood to be part of the Anti-Balaka. Mr Yekatom was the uncontested leader of this group which first set up at Yamwara in Boeing after 5 December 2013, and moved down the PK9-Mbaïki axis following Michel Djotodia’s resignation.

The structure of the Anti-Balaka evolved during the period relevant to the charges, and was subject to various leadership tussles. However, it always remained represented towards the national and international authorities as one entity through Mr Ngaïssona.

Anti-Balaka groups set up bases in different neighbourhoods across Bangui. Meetings were held at variable intervals at Mr Ngaïssona’s concessions or at the Azimut hotel. In February 2014, the Anti-Balaka itself estimated counting about 50,000 elements in Bangui and the provinces. The Anti-Balaka coordination also issued identity cards or badges to some of the Anti-Balaka elements.

a. Formalisation of structure

1563. The evidence before the Chamber as further outlined below shows that having kept abreast of the developments concerning the Anti-Balaka following the coordinated attacks of 5 December 2013, Mr Ngaïssona returned to Bangui on 14 January 2014. In the following, Mr Ngaïssona and others undertook steps to formalise the structure of the Anti-Balaka groups, by setting up a national coordination under the lead of Mr Ngaïssona as general coordinator.

i. *Initial steps to formalise structure and representation towards other actors*

Mr Ngaïssona as general coordinator of the Anti-Balaka

1564. Mr Ngaïssona returned to Bangui on 14 January 2014,⁴¹²³ the same day as Nicolas Tiangaye returned to the CAR and handed in his resignation as prime minister following the talks in N’Djamena.⁴¹²⁴

⁴¹²³ See Passport, CAR-OTP-2098-0107, at 0110 (showing an arrival stamp of the CAR border police at the Bangui airport dated 14 January 2014). See also P-2012 Statement, CAR-OTP-2091-0127-R01, at 0134, para. 32; P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0336, para. 82; P-0801: T-035, p. 22, lines 4-19, p. 23, lines 3-9.

⁴¹²⁴ See paragraph 1554 above.

1565. The evidence as further outlined below shows that on the very day of his return to Bangui, Mr Ngaïssona convened a meeting at which he was designated as general coordinator of the Anti-Balaka. The Chamber considers this to be another indication of his role having been envisaged as such before his return.

1566. Concretely, the Chamber has before it an Anti-Balaka press release, dated 3 March 2014, which mentions as follows: *‘Monsieur Patrice-Edouard N[gaïssona] a été désigné Coordonnateur Général des Combattants Antibalaka à l’issue d’une grande réunion ayant regroupé tous les principaux responsables politiques et militaires tenue le 14 Janvier 2014, par souci d’encadrement et de leadership politique dudit mouvement’*.⁴¹²⁵ The Chamber considers of note that this release appears to have been signed by, *inter alia*, Maxime Mokom, Sylvestre Yagouzou, Emotion Brice Namsio, Euzèbe Emtenu, Benjamin Ouapoutou, Thierry Lebene, Aimé Abel Denamganaï, Richard Bejouane, Guy Mazimbelet, Guy Gustave Yadjoungou, Guy Gervais Mokpem, Yvon Donoh, Sylvain Beorofei, ‘Andilo’ Ngaïbona, and Yvon Konaté⁴¹²⁶ – individuals who were directly involved in the setting up of groups, their advance towards Bangui and hostilities related thereto, as well as in liaising and coordinating efforts in Cameroon and Zongo.⁴¹²⁷

1567. Several witnesses mentioned meetings held upon Mr Ngaïssona’s return to Bangui and in the context of installing him as general coordinator of the Anti-Balaka.

1568. For example, Joachim Kokaté testified that he returned to Bangui on 14 January 2014, on the same day as Mr Ngaïssona, which he heard over the radio.⁴¹²⁸ The witness also heard over the radio that Mr Ngaïssona had organised two meetings, one in Boy-Rabe and another in Boeing, and that he had returned at the request of François Bozizé to take over the general coordination of the Anti-Balaka;⁴¹²⁹ he informed everybody that he was the general

⁴¹²⁵ Press statement, CAR-OTP-2101-4059, at 4059. (Translation from French to English by the Registry) ‘Mr Patrice-Edouard Ngaïssona was designated as the General Coordinator of the Anti-Balaka combatants at the end of a large meeting bringing together the top political and military leaders, held on 14 January 2014, borne out of the need to provide a structure and political leadership for the movement in question.’

⁴¹²⁶ Press statement, CAR-OTP-2101-4059, at 4060-61.

⁴¹²⁷ See sections IV.A.2.i.a, IV.A.2.i.b, IV.A.2.ii.a, IV.A.4.i.c, IV.A.6.i above.

⁴¹²⁸ P-0801: T-035, p. 22, lines 4-19, p. 23, lines 3-9.

⁴¹²⁹ P-0801: T-035, p. 22, lines 4-19.

coordinator of the Anti-Balaka.⁴¹³⁰ Two or three days later, Ngremangou and Yvon Konaté came to see the witness; Ngremangou announced to Joachim Kokaté and confirmed that Mr Ngaïssona was in Bangui and wanted them to meet; he gave Joachim Kokaté Mr Ngaïssona's phone number in Bangui and the witness called, Mr Ngaïssona telling him he wanted to meet.⁴¹³¹

1569.P-2232 testified that after the attack of 5 December 2013, he learned that Mr Ngaïssona and Bernard Mokom had left Cameroon and landed in Bangui; they regrouped all the Anti-Balaka in Boeing, and from there, Mr Ngaïssona proclaimed himself as coordinator of the movement; Mr Ngaïssona started 'to coordinate everything with Mokom when Mokom was still in Zongo'.⁴¹³² This was after 5 December 2013, but P-2232 did not recall the precise date.⁴¹³³

1570.P-0974 stated that when Mr Ngaïssona returned to Bangui following Michel Djotodia's resignation, Mr Ngaïssona summoned all Anti-Balaka to Boeing-Bercail at Kpangaba school, but [REDACTED] Mr Ngaïssona had not fought but then thought he could rule.⁴¹³⁴ A few days later, Mr Ngaïssona called a meeting in Boy-Rabe, which was attended by the Boeing-Bercail group, at the end of which Mr Ngaïssona was proclaimed national coordinator of the Anti-Balaka.⁴¹³⁵ P-0974 heard from several people who attended this meeting that Mr Ngaïssona gave out two million CFA to Anti-Balaka of Boy-Rabe, but nothing to 'the southern group'.⁴¹³⁶

1571.Jo-Brice Ouabiro Dana testified that the ComZones who 'were already there' were summoned, which allowed them to vote for Mr Ngaïssona as coordinator.⁴¹³⁷

⁴¹³⁰ P-0801: T-036, p. 13, lines 7-14.

⁴¹³¹ P-0801: T-035, p. 22, line 19 – p. 23, line 1.

⁴¹³² P-2232: T-075, p. 46, line 22 – p. 47, line 1.

⁴¹³³ P-2232: T-078, p. 56, line 20 – p. 58, line 23.

⁴¹³⁴ P-0974 Statement, CAR-OTP-2058-0165-R01, at 0176, para. 75; P-0974 Corrections, CAR-OTP-00001761, at 000015; P-0974: T-243, p. 25, line 12 – p. 26, line 1; T-244, p. 19, line 25 – p. 21, line 2.

⁴¹³⁵ P-0974 Statement, CAR-OTP-2058-0165-R01, at 0177, para. 77; P-0974: T-243, p. 25, line 12 – p. 26, line 1.

⁴¹³⁶ P-0974 Statement, CAR-OTP-2058-0165-R01, at 0177, para. 77; P-0974: T-243, p. 25, line 12 – p. 26, line 1; T-244, p. 46, line 5 – p. 47, line 7.

⁴¹³⁷ P-0966: T-118, p. 16, line 18 – p. 17, line 9. The Chamber notes in this regard that the witness gave the impression that Mr Ngaïssona was chosen as 'official coordinator' at the Azimut hotel, in presence of Sébastien Wenezoui, the Mouda associations, and the daughter of Catherine-Samba Panza (see also P-0966: T-118, p. 19, line 11 – p. 20, line

1572.[REDACTED] in January 2013, Mr Ngaïssona landed in Bangui and summoned them to his home, where he introduced himself as the general coordinator of the group known as Anti-Balaka, everyone had to know that he was the leader and responsible, in charge of them, that the Seleka had perpetrated many acts of violence and caused a lot of damage, so he said they had to put things back in order.⁴¹³⁸ Mr Ngaïssona received Konaté and Andjilo, ‘Richard’, ‘Aubin’, ‘Mory’, and many others at his residence, speaking to the entire group in his capacity as leader about things that were going on within the movement.⁴¹³⁹ [REDACTED] Mr Ngaïssona convened them the very next day after he arrived and the purpose was to set up the foundation for the functioning of the movement.⁴¹⁴⁰ [REDACTED] during this first meeting, Mr Ngaïssona behaved like ‘a leader’, and he remained the general coordinator of the Anti-Balaka until his arrest, ‘[n]o one else controlled the movement’.⁴¹⁴¹

1573.P-0889 described how about one week after [REDACTED] return to Bangui, in January 2014, ‘Mokom’ held a meeting with ComZones in Boeing, behind the airport, and suggested himself as coordinator, but the Anti-Balaka leaders did not agree because he only spoke of the ‘return to the constitutional order’, and they no longer wanted to be considered as pro-Bozizé, [REDACTED] and at a meeting attended by Anti-Balaka leaders from Bangui, Maxime Mokom, Bernard Mokom, Alfred Legrand Ngaya [REDACTED], Mr Ngaïssona was designated as general coordinator, he was liked by the leaders because he usually distributed money, he was popular.⁴¹⁴²

1574.P-1521 testified that they wanted to see if Mr Ngaïssona could represent them because at a meeting at Bangui-M’Poko, the Sangaris had said that they needed someone to represent them towards the international forces and Sangaris, and because they thought Mr Ngaïssona could perhaps represent them in the context of presidential elections or as candidate for the national transitional council.⁴¹⁴³ P-1521 recalled a meeting at a Chinese school at the end of

18). Given these details provided by the witness, the Chamber considers that the witness confused different meetings and was, in relation to the latter, in fact referring to a meeting in June 2014, further discussed below (see paragraph 1726 below).

⁴¹³⁸ [REDACTED]

⁴¹³⁹ [REDACTED]

⁴¹⁴⁰ [REDACTED]

⁴¹⁴¹ [REDACTED]

⁴¹⁴² P-0889 Statement, CAR-OTP-2027-2290-R02, at 2299, paras 54-55; P-0889: T-109, p. 74, line 18 – p. 75, line 5.

⁴¹⁴³ P-1521: T-082, p. 7, line 25 – p. 9, line 24, p. 12, lines 8-11; T-083, p. 8, lines 3-23.

January or early February 2013 with all ComZones but not Mr Yekatom and Wenezoui representing the Anti-Balaka ‘south’, at which Mr Ngaïssona congratulated them for their efforts and achievements, thinking that Mr Ngaïssona referred to their goal to chase out the mercenaries from the Seleka coalition.⁴¹⁴⁴ P-1521 agreed with the suggestion that Mr Ngaïssona said that he accepted to become coordinator on the condition that the abuses being committed by the Anti-Balaka would stop.⁴¹⁴⁵ P-1521 indicated that when they informed Mr Ngaïssona of their choice of him as representative, he said that they had to be very careful to ‘avoid any slippages’.⁴¹⁴⁶ According to P-1521, they chose Mr Ngaïssona because he had been president of the CAR football federation and minister for youth, had undertaken activities in the sports and cultural arena, so he was well known to many youth.⁴¹⁴⁷

Meetings with Catherine Samba-Panza

1575. The evidence before the Chamber as outlined below shows that already before Catherine Samba-Panza was elected to be president, and in the immediate aftermath of Mr Ngaïssona’s return to Bangui, the Anti-Balaka took steps to be taken into account in the transition process.

1576. Specifically, P-0876 stated that before Catherine Samba-Panza was elected, the Anti-Balaka were asked to come to the national assembly, and they were transported in a group by MISCA, with two people intervening in the name of the Anti-Balaka, Léopold Bara on behalf of the ‘Yekatom-Kamezolari-Mbomon’ group, and another supporting the return to constitutional order, Bozizé’s return.⁴¹⁴⁸ [REDACTED] Bara wanted to push the president of the assembly, at that time interim president, to include all entities in the process, not to exclude the ‘Yekatom group’, and thanks to this intervention, Mr Yekatom, Kamezolari and others were brought to debate at the assembly, but the other group (*‘l’autre groupe’*) denounced Bara, saying they represented the most densely populated region in the CAR and could not let people steal their victory, as was said by Alfred Legrand Ngaya.⁴¹⁴⁹ P-0876

⁴¹⁴⁴ P-1521: T-082, p. 11, line 7 – p. 14, line 23; T-083, p. 10, lines 5-17; T-084, p. 45, line 23 – p. 46, line 3.

⁴¹⁴⁵ P-1521: T-083, p. 9, line 19 – p. 10, line 4, p. 11, lines 7-12.

⁴¹⁴⁶ P-1521: T-082, p. 11, line 7 – p. 12, line 22.

⁴¹⁴⁷ P-1521: T-082, p. 80, lines 2-18.

⁴¹⁴⁸ P-0876 Interview Transcript, CAR-OTP-2046-0249-R01, at 0264-65, lines 616-641; P-0876: T-086, p. 71, line 16 – p. 73, line 21, p. 74, line 19 – p. 75, line 2, p. 77, line 23 – p. 78, line 8. *See also* Letter, CAR-OTP-2063-0075.

⁴¹⁴⁹ [REDACTED]

said that it was [REDACTED] FACA members with them dress in their uniform, and [REDACTED] provided an armoured vehicle for their transportation.⁴¹⁵⁰ According to P-0876, at the time there was no Anti-Balaka movement in place, only self-defence movements which took on the name, but no command chain or decision-making link between the various movements, and it was not possible to determine who was Anti-Balaka and who was not.⁴¹⁵¹

1577. Other witnesses also referred to this visit to the national assembly. P-1858 stated that Léopold Bara gave a speech at the parliament as representative of the Anti-Balaka and agreed that he requested for the Anti-Balaka to be represented in the transition council and before the transition government.⁴¹⁵² P-0954 agreed that during the short transitional administration of Alexandre Nguendet, there was a ceremony at the national assembly at which Léopold Bara spoke on behalf of the ‘southern’ group, not in favour of François Bozizé’s return to power, and Alfred Legrand Ngaya on behalf of Mr Ngaïssona.⁴¹⁵³ P-0954 confirmed that [REDACTED] Mr Yekatom, Captain Kamezolaï, Lieutenant Gouga and other soldiers, all wearing FACA clothing, were transported to the assembly by MISCA tanks.⁴¹⁵⁴

1578. Alfred Legrand Ngaya stated that Mr Ngaïssona asked him to speak on behalf of the Anti-Balaka at a meeting just a few days before the election of the new transition president, at the time when Nguendet was interim transitional president, and that Bara spoke at the same meeting, after him.⁴¹⁵⁵

1579. The evidence before the Chamber as further outlined below shows that after Catherine Samba-Panza was elected as new transition president,⁴¹⁵⁶ and the new transition government was sworn in on 23 January 2014,⁴¹⁵⁷ several meetings took place between her and

⁴¹⁵⁰ P-0876: T-086, p. 70, line 24 – p. 71, line 15.

⁴¹⁵¹ P-0876: T-086, p. 73, line 23 – p. 74, line 17 [REDACTED]. *See also* Press article, CAR-OTP-2029-0629, at 0632.

⁴¹⁵² P-1858 Statement, CAR-OTP-2063-0050-R04, at 0061, para. 67; P-1858: T-186, p. 39, line 6 – p. 40, line 5; T-187, p. 12, line 15 – p. 13, line 16.

⁴¹⁵³ P-0954: T-167, p. 78, lines 14-24, p. 79, lines 12-14. *See also* P-0974: T-243, p. 55, line 22 – p. 57, line 7.

⁴¹⁵⁴ P-0954: T-167, p. 79, lines 6-11. *See also* P-0974: T-243, p. 55, line 22 – p. 57, line 7.

⁴¹⁵⁵ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0333-34, paras 61-64; P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0015, paras 28-29, at 0016, paras 33-34; P-0808: T-072, p. 38, line 23 – p. 40, line 17.

⁴¹⁵⁶ *See* paragraph 1561 above.

⁴¹⁵⁷ *See* MINUSCA Report, CAR-OTP-2020-0019, at 0026, para. 17. *See also* P-0952: T-249, p. 15, lines 17-19. The Chamber notes that the Yekatom Defence opposed introduction of mentioned report arguing low probative value and insufficient reliability (*see* Annex A to the Response, ICC-01/14-01/18-1978-Conf-AnxA, p. 11). In light of the

representatives of the Anti-Balaka, at which the latter presented demands as to the representation of the Anti-Balaka within the new transition government.

1580. In the view of the Chamber, the circumstances of these meetings as well as the requests made by the Anti-Balaka are another illustration of the Anti-Balaka structure taking further shape in the context of different political and personal ambitions of various individuals. It is clear from the evidence as further outlined below that in particular Mr Ngaïssona, at the time of the initial meetings freshly installed general coordinator of the Anti-Balaka, exhibited ambitions which developed to no longer centring around bringing François Bozizé back to power, but rather around personal interests combined with wanting to represent the Anti-Balaka which were still a party to the conflict to be taken into account, and thus, in the general political dynamics, an influential factor to be reckoned with.

1581. It is within this context that the Chamber recalls its conclusion that the various Anti-Balaka groups did not have to be a monolithic or singular entity and/or ideologically homogenous at any stage of the events.⁴¹⁵⁸ The Chamber is of the view that different Anti-Balaka groups, of ‘north’, ‘south’ or other designation, coming together to be represented towards the new transitional authorities and international forces does not signify that there were many different groups. Rather, as is clear from the evidence before the Chamber as outlined above and below, groups which did have varying super-imposed interests were not only perceived to be one movement, the ‘Anti-Balaka’, from the outside, but also presented themselves as such with a view to being taken into account as party to the conflict.

1582. Concretely, Catherine Samba-Panza explained that she called on the Anti-Balaka and the Seleka to lay down their arms and join forces with her to build the country and install national cohesion.⁴¹⁵⁹ She received a delegation of about 15 people of the Anti-Balaka at her

limited reliance on this report with regard to a matter which is not disputed, namely the specific date on which Catherine Samba-Panza was sworn in as new transition president, the Chamber does not consider it necessary to address these arguments further.

⁴¹⁵⁸ See paragraph 1526 above.

⁴¹⁵⁹ P-0952: T-249, p. 19, line 25 – p. 20, line 7.

home.⁴¹⁶⁰ According to Catherine Samba-Panza, General Essongo and General Garcia were ‘managing this period’, and the latter organised this meeting.⁴¹⁶¹

1583. The Chamber has before it a handwritten list of names, which Catherine Samba-Panza confirmed to be a list of the Anti-Balaka members that came to her residence,⁴¹⁶² which includes, *inter alia*, the names of Mr Ngaïssona, Joachim Kokaté, ‘12 puissance Thierry’, Léopold Bara, ‘Cap’ ‘Kamezou-Lai’, ‘C/CH’ Rombhot Yekatom, Sylvestre Yagouzou, Charles Ngremangou, Caroline Deboulet, Gilbert Kamezolaï, and ‘LT’ Yvon Konaté.⁴¹⁶³

1584. In relation to the content of the meeting, Catherine Samba-Panza recalled that Mr Ngaïssona, Konaté, Kamezolaï and Sylvestre Yagouzou spoke.⁴¹⁶⁴ The witness explained that her top priority at the time was to appoint a prime minister who would form a government, she was waiting for the various stakeholders and wanted the Anti-Balaka to suggest a number of names.⁴¹⁶⁵ In this regard, Catherine Samba-Panza stated that the Anti-Balaka at the meeting told her what they felt about the stigmatisation they had been subjected to in the country, they thought they were ‘patriots’, ‘had liberated the country’, and ‘should have the place that they deserved on the political chequerboard’.⁴¹⁶⁶ The witness received several wishes expressed by the Anti-Balaka, including for people to become members of the government

⁴¹⁶⁰ P-0952: T-249, p. 20, lines 8-19. The Chamber notes that Catherine Samba-Panza seemed to recall this meeting taking place at her residence just after her inauguration (see P-0952: T-250, p. 12, lines 18-25), whereas other witnesses seemed to suggest that it was just before (see P-0876: T-086-ENG, p. 75, line 19 – p. 76, line 1; T-086-FRA, p. 76, lines 20-27 (‘après son election’); P-0974 Statement, CAR-OTP-2058-0165-R01, at 0177, para. 80; P-0974: T-243, p. 10, lines 6-20). The Chamber considers this slight inconsistency immaterial and in any event not affecting any of these witnesses’ overall credibility. Indeed, it is clear from the details provided by all these witnesses that they were referring to the same meeting, which seems to have taken place not long after the election of Catherine Samba-Panza as new transition president, either before or after her inauguration ceremony.

⁴¹⁶¹ P-0952: T-252, p. 39, line 19 – p. 40, line 15.

⁴¹⁶² P-0952: T-249, p. 20, line 21 – p. 21, line 10. See also P-0801: T-035, p. 25, line 25 – p. 26, line 5, p. 30, line 24 – p. 31, line 13, p. 32, line 13 – p. 33, line 3; T-036, p. 84, lines 12-23; T-037, p. 8, line 22 – p. 9, line 1 (the witness stated that the meeting was attended by Mr Ngaïssona, Ngremangou, Konaté, Yagouzou, Mr Yekatom, Léopold Bara, about a dozen people; he thought also Caroline Deboulet was there, but did not recall clearly if Gilbert Kamezolaï was present at this meeting); [REDACTED] (the witness stated that the meeting at Catherine Samba-Panza’s house was attended by Mr Ngaïssona, Konaté, Gilbert Kamezolaï, Mr Yekatom, and others).

⁴¹⁶³ List, CAR-OTP-2087-9027. See also P-0954: T-167, p. 80, line 9 – p. 81, line 2; P-0876: T-085, p. 64, lines 9-17; P-0974: T-243, p. 28, lines 5-10, p. 29, lines 4-17, p. 57, line 18 – p. 58, line 20. The Chamber notes that in a contemporaneous interview, Sylvestre Yagouzou stated that he was part of the Anti-Balaka group that presented demands to the new government (see Video, CAR-OTP-2087-2813, at 00:02:50-00:04:08; Transcript, CAR-OTP-2107-1589, at 1591, lines 60-63).

⁴¹⁶⁴ P-0952: T-249, p. 21, lines 13-19.

⁴¹⁶⁵ P-0952: T-249, p. 21, line 20 – p. 22, line 15; T-250, p. 16, lines 5-15.

⁴¹⁶⁶ P-0952: T-249, p. 21, line 20 – p. 22, line 15; T-250, p. 16, lines 5-15.

and for military staff, which she received either directly from the Anti-Balaka or through intermediaries such as the president of the national transitional council.⁴¹⁶⁷

1585. In this context, the Chamber notes a document before it, which Catherine Samba-Panza recognised,⁴¹⁶⁸ entitled ‘*Voeux du mouvement Antibalaka pour les forces armees [sic] centrafricaines*’, that mentions the wish for Gboya Emmanuel to be the chief of general staff, and Charles Ngremangou to be the director of cabinet at the ministry of defence.⁴¹⁶⁹ The Chamber considers that two points are of note in this regard: (i) Charles Ngremangou and Emmanuel Gboya did indeed receive positions within the government;⁴¹⁷⁰ and (ii) Charles Ngremangou was actively involved in organising groups with a view to responding to the Seleka violence and, in that context, in the attack in Bangui on 5 December 2013,⁴¹⁷¹ while Emmanuel Gboya had been posted to Bertoua in 2013 and tried to go to Yaoundé with a view to meeting with Mr Ngaïssona and Bernard Mokom.⁴¹⁷²

1586. The Chamber notes that Catherine Samba-Panza mentioned a follow-up meeting concerning Mr Ngaïssona’s wishes regarding government positions, as he had sent some requests with the names of ‘Gboya’ and ‘Feizoure’, during which she said that she would grant that according to the list they had sent.⁴¹⁷³

1587. Further, Catherine Samba-Panza recognised a handwritten list of three names entitled ‘*Representants anti-balaka au gouvernement*’, including the names of Mr Ngaïssona, Joachim Kokaté and Léopold-Narcisse Bara as the list which she received from the president of the national transitional council, Ferdinand Nguendet, as mentioned above.⁴¹⁷⁴ The witness explained that she forwarded the list to the prime minister who was preparing his

⁴¹⁶⁷ P-0952: T-249, p. 22, line 17 – p. 23, line 6.

⁴¹⁶⁸ P-0952: T-249, p. 22, line 17 – p. 23, line 6.

⁴¹⁶⁹ Wishes, CAR-OTP-2087-9024, at 9024.

⁴¹⁷⁰ See paragraph 1562 above; P-0952: T-249, p. 23, lines 7-12.

⁴¹⁷¹ See paragraphs 1171-1176 above, paragraphs 2338-2342 below.

⁴¹⁷² See paragraphs 924-934 above.

⁴¹⁷³ P-0952: T-251, p. 29, line 6 – p. 30, line 16. See Video, CAR-OTP-2023-1599, at 00:00:07-00:00:45; Transcript, CAR-OTP-2107-1502, lines 7-12.

⁴¹⁷⁴ P-0952: T-249, p. 24, line 13 – p. 25, line 3 *referring to* List, CAR-OTP-2087-9028. The Chamber considers the objections in relation to this document by the Ngaïssona Defence (see Annex C to the Ngaïssona Defence Response to ‘Prosecution’s submission of call data records and related evidence via the “bar table”’ (ICC-01/14-01/18-1296), 13 May 2022, ICC-01/14-01/18-1409-Conf-AnxC, pp. 91-92) moot as they were formulated based on the premise that Catherine Samba-Panza had not testified about this document at the time, which eventually she did.

government, and following the morality or character check, it turned out that Mr Ngaïssona and Joachim Kokaté ‘apparently had a criminal record’, while Léopold Bara did not, so they took Bara to become part of the government.⁴¹⁷⁵

1588. Catherine Samba-Panza explained further in relation to this first meeting at her residence that she knew many of the Anti-Balaka more or less, including a secretary who was part of the Anti-Balaka and another lady; there were others that the witness spoke on the phone with from time to time, including Konaté and Sylvestre Yagouzou.⁴¹⁷⁶ She described the atmosphere as ‘rather relaxed’, although they were ‘pretty tough’ when it came to their requirements; according to her, bearing in mind that when one meets with ‘young people’, ‘combatants’, and people ‘not in the habit of asking things calmly’, they were talking all at once and it was difficult to manage the discussion, so minister ‘Sokambi’ told them to ‘calm down’.⁴¹⁷⁷

1589. In an interview which Catherine Samba-Panza gave at the time, she described her encounter with the Anti-Balaka representatives following her election, and explained that matters started getting difficult when she did not attribute the posts as requested, since the Anti-Balaka thought that they had not been sufficiently taken into account and, following the appointment of Léopold Bara, they stated he was not representing them, even though his name was among those suggested, together with those of Mr Ngaïssona and Kokaté.⁴¹⁷⁸ The witness explained that Mr Ngaïssona felt very frustrated that he was being pushed aside in the transition process, and he simply did not accept that – Mr Ngaïssona wanted to have the position he wished and did not get, and ‘that created problems’, like with checkpoints, deaths, demonstrations, and requests for resignation.⁴¹⁷⁹

1590. Joachim Kokaté testified that he met Mr Ngaïssona the first time since his return when he was informed by Ngremangou and General Essongo that Samba-Panza, who had just taken power, asked to meet with the leaders of the Anti-Balaka, in the presence of minister Aristide

⁴¹⁷⁵ P-0952: T-249, p. 24, line 13 – p. 25, line 3.

⁴¹⁷⁶ P-0952: T-249, p. 25, lines 5-16.

⁴¹⁷⁷ P-0952: T-249, p. 25, line 5 – p. 26, line 10.

⁴¹⁷⁸ Video, CAR-OTP-2014-0755, at 00:07:38-00:13:35; Transcript, CAR-OTP-2122-7370, at 7372-74, lines 74-149. See P-0952: T-250, p. 17, line 12 – p. 21, line 8; P-0876: T-085, p. 64, line 22 – p. 67, line 17.

⁴¹⁷⁹ P-0952: T-250, p. 21, line 13 – p. 23, line 23.

Sokambi and General Essongo, the representative of the mediator of the Central African crisis.⁴¹⁸⁰ Joachim Kokaté said that Catherine Samba-Panza told the Anti-Balaka that she was counting on them to comply with her policies, meaning to appeal to the Anti-Balaka to put down their weapons and take the side of legality, that she did not want disorder in Bangui and the rest of the country.⁴¹⁸¹ According to Joachim Kokaté, Mr Ngaïssona told her that the message had been well understood and that she could count on them to convey that message, which meant he was going to do something to ensure peace.⁴¹⁸² The Chamber recalls the witness's testimony that further during this meeting, the Anti-Balaka said that they were funded by Mr Ngaïssona, that he gave them funds to organise for the events which took place on 5 December 2013, and unanimously said that their leader was Mr Ngaïssona and that the president should deal with him exclusively, and that Kokaté was not an Anti-Balaka leader but a member like everyone else.⁴¹⁸³

1591. Other witnesses talked about this meeting as an attempt to 'reconcile' the 'northern' and 'southern' part of the Anti-Balaka.

1592. Specifically, [REDACTED] two or three days after the meeting at the national assembly, Catherine Samba-Panza was elected and Alexandre Nguendet invited Mr Ngaïssona, Kokaté and Léopold Bara to his office, with the former two representing 'Bozizé', while, according to P-0876, Bara represented the other strain, the 'pacifists' (*'les pacifiques', 'les pacifistes', 'Balaka tendance pacifique'*).⁴¹⁸⁴ P-0876 confirmed that the 'Yekatom-Mbomon-Kamezolai camp' attended this meeting with the assistance of MISCA vehicles since at that time they were already perceived negatively since they [REDACTED] were against the return of Bozizé, while for the Seleka they were Anti-Balaka.⁴¹⁸⁵ They negotiated for positions in the government, Mr Ngaïssona wanted defence, mining or foreign affairs, and eventually

⁴¹⁸⁰ P-0801: T-035, p. 25, line 5 – p. 26, line 5.

⁴¹⁸¹ P-0801: T-035, p. 26, lines 6-13.

⁴¹⁸² P-0801: T-035, p. 26, lines 14-19.

⁴¹⁸³ P-0801: T-034, p. 52, line 10 – p. 53, line 9; T-035, p. 29, line 22 – p. 30, line 23, p. 31, line 24 – p. 32, line 4; T-036, p. 14, lines 8-14. *See also* paragraph 847 above.

⁴¹⁸⁴ [REDACTED]

⁴¹⁸⁵ P-0876: T-086, p. 75, lines 3-10. *See also* P-0954: T-167, p. 79, line 19 – p. 80, line 8 (the witness confirmed [REDACTED] a meeting at the residence of Catherine Samba-Panza with Léopold Bara, Mr Yekatom, Captain Kamezolai and other soldiers from the southern group, escorted by MISCA vehicles, as they were taken for being against Bozizé's return, yet in the eyes of the Seleka, they were 'all Anti-Balaka').

Léopold Bara said to put down youth and sports for himself ‘just in case’ Mr Ngaïssona would not take it.⁴¹⁸⁶ [REDACTED] Bara was then appointed to the government, there were reactions against the latter, saying that he was not Anti-Balaka and they did not recognise him, that ‘their victory had been stolen’ (*‘on a volé leur [...] victoire’*) and that all ComZones would mobilise against him and even that Bozizé had put ‘a price on his head’ (*‘tête à prix’*).⁴¹⁸⁷

1593. P-0974 testified that there was a mediation by the Congolese contingent to create a single coordination, and that they referred the matter to Catherine Samba-Panza.⁴¹⁸⁸ He said [REDACTED] Catherine Samba-Panza [REDACTED] asked why they had split, told them they should be one, asked for them not to sow any trouble but work in collaboration with her, and told them she would continue to work with them for peace to return.⁴¹⁸⁹ P-0974 stated that [REDACTED] Mr Ngaïssona explained that although he had been out of the country during the fighting, he still had been active with the movement, that while he was still in Cameroon, he had organised meetings with former FACA and been in telephone contact with people in the provinces to establish the movement.⁴¹⁹⁰ P-0974 testified that was the reason which Mr Ngaïssona gave to say that he was a ‘legitimate choice’ to be the Anti-Balaka coordinator.⁴¹⁹¹ According to P-0974, Bara gave ‘his own version of the facts’, explaining that the activities of the Anti-Balaka surfaced in various neighbourhoods ‘spontaneously as a way of resisting the Seleka’, they objected to the narrative that ‘one single individual’ created the movement – they had fought very hard to see the departure of Djotodia, and Mr Ngaïssona returned one week after Michel Djotodia left power.⁴¹⁹² No one contradicted Mr Ngaïssona as regards the mentioned contacts; there was no objection from his side of the coordination against the statement that he was at ‘the foundation’ and ‘involved right from time back’.⁴¹⁹³ P-0974 further seemed to say that Catherine Samba-

⁴¹⁸⁶ [REDACTED]

⁴¹⁸⁷ [REDACTED]

⁴¹⁸⁸ P-0974: T-243, p. 10, lines 6-14, p. 59, line 14 – p. 61, line 10.

⁴¹⁸⁹ P-0974 Statement, CAR-OTP-2058-0165-R01, at 0177, para. 80; P-0974: T-243, p. 10, lines 6-20, p. 50, lines 15-25, p. 55, lines 5-21; T-244, p. 21, line 22 – p. 23, line 7.

⁴¹⁹⁰ P-0974 Statement, CAR-OTP-2058-0165-R01, at 0177, para. 81; P-0974: T-243, p. 10, line 21 – p. 11, line 8, p. 12, lines 17-24; T-244, p. 31, line 16 – p. 35, line 19.

⁴¹⁹¹ P-0974: T-243, p. 10, line 21 – p. 11, line 8.

⁴¹⁹² P-0974: T-243, p. 14, lines 1-16.

⁴¹⁹³ P-0974: T-243, p. 14, line 17 – p. 15, line 5.

Panza asked them to have one single coordinator to ensure coordination for the movement, and that after the meeting Mr Ngaïssona became the sole coordinator.⁴¹⁹⁴

1594.[REDACTED] testified that in the context of ‘reconciling’ Mr Yekatom’s group with that under Mr Ngaïssona, the Congolese general facilitating the meeting said that Mr Ngaïssona had a ‘red folder’ (*‘un dossier rouge’*), a reference that the witness did not understand, and Mr Yekatom said that ‘he has had a lot of positions’ and was there ‘to see’ what posts he could have in the future.⁴¹⁹⁵ The president received them on the same day as they had met at Boganda.⁴¹⁹⁶ From what the witness understood, Samba-Panza asked that they control their ‘men’, and the witness did not remember the response of the leaders.⁴¹⁹⁷ Mr Yekatom did not speak, only said at the end that he was ‘for the peace’.⁴¹⁹⁸ The witness agreed with the suggestion that at this meeting, and at the meeting with General Essongo, Mr Yekatom defined his group with the term *‘Révolution des forces armées centrafricaines pour le peuple’*.⁴¹⁹⁹ The witness thought that Leopold Narcisse Bara indeed said that he was the ‘spokesperson’ of Mr Yekatom’s group.⁴²⁰⁰ They talked about the elements and their situation, the process, about how to go about disarming them in the long term.⁴²⁰¹

1595. In the chronological context of the above descriptions, the Chamber notes a document before it entitled *‘Communiqué conjoint’*, dated 23 January 2014, the day on which Catherine Samba-Panza was sworn in as new transition president, and apparently signed by Mr Ngaïssona.⁴²⁰² This document informs the national and international community that from the mentioned date onwards, ‘for the sake of achieving the restoration of peace throughout the national territory’ (*‘dans le souci de concourir au rétablissement de la paix sur toute l’étendue du territoire nationale’*), it was decided to join forces under the *‘Coordination*

⁴¹⁹⁴ P-0974: T-244, p. 23, line 21 – p. 28, line 16.

⁴¹⁹⁵ [REDACTED]

⁴¹⁹⁶ [REDACTED]

⁴¹⁹⁷ [REDACTED] The Chamber is of the view that it cannot draw any conclusions from Post, CAR-OTP-2002-0723, a ‘Twitter’ post which appears to date from 23 January 2014 and contains a photograph of a handwritten document, accompanied by the title *‘La lettre que le Lieutenant Konaté, un des leaders Anti Balaka, a lu hier à la présidente Catherine Samba Panza’*. Without any information as to where this purported address of Yvon Konaté came from, the Chamber has not relied on this document.

⁴¹⁹⁸ [REDACTED]

⁴¹⁹⁹ [REDACTED]

⁴²⁰⁰ [REDACTED]

⁴²⁰¹ [REDACTED]

⁴²⁰² Press release, CAR-OTP-2001-3372.

unique', with the following mentioned individuals and their roles: Mr Ngaïssona as general coordinator, Léopold Bara as political coordinator and spokesperson, Joachim Kokaté as military coordinator, Captain 'Kamezou-lai' as chief of general staff, Lieutenant Yvon Konaté as chief of operations, and Caroline Deboulet as advisor.⁴²⁰³

1596. The document was discussed with various witnesses, and the Chamber notes in this regard that the provenance of this document is unclear.⁴²⁰⁴ While Alfred Legrand Ngaya thought the document reflected the time at the 'very beginning of the efforts to put a structure in place for the movement',⁴²⁰⁵ P-0876 testified that this document was never published.⁴²⁰⁶ P-0876 explained in this regard that when Catherine Samba-Panza was designated as head of state, the two Anti-Balaka groups were received at her residence, in which context Mr Ngaïssona appeared to have threatened Léopold Bara claiming that he was not Anti-Balaka.⁴²⁰⁷ While the individuals mentioned in the document agreed on this coordination, P-0876 heard on the radio on the evening of the same day that Mr Ngaïssona did not recognise it, apparently saying that 'our victory, no one can take that from us' (*Notre victoire, personne ne peut nous voler ça*).⁴²⁰⁸

1597. In contrast, Joachim Kokaté testified that he immediately rejected the role assigned to him as 'military coordinator', as this was not based on consultations between them.⁴²⁰⁹ Joachim Kokaté adamantly rejected any claims of him having been military coordinator or having

⁴²⁰³ Press release, CAR-OTP-2001-3372, at 3372.

⁴²⁰⁴ The Chamber notes that Catherine Samba-Panza appeared to indicate that this specific document was not from her archives (see P-0952: T-252, p. 38, lines 1-18 *referring to* Press release, CAR-OTP-2087-9289), while the JEM code suggests this item was retrieved from 'open source'.

⁴²⁰⁵ P-0808: T-070, p. 55, line 4 – p. 56, line 12 *referring to* Press release, CAR-OTP-2087-9289.

⁴²⁰⁶ P-0876: T-085, p. 62, lines 8-23 *referring to* Press release, CAR-OTP-2001-3372.

⁴²⁰⁷ P-0876: T-085, p. 62, lines 8-23. *See also* P-1521: T-083, p. 15, line 20 – p. 16, line 9 *referring to* Press release, CAR-OTP-2087-9289 (the witness denied 'the coordination in this composition' being operational in January, February 2014).

⁴²⁰⁸ P-0876 Interview Transcripts, CAR-OTP-2046-0455-R01, at 0469, lines 496-524, at 0470-71, lines 539-583; CAR-OTP-2046-0500-R01, at 0501-02, lines 24-41; P-0876: T-085, p. 62, line 24 – p. 64, line 6; T-086, p. 76, line 2 – p. 77, line 22; T-088, p. 56, line 15 – p. 57, line 11. *See also* P-0889: T-109, p. 34, line 23 – p. 36, line 19 *referring to* Press release, CAR-OTP-2124-1211.

⁴²⁰⁹ P-0801: T-035, p. 32, lines 6-12, p. 50, line 10 – p. 51, line 9; T-036, p. 5, line 9 – p. 6, line 7, p. 10, lines 4-22 *referring to* Press release, CAR-OTP-2001-3372; T-038, p. 50, line 18 – p. 51, line 3. *See also* P-0801: T-033, p. 11, lines 8-15.

held a role with military responsibilities within the Anti-Balaka.⁴²¹⁰ Indeed, the witness testified that he was appointed as representative of the Anti-Balaka within the Samba-Panza government due to him having been an Anti-Balaka ‘supporter’ at the time.⁴²¹¹ The Chamber considers that the witness attempted to downplay his role within the Anti-Balaka.⁴²¹² While witnesses did not point to him as playing a specific role in the context of military operations, it is also clear from the evidence before the Chamber that Joachim Kokaté was directly involved with the activities of the Anti-Balaka, both in initial meetings in Cameroon as well as going to N’Djamena to represent the movement, as well as of FROCCA.⁴²¹³ At the same time, the evidence shows that by around mid-February 2014, Joachim Kokaté distanced himself from the Anti-Balaka.⁴²¹⁴

1598. The Chamber notes in this regard that radio broadcast of an interview with Mr Ngaïssona of 27 February 2014, in which he, *inter alia*, complained about MISCA’s attempt to arrest him, stating that he was not an enemy of the state or of peace, but returned to the country to help ‘these children’ to have a voice (*‘ses enfants à porter leurs voix’*), yet they had no one to listen to it (*‘on n’a pas d’interlocuteurs pour écouter la voix de ces enfants’*).⁴²¹⁵ He continued that he was the general coordinator of the Anti-Balaka, and that the children left the hinterland, arrived on foot, had already used weapons, and they were now being asked to return to where they came from, but if they were to return with their weapons, this would mean insecurity in the hinterland, and the only solution to eradicate this was to regroup them to have them lay down their weapons and return to the hinterland empty-handed.⁴²¹⁶ He said that he talked to ‘these children’ a lot so there would be no ‘slips’ (*‘dérapiage’*): *‘Mais ceux qui font des exactions au nom des A[nti-Balaka], mais si ensemble avec les autorités, nous nous mettons ensemble, on peut lutter contre ces braquages, lutter contre des délinquants*

⁴²¹⁰ P-0801: T-036, p. 5, lines 9-17; T-037, p. 15, line 20 – p. 16, line 2; T-038, p. 37, line 15 – p. 38, line 20, p. 39, line 1 – p. 50, line 13, p. 51, line 6 – p. 55, line 12 *referring inter alia* to Facebook messages, CAR-OTP-2101-9735, at 9806; CAR-OTP-2102-3203, at 3371; CAR-OTP-2102-2520, at 2631; CAR-OTP-2101-8599, at 8719; CAR-OTP-2101-6315, at 6334; CAR-OTP-2102-2520, at 2698; CAR-OTP-2102-2520, at 2722; CAR-OTP-2100-6685, at 6742-44; CAR-OTP-2102-6699, at 7073-74; CAR-OTP-2101-7114, at 7124, 7128; P-2841 Statement, CAR-OTP-2127-4238-R01, at 4265, para. 154.

⁴²¹¹ P-0801: T-036, p. 5, lines 2-8.

⁴²¹² See also paragraphs 233-247 above.

⁴²¹³ See sections IV.A.2.i.b, IV.A.3, IV.A.7.ii above.

⁴²¹⁴ See paragraph 1731 below.

⁴²¹⁵ Audio, CAR-OTP-2073-0870; Transcript, CAR-OTP-2107-1561, at 1562, lines 16-28.

⁴²¹⁶ Transcript, CAR-OTP-2107-1561, at 1562-63, lines 29-55.

qui se prennent pour A[nti-Balaka] et aujourd'hui tous ces dérapages-là sont imputés à A[nti-Balaka]'.⁴²¹⁷ Mr Ngaïssona further explained the chain of command of the Anti-Balaka was him as general coordinator and, before, Kokaté was military coordinator, who took other options, emphasising that he had control:

[...] Lui, il a pris d'autres options, lui-même il peut vous expliquer, et que tout se passe sous mon contrôle. En principe, s'il y a des discussions, il y a des débats, c'est moi qui devais être présent à ces débats ou s'il y a des ... des choses à discuter avec les autorités, en principe, ça devait être moi. On ne sait pas quand on parle d'autres fractions par-ci, par là, ça me gêne un peu, et pour quelles raisons ? Est-ce qu'on veut chercher rapidement à avoir ... manger ou est-ce qu'on veut rapidement avoir le poste, est-ce que c'est ... pour quelles raisons, ces fractions ? Mais dommage que ceux qui se disent peut-être fraction ceci cela, ne peuvent pas aller sur le terrain demander à leurs éléments de ... par exemple, de se retirer. C'est malheureux qu'on trompe le public, qu'on trompe certaines autorités, et qu'on trompe l'opinion internationale.⁴²¹⁸

1599. Mr Ngaïssona further said that if one heard shooting at night, these were robberies which were not done by the Anti-Balaka, and further that there was no more shooting up into the hinterland because he had made a call to cease hostilities (*'[j]usque dans l'arrière-pays, il y a plus de feu parce que j'ai lancé un appel, cessation des hostilités'*).⁴²¹⁹ In relation to the arrest of certain Anti-Balaka elements, he stated not knowing what they were reproached for, *'peut-être d'arriver à B[angui], mettre la pression sur D[jotodia] et D[jotodia] parte, ça, leur drame, ils ne méritent pas ça. C'est des enfants qui ont fait acte de bravoure. Ils mériteraient autre chose que ce qui se passe en ce moment. [...] Et maintenant ceux qui ont*

⁴²¹⁷ Transcript, CAR-OTP-2107-1561, at 1563, lines 55-59. (Translation from French to English by the Registry) 'But the ones doing the atrocities in the name of the Anti-Balaka, but if – together with the authorities – we get together, we can fight against these robberies, fight against these delinquents who believe themselves to be Anti-Balaka, and now all these excesses are being blamed on the Anti-Balaka.'

⁴²¹⁸ Transcript, CAR-OTP-2107-1561, at 1563, lines 60-72. (Translation from French to English by the Registry) 'He made different choices, he can tell you himself, and that everything takes place under my control. Basically, if there are talks, there are discussions, I'm the one who should attend these discussions or if there are some ... some things to discuss with the authorities, basically, that should be me. We don't know when there's talk of other [crimes] here or there, that bothers me a bit, and why are they doing that? Do they want to quickly get something ... to eat or do they want to quickly get the set, is it ... why is that, these [crimes]? It's a shame that those saying maybe this or that's a [crime] can't just go into the field and ask their elements to ... for instance, retreat. It's unfortunate that they're deceiving the public, they're deceiving certain authorities, and they're deceiving international opinion.'

⁴²¹⁹ Transcript, CAR-OTP-2107-1561, at 1563, lines 73-80.

amené le pays à retrouver un peu l'air de la paix, c'est ceux-là qu'on combat, c'est très regrettable'.⁴²²⁰

1600. The Chamber is of the view that Mr Ngaïssona made clear in this interview not only that he was the one person representing the Anti-Balaka and its interests towards the transitional authorities, and that he had sufficient power and control over the Anti-Balaka to call them to end hostilities, but also that he fully stood by the actions of the Anti-Balaka in their pursuit of their core objective, namely the removal of Michel Djotodia and the Seleka from power. The Chamber recalls that while Mr Ngaïssona knew well, certainly at this stage, about the death and dislocation of Muslim civilians due to the Anti-Balaka's actions,⁴²²¹ he either chose not to refer to such events at all, or downplayed them as 'slips' which would need to be stopped.

1601. The evidence before the Chamber contains further discussions on the wishes of the Anti-Balaka for posts within the new transition government. Specifically, the Chamber has before it another document which Catherine Samba-Panza recognised as another list of wishes passed on to her by the Anti-Balaka.⁴²²² This document, which appears to be from the '*Antibalaka Combattants de libération du peuple Centrafricain* [CLPC]' lists the names of six individuals with their 'profile', recently occupied positions and 'wishes', the latter including for Mr Ngaïssona the position of director-general of the state companies ENERCA or SOCAPS, DDR coordinator, for Alfred Legrand Ngaya the position of minister-adviser at the prime minister's office for youth, sports, arts and culture, and for Bernard Mokom the position of cabinet advisor at the national transitional council.⁴²²³

1602. P-0884 testified, in relation to this list, that it was drawn up based on an idea of Catherine Samba-Panza, who mentioned not knowing the people who made up the Anti-Balaka movement, contacting Mr Ngaïssona to ask for a list of people who could be nominated in

⁴²²⁰ Transcript, CAR-OTP-2107-1561, at 1563-64, lines 81-94. (Translation from French to English by the Registry) 'maybe coming to Bangui, putting pressure on Djotodia and Djotodia leaving – that, their plight, they don't deserve that. They're children who've performed acts of bravery. They deserve something other than what's happening to them now. [...] And now, the ones who got the country to regain some kind of peace, they're the ones being fought against, it's highly regrettable.'

⁴²²¹ See paragraphs 1304, 1495 above.

⁴²²² P-0952: T-249, p. 23, lines 13-20 referring to List, CAR-OTP-2087-9025.

⁴²²³ List, CAR-OTP-2087-9025.

the government so they could receive a salary which would then enable them to take responsibility for ‘the men’, take ‘charge of these people’, rather than make them commit actions like stealing.⁴²²⁴ P-0884 explained that SOCAPS concerned storage of petrol products and the company earns a lot of money.⁴²²⁵ P-0884 said that ‘some people’ were unhappy about neither Mr Ngaïssona nor Bernard Mokom getting any of these positions.⁴²²⁶

1603. Catherine Samba-Panza explained in this regard, plausibly, that she did not appoint Mr Ngaïssona to the requested posts for several reasons: as regards ENERCA, the woman in charge at the time had been appointed by François Bozizé and his team, with the witness not wanting to remove a woman and a Bozizé appointee, as she did not want to give the impression that this was a ‘clean-up operation’; further, the witness said that SOCAPS is a state company with a board of directors for which she could not appoint people; and for DDR, it was not possible since they were reviewing the entire process which had not even begun.⁴²²⁷ The witness testified that Mr Ngaïssona ‘absolutely insisted’ on getting those positions,⁴²²⁸ and she did not make a counterproposal as her hands were tied because of the results of the ‘morality’ or ‘character’ investigation.⁴²²⁹

1604. Jean-Jacques Demafouth similarly recalled this list, stating that ‘Feikere’ was appointed as advisor at the presidency at the request of Mr Ngaïssona; and ‘Ngaya’ and Robert Namsenei were also appointed to positions, but Mr Ngaïssona and Bernard Mokom were not because they were ‘too committed at the military level’ and the ‘inquiry on morality’ did not make it possible to give them positions of responsibility.⁴²³⁰ Jean-Jacques Demafouth explained that they knew that Bernard Mokom was responsible for the Anti-Balaka at the border with Cameroon, while Mr Ngaïssona had judicial antecedents from the Patassé regime period which made it difficult to give him a position and, as main coordinator of the Anti-Balaka, a promotion for him would have been like handing power to the Anti-Balaka.⁴²³¹ Further,

⁴²²⁴ P-0884: T-056, p. 47, line 19 – p. 48, line 20 *referring to* List, CAR-OTP-2087-9025, p. 49, lines 2-8; T-058, p. 49, lines 5-9.

⁴²²⁵ P-0884: T-056-ENG, p. 48, line 21 – p. 49, line 1; T-056-FRA, p. 48, lines 16-22.

⁴²²⁶ P-0884: T-056, p. 49, lines 9-15.

⁴²²⁷ P-0952: T-249, p. 23, line 21 – p. 24, line 10.

⁴²²⁸ P-0952: T-249, p. 24, lines 11-12.

⁴²²⁹ P-0952: T-251, p. 26, lines 11-22; T-249, p. 24, line 13 – p. 25, line 3.

⁴²³⁰ P-2328: T-047, p. 44, line 20 – p. 45, line 13 *referring to* List, CAR-OTP-2087-9025.

⁴²³¹ P-2328: T-047-ENG, p. 45, line 14 – p. 46, line 4; T-047-FRA, p. 47, line 17 – p. 48, line 7.

according to the witness, ENERCA, the corporation providing power to the national grid held a post which was referred to as ‘greasy’, meaning it was really well paid, while SOCAPS as company responsible for petroleum products was also an important company, and giving Mr Ngaïssona these positions would have meant giving him means to ‘fund his activities’ as ‘the coordinator of the Anti-Balaka movement’, mostly ‘the upkeep of the troops and their organisation’.⁴²³² Jean-Jacques Demafouth testified further that, similarly, they had not seen even the beginning of the Anti-Balaka demonstrating goodwill vis-à-vis DDR, so no one could agree to Mr Ngaïssona’s demand of becoming DDR coordinator.⁴²³³

1605. Alfred Legrand Ngaya explained, from his perspective, that they presented their demands for positions of Anti-Balaka in the government as they were already in ‘the dynamic of the normalisation process’, the idea on their side was to identify ‘the senior staff’ in the movement for the transitional authorities and international community to take into account ‘some of the desiderata of the Anti-Balaka’.⁴²³⁴ According to Alfred Legrand Ngaya, it was at the time necessary to have someone in the position of DDR coordinator who was ‘able to distinguish’ between the ‘real’ and ‘fake’ Anti-Balaka, as there were elements who were not Anti-Balaka but wanted to avail themselves of the situation since the DDR had been announced.⁴²³⁵

1606. Brice Emotion Namsio testified in a similar vein when indicating that Catherine Samba-Panza asked every group to give the name of one person to represent that group in the government in line with her idea of inclusive politics.⁴²³⁶

1607. In contrast, P-0884 had a different reading of events and said that Mr Ngaïssona wanted to ‘distribute the positions’ in the beginning, but they spoke out against this idea because the movement should not be used as lobbying tactic and it was better to take care of the ‘children’ in the DDR process.⁴²³⁷

⁴²³² P-2328: T-047-ENG, p. 46, line 5 – p 47, line 8; T-047-FRA, p. 48, lines 8-27.

⁴²³³ P-2328: T-047-ENG, p. 46, lines 23-25; T-047-FRA, p. 48, line 27 – p. 49, line 2.

⁴²³⁴ P-0808: T-069, p. 55, line 9 – p. 57, line 7 *referring to* List, CAR-OTP-2087-9025.

⁴²³⁵ P-0808: T-069, p. 57, lines 11-24.

⁴²³⁶ P-0446 Interview Transcript, CAR-OTP-2105-0492-R01, at 0518-21, lines 885-985.

⁴²³⁷ P-0884: T-056, p. 49, lines 16-25.

1608. Both these witnesses however recalled further demands of the Anti-Balaka in this context.

Brice Emotion Namsio testified that a document with various demands shown to him in court concerned the implementation of a new government that would be led by Catherine Samba-Panza and was drafted to reintroduce the Anti-Balaka and have them represented in the government, following the national coordinator's return to Bangui.⁴²³⁸ P-0884 did not know this document and was not aware of the positions, but confirmed that the content of the document reflected the demands that the Anti-Balaka were making at the time.⁴²³⁹ Similarly, Jean-Jacques Demafouth testified that this document contained the requests of the Anti-Balaka which were communicated to the prime minister when the government was being formed.⁴²⁴⁰

1609. The document, which appears to have been written for purposes of the '*Antibalaka Combattants de libération du peuple Centrafricain* [CLPC]' is dated 21 January 2014 and congratulates Catherine Samba-Panza on her election, followed by eight demands.⁴²⁴¹ These demands include, among others, that (i) all FACA members be re-integrated, taking into account their ranks; (ii) Anti-Balaka be taken into account through integration into the FACA of some and DDR for others; and (iii) all Seleka be removed from the army and be 'repatriated to their countries of origin'.⁴²⁴² The document further states that the Anti-Balaka demand the following positions within the government: prime minister's office, defence, mines and energy, finances, territory administration, water and forests, education, agriculture and breeding, as well as youth and sports.⁴²⁴³

1610. On the same day, another document of the Anti-Balaka appears to have been issued under the name of Mr Ngaïssona, congratulating Catherine Samba-Panza on her election, stating that the Anti-Balaka closely followed her various statements relating to the administration of the state and her commitment to collaborate with the movement, hoping that words would be followed by deeds, '*pour le bonheur du peuple centrafricain, meurtri par les exactions*

⁴²³⁸ P-0446: T-096, p. 63, line 8 – p. 64, line 22 referring to Letter, CAR-OTP-2030-0270.

⁴²³⁹ P-0884: T-056, p. 50, line 1 – p. 51, line 21 referring to Letter, CAR-OTP-2030-0270, at 0272-0274.

⁴²⁴⁰ P-2328: T-047, p. 47, lines 9-25 referring to Letter, CAR-OTP-2030-0270, at 0272.

⁴²⁴¹ Letter, CAR-OTP-2030-0270, at 0272-73.

⁴²⁴² Letter, CAR-OTP-2030-0270, at 0272.

⁴²⁴³ Letter, CAR-OTP-2030-0270, at 0272.

de toutes sortes'.⁴²⁴⁴ The statement concludes stating that the Anti-Balaka '*s'engage à suspendre toutes hostilités et exprime toute sa disponibilité à œuvrer, aux côtés de Madame Catherine S[amba-Panza], pour un retour à la paix et à la sécurité en vue d'un développement harmonieux et durable*'.⁴²⁴⁵

1611. Regarding this press release, Catherine Samba-Panza agreed that it was consistent with what Mr Ngaïssona told her when they met for the first time, the document had a very 'positive' attitude 'in relation to the crisis'.⁴²⁴⁶ The witness agreed that Mr Ngaïssona's statements in which he asked the Anti-Balaka to put down their weapons and respect peace were not complied with.⁴²⁴⁷ Alfred Legrand Ngaya testified that he participated in drafting this statement, as asked by Mr Ngaïssona and following consultation with the ComZones.⁴²⁴⁸

1612. The Chamber has before it a further document which appears to list wishes for positions of individuals involved with the Anti-Balaka.⁴²⁴⁹ This document in table format lists the names of 14 individuals with 'profile' or title, recently occupied functions, and 'wishes', including, *inter alia*, (i) Maxime Mokom for position of DDR director-general; (ii) Mr Ngaïssona for director-general of SOCAPS; (iii) Sébastien Wenezoui for cabinet director at the ministry for public works or director-general of 'F.E.R.'; (iv) Alfred Ngaya for minister advisor at the prime minister's office for youth and sports; (v) Sylvestre Yagouzou for director of the presidential car park; (vi) Brice Émotion Namsio for chief of service at SOCAPS; (vii) Bernard Mokom for cabinet advisor at the national transitional council; and (viii) Hyppolite Come Azounou for '*chargé de mission*' at the DDR programme.⁴²⁵⁰ The Chamber considers of note in this regard that the demand for Mr Ngaïssona to be appointed to a position within

⁴²⁴⁴ Press statement, CAR-OTP-2084-0146, at 0146. *See also* Audio, CAR-OTP-2042-1909, at 00:09:10-00:10:56; Transcript, CAR-OTP-2107-1479, at 1480, lines 14-23.

⁴²⁴⁵ Press statement, CAR-OTP-2084-0146, at 0146. *See also* Audio, CAR-OTP-2042-1909, at 00:09:10-00:10:56; Transcript, CAR-OTP-2107-1479, at 1480, lines 14-23. (Translation from French to English by the Registry) '[...] undertakes to suspend all hostilities and expresses its complete readiness to work – alongside Ms Catherine Samba-Panza – towards a return to peace and security with a view to harmonious and long-term development [...].'

⁴²⁴⁶ P-0952: T-251, p. 25, line 15 – p. 26, line 3 *referring to* Press statement, CAR-OTP-2084-0146.

⁴²⁴⁷ P-0952: T-251, p. 50, lines 15-20.

⁴²⁴⁸ P-0808: T-071, p. 10, line 7 – p. 11, line 9. *See also* P-0888: T-123, p. 59, line 11 – p. 60, line 3; P-0801: T-035, p. 33, line 14 – p. 34, line 3, p. 35, lines 2-23; P-1521: T-083, p. 64, line 7 – p. 65, line 4.

⁴²⁴⁹ List, CAR-OTP-2075-0737. *See also* Lists, CAR-OTP-2079-0024; CAR-OTP-2087-9290.

⁴²⁵⁰ List, CAR-OTP-2075-0737, at 0737-38.

the SOCAPS was repeated later in 2014 in negotiations between Mr Ngaïssona and the transition authorities.⁴²⁵¹

1613. The Chamber notes in this regard that Alfred Legrand Ngaya thought this concerned the time after March or April 2014,⁴²⁵² while P-0884 thought the list was created in January.⁴²⁵³ Bearing in mind the broader context as also discussed above, the Chamber concludes that this list was created within the framework of the initial discussions on who should represent the different parties to the conflict within the new transition government, rather than several months later. The Chamber also notes in this regard P-0884's testimony that in the beginning, the Anti-Balaka were hoping for posts and Catherine Samba-Panza agreed, which is why she asked the movement to set up a list to be presented to her.⁴²⁵⁴

1614. The evidence before the Chamber as further outlined below shows that the first meeting at Catherine Samba-Panza's residence did not remain the only one.

1615. Specifically, another meeting took place at the president's office on 25 January 2014.⁴²⁵⁵ The delegation was led by Joachim Kokaté.⁴²⁵⁶ Catherine Samba-Panza testified that a few days before this meeting, the Anti-Balaka had announced the composition of its movement with various officials and Mr Ngaïssona as coordinator, as well as including 'Kokaté', 'Bara', 'Konaté', and as Mr Ngaïssona was not at this meeting, to her mind Kokaté was leading the delegation as the third going by rank.⁴²⁵⁷ Catherine Samba-Panza explained that she had asked for weapons to be laid down, that killings, retaliation end and everyone commit to social, national reconciliation and living together in harmony, but the violence, killings, retaliation continued.⁴²⁵⁸

⁴²⁵¹ See P-0952: T-250, p. 48, line 17 – p. 50, line 22, p. 51, lines 4-8 *referring inter alia* to List, CAR-OTP-2087-9290; P-2625: T-190, p. 32, line 16 – p. 33, line 20; T-193, p. 65, line 7 – p. 66, line 1.

⁴²⁵² P-0808: T-069, p. 69, lines 16-20. *See also* P-0808: T-069, p. 68, lines 4-21 *referring to* List, CAR-OTP-2075-0737.

⁴²⁵³ P-0884: T-056-ENG, p. 54, lines 7-16; T-056-FRA, p. 53, lines 18-27. *See also* P-0884: T-056, p. 52, line 6 – p. 53, line 24 *referring to* List, CAR-OTP-2079-0024, p. 54, lines 17-24; T-058, p. 46, line 15 – p. 47, line 11.

⁴²⁵⁴ P-0884: T-058, p. 47, line 12 – p. 48, line 11.

⁴²⁵⁵ *See* Minutes, CAR-OTP-2087-9271, at 9273-74; P-0952: T-249, p. 26, line 11 – p. 28, line 13.

⁴²⁵⁶ P-0952: T-249, p. 27, lines 8-11. *See also* Minutes, CAR-OTP-2087-9271, at 9273.

⁴²⁵⁷ P-0952: T-251, p. 23, lines 2-25.

⁴²⁵⁸ P-0952: T-249, p. 26, line 11 – p. 29, line 1.

1616. The minutes of this meeting indicate that ‘Mr Kokaté’, leading the Anti-Balaka delegation, explained that they did not control their elements on the ground, while the leaders did not agree on actions to take to contain their troops, illustrating this by a meeting he held at Boy-Rabe during which an ethnic connotation was reflected, held by those who demanded the return of François Bozizé.⁴²⁵⁹ He further thought that if the disciplined elements could be contained, those resisting would be incapacitated, concluding that hunger led them to rob because many Anti-Balaka came from the hinterland, and reiterating the support for the transition and the head of state.⁴²⁶⁰ The minutes indicate that following this, the head of state mentioned that so far the hand offered to the Anti-Balaka had not been met by a favourable response, which risked the loss of support from the international community.⁴²⁶¹

1617. Joachim Kokaté testified that he did not speak at any of the meetings he had with Catherine Samba-Panza,⁴²⁶² but also stated that the minutes mentioned above did not concern a meeting, but a consultation.⁴²⁶³ According to the witness, Mr Ngaïssona asked him to go to and represent him at this particular session.⁴²⁶⁴

1618. Overall on the basis of the above, the Chamber considers that various ‘streams’ within the Anti-Balaka presented themselves and were perceived to be one group with one set of representatives, led by Mr Ngaïssona, towards the new transition government and international forces. As outlined by the Chamber above and below, the question of there having been varying super-imposed interests within the Anti-Balaka does not lead the Chamber to conclude that there existed several movements seen as different parties to the conflict. It is further clear from the evidence as outlined that Mr Ngaïssona and the Anti-Balaka as a whole wanted to be taken into account within the transition process, including for personal interests. The Chamber considers this well illustrated by a statement made by

⁴²⁵⁹ Minutes, CAR-OTP-2087-9271, at 9273.

⁴²⁶⁰ Minutes, CAR-OTP-2087-9271, at 9273-74.

⁴²⁶¹ Minutes, CAR-OTP-2087-9271, at 9274.

⁴²⁶² P-0801: T-035, p. 34, lines 4-8; T-038, p. 59, line 7 – p. 60, line 9.

⁴²⁶³ P-0801: T-038, p. 60, line 10 – p. 61, line 13, p. 66, line 13 – p. 67, line 17.

⁴²⁶⁴ P-0801: T-038, p. 66, line 13 – p. 67, line 17.

Brice Emotion Namsio as Anti-Balaka spokesperson, making clear that the Anti-Balaka would use its position to achieve its interests.⁴²⁶⁵

ii. *Mr Yekatom's group within the Anti-Balaka*

1619. Turning to the evolution and role of Mr Yekatom's group, the Yekatom Defence argues that Mr Yekatom answered a 'call to protect the civilian population as a whole and to prevent further atrocities and human rights abuses', and 'took up arms to defend the population from enemy forces and mitigate escalating local tensions [...] with full commitment to his military training and respect for IHL principles', remaining 'steadfast in his efforts to restore peace and reconciliation' in the CAR.⁴²⁶⁶

1620. Concretely, the Yekatom Defence submits that 'civilians routinely perpetrated crimes throughout the charged period and across CAR', which it says is relevant to the Chamber's determination 'of the identity of the perpetrators of individual alleged crimes', to the 'so-called structures and membership of the "anti-balaka"', as well as to 'whether local civilian communities that did commit crimes were in fact controlled or defined by the umbrella "anti-balaka" term'.⁴²⁶⁷ According to the Yekatom Defence, the 'term "anti-balaka" [...] became a short-hand reference to all resistance groups [...] irrespective of whether the group in question was organised or not, or whether it identified itself with the more formal "anti-balaka" coordination efforts'.⁴²⁶⁸

1621. Within this context, the Yekatom Defence submits that Mr Yekatom (i) was not an Anti-Balaka,⁴²⁶⁹ but established his own group called '*Révolution des Forces Armées Centrafricaines pour le Peuple*' (the 'RFACPP'), which was distinct from the Anti-Balaka and wanted to restore security and administrative institutions as well as protect the

⁴²⁶⁵ P-0446: T-096, p. 65, line 8 – p. 66, line 14, p. 67, line 19 – p. 69, line 14; T-097, p. 68, lines 11-19 *referring to* Video, CAR-OTP-2012-0413, at 00:01:14-00:01:43; Transcript, CAR-D29-0006-1087, at 1087-88, lines 23-25 ('It's us who is now the head of the orchestra. It's us that did everything to liberate the people of Central Africa so they can in no way leave us out. And if that happens, we're ready to wreck the plan.'). *See also* P-2843: T-074, p. 52, line 15 – p. 55, line 9, p. 56, line 21 – p. 57, line 4; P-0808: T-071, p. 66, line 12 – p. 69, line 3; P-2328: T-047-ENG, p. 48, line 16 – p. 49, line 1; T-047-FRA, p. 50, line 22 – p. 51, line 9.

⁴²⁶⁶ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 2-3.

⁴²⁶⁷ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 201-202.

⁴²⁶⁸ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 215.

⁴²⁶⁹ *See also* [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 682-686.

population;⁴²⁷⁰ (ii) did not exercise full control over the ‘RFACPP movement’;⁴²⁷¹ (iii) issued legitimate orders;⁴²⁷² and (iv) intended to restore peace and security.⁴²⁷³

1622. The Ngaïssona Defence argues that the ‘so-called “Anti-Balaka of the South” and the “Anti-Balaka of the North” were operating entirely separately from the outset’, and until at least June 2014, and referring to Vivien Beina’s testimony that there was no collaboration between Mr Yekatom and Mr Ngaïssona prior to and in preparation of the attack on 5 December 2013.⁴²⁷⁴ The Ngaïssona Defence elaborates stating that Mr Ngaïssona never liaised with Mr Yekatom ‘prior to, and/or at the time of the charges crimes’, with contact only being established ‘after the June 2014 merger and the creation of the unified Anti-Balaka coordination’.⁴²⁷⁵

1623. The Ngaïssona Defence argues that the Anti-Balaka was ‘never a clearly demarcated group’, since (i) it was a movement which was ‘diffuse, often indistinguishable from the general population, and fundamentally elusive due to its constantly fluctuating expansion and evolution’;⁴²⁷⁶ and (ii) the “fake Anti-Balaka” further impeded the effective demarcation of the Anti-Balaka groups’.⁴²⁷⁷

1624. At the outset, the Chamber recalls its conclusion that the Anti-Balaka coalesced around one core objective, namely to drive out Michel Djotodia and the Seleka, which was superimposed by varying personal and political ambitions which evolved over time.⁴²⁷⁸ The Chamber further recalls its conclusion that the various Anti-Balaka groups did not have to be a monolithic or singular entity and/or ideological homogenous at any stage of the events for them to still coordinate their actions around the mentioned core objective.⁴²⁷⁹ It was in this context that the Chamber also concluded that Mr Yekatom’s purported objective ‘not to fight

⁴²⁷⁰ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 217-262.

⁴²⁷¹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 263-325.

⁴²⁷² [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 326-350.

⁴²⁷³ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 351-354.

⁴²⁷⁴ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 260.

⁴²⁷⁵ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 540-547.

⁴²⁷⁶ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 229, 231-233.

⁴²⁷⁷ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 234-237.

⁴²⁷⁸ See paragraphs 1210-1211 above.

⁴²⁷⁹ See paragraph 1526 above.

for Bozizé's return'⁴²⁸⁰ did not mean that Mr Yekatom's group was not Anti-Balaka or did not share the mentioned core objective.

1625. On this basis, the Chamber considers that on the evidence before it, the question of there being different 'streams' within the Anti-Balaka, such as those denominated by being from 'the south' or 'the north' has no impact on the Anti-Balaka groups acting in a coordinated fashion in pursuit of their core objective even beyond Michel Djotodia's resignation. Indeed, it is clear from the evidence before it, as also further outlined below, that the various Anti-Balaka groups, whether 'south', 'north' or of other designation, continued to cooperate with a view to being represented towards the new transition government and international forces. It is also clear from the evidence before the Chamber, as outlined above and below, that during the time relevant to the charges, the person representing the Anti-Balaka for such purposes was Mr Ngaïssona.

1626. The Chamber further considers that within this context, any direct relations between Mr Ngaïssona and Mr Yekatom are, on the facts, irrelevant. Mr Ngaïssona contributed to the activities of the Anti-Balaka as one movement, whereas Mr Yekatom acted clearly under that same umbrella, even if not sharing the initially held interest of Mr Ngaïssona to bring François Bozizé back to power which, as discussed, Mr Ngaïssona in any event left behind at a certain point. Moreover, and as will be discussed further below, the Chamber does not consider that any 'north' and 'south' streams within the Anti-Balaka acted entirely independently and separately from each other at any time during the period relevant to the charges.⁴²⁸¹

1627. It is within the context of the above that the Chamber has considered the evidence before it on the position and role of Mr Yekatom's group within the Anti-Balaka in 2014.

1628. At the outset, the Chamber refers to its findings regarding Mr Yekatom's control over his group during the Bangui Attack, at Yamwara, and during the advance along the PK9-Mbaïki axis. The Chamber concludes therein that Mr Yekatom (i) led a group, and himself

⁴²⁸⁰ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 181.

⁴²⁸¹ See paragraphs 1717-1737 below.

participated, in the attack on Bangui on 5 December 2013;⁴²⁸² (ii) was in charge and led his group which set up at Yamwara;⁴²⁸³ and (iii) was the undisputed leader of the group on the PK9-Mbaïki axis.⁴²⁸⁴

1629. In addition to the above considerations, witnesses also talked more generally about the structure and roles of individuals within Mr Yekatom's group, showing his overall control over the group on the basis of various factors considered below, including his position within the group, his maintaining discipline within the group, the group's access to weapons and thus capability of engaging in operations, the area under control of Mr Yekatom following the resignation of Michel Djotodia, as well as the number of elements under Mr Yekatom's control.

1630. First, the evidence before the Chamber shows that Mr Yekatom was the leader of his group, with his deputy Cœur de Lion, followed by Habib Beina after the former's death, and individuals including Rodrigue Momokama, Vivien Beina and Paleon Zilabo taking on specific roles over time.⁴²⁸⁵ In this context, the Chamber refers to its conclusion that irrespective of Mr Yekatom's and Cœur de Lion's ranks within the military, the evidence before the Chamber shows an unambiguous directional flow of authority between Mr Yekatom as leader of the group and Cœur de Lion as his 'deputy' until his death.⁴²⁸⁶ As regards the evidence of some witnesses that there was 'friction' between Mr Yekatom and Cœur de Lion,⁴²⁸⁷ the Chamber refers to its conclusion that the fact of Mr Yekatom having a smoother or close personal relationship with elements of his group other than Cœur de Lion does not detract from the fact that Cœur de Lion was under Mr Yekatom's command.⁴²⁸⁸

⁴²⁸² See sections IV.B.2, IV.B.3 below.

⁴²⁸³ See section IV.D.1 below.

⁴²⁸⁴ See sections IV.E.1, IV.E.2 below.

⁴²⁸⁵ P-0954 Statement, CAR-OTP-2048-0171-R03, at 0185, para. 80. The witness identified Habib Beina, Momokama, Seda and Goliatha in a video (see Video, CAR-OTP-2118-0723; P-0954: T-166, p. 43, line 21 – p. 47, line 14). P-1193 Statement, CAR-OTP-2045-0048-R03, at 0058, para. 63, at 0059, para. 68; P-1193: T-124, p. 18, lines 5-8, p. 28, lines 11-16; T-126, p. 48, lines 3-10, p. 50, line 2 – p. 51, line 3; P-0974 Statement, CAR-OTP-2058-0165-R01, at 0179, para. 91; P-0884: T-055, p. 75, lines 8-13; T-056, p. 72, lines 11-16; P-0888: T-120, p. 34, line 16 – p. 35, line 25.

⁴²⁸⁶ See paragraphs 3068, 3357 below.

⁴²⁸⁷ See P-1558 Statement, CAR-OTP-2105-0195-R01, at 0203, para. 42; P-0888: T-122, p. 58, line 21 – p. 62, line 24.

⁴²⁸⁸ See paragraph 3358 below.

1631. Second, the evidence before the Chamber shows that Mr Yekatom enforced discipline within his group. Specifically, P-1193, who was with the group in 2014, stated that ‘Rombhot’ disciplined his men when he was not under the influence of alcohol, and that he never saw anyone opposing ‘Rombhot’.⁴²⁸⁹ Similarly, Gérard Ouambou, who could observe the group closely at the beginning of 2014, stated that ‘Rombhot’s’ elements listened to him and those who did not, those that were disciplined by him, left the group.⁴²⁹⁰ Vivien Beina testified that Mr Yekatom’s group was very well structured, there was military discipline, and Mr Yekatom respected the military rules and their ranking.⁴²⁹¹ The witness testified that Mr Yekatom’s group included many that were not soldiers, and they were all subject to the same discipline because they were part of the group.⁴²⁹² P-1858 testified that he had seen ‘Rombhot’ giving orders and threats, it seemed to him that his elements, even FACA, were afraid of him and his orders were obeyed without question, and if one did not obey, Mr Yekatom ‘would hit you or you would be killed’.⁴²⁹³ Jacob Mokpem-Bionli stated that Mr Yekatom was a FACA member who was part of the Anti-Balaka, had his base on the route of Mbaïki, and had a significant number of elements under his control which he led with an iron hand (*‘une main de fer’*) and disciplined as necessary, including sanctioning when needed.⁴²⁹⁴ Roger Okoa-Penguia stated that he was present one day when Mr Yekatom addressed his elements and told them to behave appropriately, adding that Mr Yekatom maintained discipline within his elements.⁴²⁹⁵

1632. In this context, the Chamber has considered specific examples which illustrate Mr Yekatom’s control over his group and the area he was in. For example, several witnesses talked about an incident during which an individual called ‘Konzi’ was abducted by Mr Yekatom’s elements after Catherine Samba-Panza had arrested some Anti-Balaka elements, leading to negotiations involving representatives of the Anti-Balaka sent by

⁴²⁸⁹ P-1193 Statement, CAR-OTP-2045-0048-R03, at 0058, para. 64.

⁴²⁹⁰ P-1558 Statement, CAR-OTP-2105-0195-R01, at 0203, para. 41.

⁴²⁹¹ P-0888: T-120, p. 34, line 17 – p. 36, line 1.

⁴²⁹² P-0888: T-120, p. 39, lines 3-15.

⁴²⁹³ P-1858 Statement, CAR-OTP-2063-0050-R04, at 0063, para. 82; P-1858: T-185, p. 26, lines 4-15, p. 29, lines 12-23.

⁴²⁹⁴ P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0311, para. 151.

⁴²⁹⁵ P-2084 Statement, CAR-OTP-2094-0968-R02, at 0984, para. 82.

Mr Ngaïssona which resulted in the release of this person.⁴²⁹⁶ Furthermore, it appears that Mr Yekatom and his elements took weapons from the gendarmerie at PK9, eventually returning them.⁴²⁹⁷ P-0954 heard in this context that Zilabo, the mediator of the Anti-Balaka, told Mr Yekatom that the gendarmes were not his enemies and that Mr Ngaïssona wanted the weapons to be returned.⁴²⁹⁸ The Chamber also refers to its discussion of incidents illustrating Mr Yekatom's control over his group while on the PK9-Mbaïki axis.⁴²⁹⁹

1633. Third, the evidence before the Chamber shows that Mr Yekatom ensured his group had access to weapons and ammunition. Specifically, an element in Mr Yekatom's group at the time testified that Rodrigue Momokama at PK9 was in charge of weapons and ammunition and, at PK9, Mr Yekatom and his bodyguards would take the ammunition and rockets on the ground, and while the witness was with Mr Yekatom at PK9, they bought ammunition from the other side of the river in the DRC.⁴³⁰⁰ The witness said that magazines for AK-47 and a rocket launcher were brought to the PK9 base, and this witness saw Mr Yekatom pay for ammunition.⁴³⁰¹ Further, P-1193 testified that a few people in Mr Yekatom's group had what is commonly known as Kalashnikovs, but many did not have weapons, while also recognising that Mr Yekatom returned weapons after the crisis.⁴³⁰² The Chamber further refers to its discussion of the weaponry observed on elements in Mr Yekatom's group in Mbaïki.⁴³⁰³

1634. The Chamber also notes in this regard two documents of February and March 2015, respectively, which indicate that Mr Yekatom committed to returning 'weapons of war' in the aftermath of the Brazzaville forum, and a list indicating a total of 21 AK-47s, one AA 52,

⁴²⁹⁶ P-1193 Statement, CAR-OTP-2045-0048-R03, at 0051, para. 20; P-1193 Corrections, CAR-OTP-2135-2773-R01, at 2777; P-1193: T-124, p. 51, line 20 – p. 53, line 1, p. 53, line 22 – p. 56, line 5; T-126, p. 81, line 14 – p. 82, line 23, p. 83, lines 13-25; P-1858 Statement, CAR-OTP-2063-0050-R04, at 0066, paras 95-99; P-1858 Corrections, CAR-OTP-00000777, at 000002; P-1858: T-186, p. 54, line 19 – p. 58, line 7. *See also* P-2328: T-047, p. 68, line 13 – p. 69, line 7.

⁴²⁹⁷ P-1858 Statement, CAR-OTP-2063-0050-R04, at 0066-67, paras 101-102; P-1858 Corrections, CAR-OTP-00000777, at 000002; P-0954 Statement, CAR-OTP-2048-0171-R03, at 0181, para. 56; P-0446 Interview Transcript, CAR-OTP-2105-0611-R01, at 0635-38, lines 839-942; P-2328: T-047, p. 69, line 8 – p. 72, line 7.

⁴²⁹⁸ P-0954 Statement, CAR-OTP-2048-0171-R03, at 0181, para. 56.

⁴²⁹⁹ *See also* paragraphs 3348, 3354 below.

⁴³⁰⁰ [REDACTED]

⁴³⁰¹ [REDACTED]

⁴³⁰² P-1193: T-124-ENG, p. 36, line 24 – p. 37, line 11 *referring to* Letter, CAR-OTP-2039-0072, p. 37, line 20 – p. 38, line 1.

⁴³⁰³ *See* paragraph 3475 below.

six MAS 36, six PM MAT 49, one PM USI, two RPG 7, two DKM and one ‘Galil’.⁴³⁰⁴ A handwritten list included in the CAR Panel 2015 report, indicating weapons and ammunition returned by Mr Yekatom’s group, mentions 12 rockets, six ‘*propulseurs*’, two ‘*lance roquettes*’ RPG 7, one AA 52, one PKM, ten AK-47s, one ‘Galil’, one FAL, one PM USI, three PM MAT-49, three MAS 36, three anti-personnel mines, 15 AK-47 magazines, three MAT-49 magazines, as well as 13 14-5 ammunition and 1743 ‘*munitions lot confondu*’.⁴³⁰⁵

1635. The Chamber notes in this regard the Yekatom Defence’s argument that the group was faced with a shortage of weapons and ammunition.⁴³⁰⁶ However, the Chamber considers that in light of the evidence before it,⁴³⁰⁷ including as outlined above, the group under Mr Yekatom’s control clearly possessed sufficient weaponry and ammunition to conduct active operations and control certain territory, which it effectively did.

1636. Fourth, the Chamber refers to its findings regarding the location of Mr Yekatom’s group over the period relevant to the charges, from moving towards Bangui in advance of the attack on 5 December 2013,⁴³⁰⁸ to setting up at Yamwara,⁴³⁰⁹ and eventually moving down in direction south/south-west of Bangui and setting up along the PK9-Mbaïki axis.⁴³¹⁰ Witnesses generally referred to Mr Yekatom’s group controlling the areas south of Bangui, into the Lobaye prefecture in 2014, and taking over various checkpoints along the route towards Mbaïki.⁴³¹¹

⁴³⁰⁴ Letter, CAR-OTP-2039-0072, at 0072-74. *See also* P-0888: T-120, p. 55, line 7 – p. 56, line 16.

⁴³⁰⁵ Annex 5.19 to CAR Panel Final Report 2015, CAR-OTP-2023-0032, at 0329. *See also* P-0287 Statement, CAR-OTP-2115-0239-R01, at 0272; P-0287: T-020, p. 40, line 22 – p. 41, line 13.

⁴³⁰⁶ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 239-241.

⁴³⁰⁷ *See* sections IV.B.2, IV.B.3, IV.D.1, IV.D.2, IV.E.1, IV.E.2, IV.E.3 below.

⁴³⁰⁸ *See* section IV.B.2 below.

⁴³⁰⁹ *See* section IV.D.1 below.

⁴³¹⁰ *See* section IV.E.1 below.

⁴³¹¹ P-1193 Statement, CAR-OTP-2045-0048-R03, at 0058, para. 63; P-1193: T-126, p. 43, line 18 – p. 44, line 7 *referring to* Map, CAR-OTP-2039-0018; P-0888 Second Statement, CAR-OTP-2108-0333-R01, at 0340, paras 74-75, 77; P-0888: T-120, p. 56, line 17 – p. 58, line 17; P-0446 Interview Transcript, CAR-OTP-2059-1523-R01, at 1542, lines 703-715, at 1543, lines 729-742; P-0446: T-096, p. 72, line 19 – p. 73, line 13; P-0954 Statement, CAR-OTP-2048-0171-R03, at 0184-85, para. 79; P-0954: T-166, p. 49, line 8 – p. 50, line 10; T-167, p. 39, line 19 – p. 40, line 24; T-168, p. 78, lines 12-17; P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0059, para. 106, at 0061, para. 116; P-1962: T-139, p. 32, line 16 – p. 33, line 5, p. 39, line 13 – p. 40, line 1; P-2084 Statement, CAR-OTP-2094-0968-R02, at 0977, para. 51, at 0983, para. 77; P-2084: T-234, p. 69, line 24 – p. 70, line 9; P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0046, para. 74; P-0952: T-250, p. 59, line 20 – p. 61, line 18. *See also* section IV.E.3 below; P-0952: T-249, p. 65, lines 17-19 *referring to* Report, CAR-OTP-2001-3268, at 3286; P-2926

1637.Fifth, the Chamber refers to its findings regarding the number of elements under Mr Yekatom's control during the period relevant to the charges, in particular in the context of the Bangui Attack,⁴³¹² at Yamwara,⁴³¹³ and when moving down in direction south/south-west of Bangui and setting up along the PK9-Mbaïki axis.⁴³¹⁴ On this basis, the Chamber concludes that in the period until end of February 2014 and beyond, Mr Yekatom had at least 1,000 elements under his control.

1638.Furthermore, the Chamber has received evidence which suggests that Mr Yekatom was involved in assisting a Muslim family which was subjected to violence in the PK9 area towards the end of January or early February 2014,⁴³¹⁵ and that he reportedly reconciled with a former Seleka 'captain' called Souleymane following the departure of Michel Djotodia.⁴³¹⁶

1639.The Chamber has no reason to doubt that these events took place. At the same time, the Chamber considers that it is clear from the evidence, and of importance in this regard, that: (i) Mr Yekatom knew of, and subscribed to, the way in which his elements pursued the core objective of removing Michel Djotodia and the Seleka from power, which extended to perceiving the Muslim civilian population in the west of the CAR as the enemy;⁴³¹⁷ (ii) any activities of Mr Yekatom that may have evolved around cooperation with national and international authorities in particular in the Lobaye took place after the majority of the

Report, CAR-OTP-2127-4289, at 4322-23, para. 74; P-2926: T-032, p. 26, line 19 – p. 27, line 8, p. 30, line 18 – p. 31, line 7, p. 33, line 5 – p. 35, line 24.

⁴³¹² See paragraphs 2455-2458 below.

⁴³¹³ See paragraphs 3038-3052 below.

⁴³¹⁴ See paragraphs 3336-3359 below.

⁴³¹⁵ See D29-5014: T-257, p. 16, line 22 – p. 25, line 9, p. 44, lines 1-18; P-1193 Statement, CAR-OTP-2045-0048-R03, at 0058-59, para. 67; P-1193: T-126, p. 76, line 13 – p. 77, line 2, p. 78, lines 1-15, p. 79, lines 2-22.

⁴³¹⁶ P-0884: T-056, p. 14, line 25 – p. 15, line 6. See also P-0952: T-252, p. 43, line 13 – p. 45, line 3 *referring to* Video, CAR-OTP-2055-2610, at 00:03:00-00:03:49, 00:06:42-00:07:05; Transcript, CAR-OTP-2107-6906; Translation, CAR-OTP-2122-2271, at 2276-77, lines 100-112, at 2278-79, lines 175-189.

⁴³¹⁷ See paragraph 1305 above. See also paragraphs 3383-3416 below; P-1858 Statement, CAR-OTP-2063-0050-R04, at 0063, paras 80-81; P-1858: T-185, p. 13, line 19 – p. 15, line 16, p. 17, line 13 – p. 19, line 7; P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0062, paras 122-123; P-1962: T-139, p. 25, line 9 – p. 26, line 1. The Chamber considers telling in this regard the evidence of P-0876, who clearly stated in his prior recorded testimony that no Muslim had the right to pass through the Bangui-Mbaïki axis over which Mr Yekatom exercised control (see P-0876 Interview Transcript, CAR-OTP-2046-0267-R01, at 0274, lines 244-246), while trying to relativise this during his in-court testimony by insisting that anything that he may have heard in this regard was from radio and the press, and he was not a direct witness to the crimes committed against Muslim communities (see P-0876: T-085, p. 44, lines 18-25, p. 46, line 22 – p. 47, line 1; T-087, p. 16, line 25 – p. 17, line 23; T-089, p. 4, line 23 – p. 5, line 18). Assessing this claim in the context of other evidence before it, the Chamber does not consider P-0876 credible on this aspect. In any event, it is insufficient to shed doubt on the Chamber's overall conclusion.

Muslim civilian population had been forced to leave the area;⁴³¹⁸ (iii) D29-5014 had a relation with the Beina-family, as she herself indicated,⁴³¹⁹ with Habib Beina playing an important role in Mr Yekatom's group; and (iv) Mr Yekatom 'reconciled' with Souleymane, an individual whom he knew from before the conflict, at a time at which Mr Yekatom had taken over control in the relevant area⁴³²⁰ – reconciliation came therefore at no cost for Mr Yekatom.

1640. Finally, the Chamber has considered the evidence before it regarding any relations between Mr Yekatom and Mr Ngaïssona. As stated above, and as further outlined below, the evidence shows that Mr Yekatom did not share the objective of bringing François Bozizé back to power, while this was the initial starting point for Mr Ngaïssona's activities. However, as also stated, the Chamber considers this to be irrelevant in light of its findings as to what the objectives and policies of the Anti-Balaka, including Mr Yekatom's group, were.

1641. In this context, the Chamber notes the evidence of P-1839, who testified about two groups at Yamwara, including that under Mr Yekatom's control and those who had come to Bangui through the provinces who were 'with Mr Ngaïssona', and there being 'small misunderstandings'.⁴³²¹ While P-1839 agreed with the suggestion that while at Yamwara, Mr Yekatom's group used the term 'RFACPP' to designate itself, a term put to the witness by the counsel,⁴³²² she also made clear that while at Yamwara, everybody knew and considered them to be Anti-Balaka, further specifying that they 'reconciled' with 'Mr Ngaïssona's group'.⁴³²³ The Chamber considers that P-1839 testifying about Anti-Balaka who came to visit them at Yamwara being not part of 'their group' is a purely factual description from the witness's perspective – it is not disputed or doubted by the Chamber that the Anti-Balaka included various groups with different leaders who would not have been part of the witness's group at the time and were thus seen, by her, as not part of 'her' group.⁴³²⁴ P-1839 further agreed with the suggestion that Mr Yekatom said that he did not

⁴³¹⁸ See paragraphs 3386-3395 below.

⁴³¹⁹ D29-5014: T-257, p. 24, line 22 – p. 25, line 9.

⁴³²⁰ See P-0884: T-056, p. 16, lines 7-19. See also Video, CAR-OTP-2055-2610, at 00:06:18-00:07:49; Translation, CAR-OTP-2122-2271, at 2278-79, lines 175-189, at 2279, lines 204-213.

⁴³²¹ P-1839: T-171, p. 74, lines 3-14; T-172, p. 82, lines 13-19.

⁴³²² P-1839: T-172, p. 76, line 4 – p. 80, line 22.

⁴³²³ P-1839: T-171, p. 75, lines 4-23, p. 76, line 4 – p. 77, line 5; T-173, p. 4, lines 17-23, p. 5, line 25 – p. 7, line 3.

⁴³²⁴ P-1839: T-172, p. 76, line 4 – p. 80, line 22.

like ‘their’ ideas because his were not the same, and with the suggestion that Mr Yekatom considered himself ‘apart’ with his objective to free up the country and return home.⁴³²⁵ P-1839 further testified that she did not know if Mr Ngaïssona’s and Mr Yekatom’s objectives were the same or different because she knew Mr Yekatom’s, but not those of Mr Ngaïssona.⁴³²⁶

1642. Other witnesses testified similarly.⁴³²⁷

1643. The Chamber notes in this regard audio-visual material in which Mr Yekatom states that they are not Anti-Balaka, but soldiers (*‘militaires’*).⁴³²⁸ In the view of the Chamber, Mr Yekatom did this to illustrate the distinction between what he called ‘uncontrolled elements’ and them who, in his submission, were not such, but trained soldiers (*‘il y a habitude de dire que nous, on est des éléments incontrôlés, mais nous, on n’est pas des éléments incontrôlés’*).⁴³²⁹ In the same video, Mr Yekatom makes clear that their objective is Michel Djotodia’s removal from power, that they cannot leave the country to be governed by ‘bandits’, and that if he did not resign, they must return by force (*‘[o]n doit rentrer par la force. Nous, avec la force on doit rentrer’*).⁴³³⁰ The Chamber refers in this regard also to its discussion of another video in which Mr Yekatom talks of the creation of his group.⁴³³¹ The Chamber considers of particular note in this regard that P-0876, who tried to emphasise the distinction between ‘Léopold Bara’s stream’ of the Anti-Balaka, as opposed to those who favoured the return of François Bozizé, throughout his testimony, also testified that he was not aware of a separate movement which would have been called ‘RFACPP’ under Mr Yekatom, as to him, [REDACTED] they were ‘Anti-Balaka who had retreated to a location behind the airport’.⁴³³²

⁴³²⁵ P-1839: T-172, p. 84, line 11 – p. 85, line 24.

⁴³²⁶ P-1839: T-172, p. 85, lines 8-17.

⁴³²⁷ P-0888: T-121, p. 73, line 1 – p. 77, line 13, p. 79, line 3 – p. 80, line 9; T-123, p. 4, line 22 – p. 7, line 16; P-0876 Interview Transcript, CAR-OTP-2046-0267-R01, at 0277, lines 359-365.

⁴³²⁸ Video, CAR-OTP-2065-3180, at 00:01:29-00:01:35; Transcript, CAR-OTP-2122-7503, at 7504, lines 30-32; Video, CAR-OTP-2065-0396, at 00:01:45-00:02:02; Transcript, CAR-OTP-2107-6918; Translation, CAR-OTP-2122-2284, at 2287, lines 36-43. *See also* Video, CAR-OTP-2094-7618, at 00:06:04-00:06:43; Transcript, CAR-OTP-2118-4284; Translation, CAR-OTP-2118-4272, at 4275-76, lines 80-101.

⁴³²⁹ Video, CAR-OTP-2065-3180, at 00:02:00-00:02:07; Transcript, CAR-OTP-2122-7503, at 7505, lines 37-38.

⁴³³⁰ Video, CAR-OTP-2065-3180, at 00:00:55-00:01:27; Transcript, CAR-OTP-2122-7503, at 7504, lines 22-29.

⁴³³¹ *See* paragraphs 987-988 above.

⁴³³² P-0876: T-086, p. 51, line 5 – p. 53, line 25.

1644. The Chamber further considers that Mr Yekatom and his group interacted and coordinated with other Anti-Balaka groups not only in the context of the Bangui Attack.⁴³³³ Indeed, as is illustrated by a video which the Chamber considers particularly telling and, as also discussed in detail below,⁴³³⁴ Sylvestre Yagouzou, who had advanced towards Bangui through the provinces with the self-defence groups that coalesced into the Anti-Balaka, seemed not to be in a position to contradict Mr Yekatom in the aftermath of the Bangui Attack.⁴³³⁵

1645. The Chamber notes the evidence according to which Mr Yekatom and Mr Ngaïssona did not get along well.⁴³³⁶ It further refers to its discussion of witnesses talking about various streams within the Anti-Balaka, and Mr Yekatom and Mr Ngaïssona not necessarily pursuing the same interests when it came to how the Anti-Balaka would be represented on a political level,⁴³³⁷ which seems to have been based, at least in part, on Mr Yekatom not wanting to work with Maxime Mokom who, at that time, was to continue in his role of operations coordinator.⁴³³⁸

1646. However, the Chamber also notes the evidence indicating that Mr Yekatom coordinated and worked with other Anti-Balaka groups and continued to be represented by the Anti-Balaka coordination led by Mr Ngaïssona between their meetings with Catherine Samba-Panza in January 2014, and the setting up of a coordination, still led by Mr Ngaïssona, in June 2014, and beyond. Various witnesses testified about Mr Yekatom's group forming part of the Anti-Balaka in this context, even if Mr Yekatom was seen as the clear leader of his own group.⁴³³⁹

⁴³³³ See section IV.B.2.vii below.

⁴³³⁴ See paragraph 2473 below.

⁴³³⁵ See Video, CAR-OTP-2065-3220; Transcript, CAR-OTP-2127-3752; Translation, CAR-OTP-2127-3668, at 3670, lines 23-33.

⁴³³⁶ P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0059, para. 106; P-0876 Interview Transcript, CAR-OTP-2046-0473-R02, at 0490-91, lines 650-662.

⁴³³⁷ See paragraphs 1717-1737 below. See also P-2841 Statement, CAR-OTP-2127-4238-R01, at 4242, para. 23, at 4245, para. 38, at 4270, para. 178; P-2841: T-030, p. 25, lines 14-17; P-0287 Statement, CAR-OTP-2115-0239-R01, at 0254-56, paras 71-76.

⁴³³⁸ See P-0888: T-123, p. 5, line 1 – p. 7, line 16; P-2232: T-075, p. 40, lines 8-17; P-0889 Statement, CAR-OTP-2027-2290-R02, at 2299-2300, paras 56-57.

⁴³³⁹ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0254, para. 67; P-2269 Statement, CAR-OTP-2111-0336-R01, at 0353, para. 132; P-0884: T-056, p. 70, lines 8-11, p. 79, line 22 – p. 80, line 5; P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0028, paras 101-102; P-1193: T-125, p. 8, lines 10-16; T-126-ENG, p. 68, lines 3-24, p. 69, lines 8-22; T-126-FRA, p. 71, line 21 – p. 72, line 14; P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0070, paras 131-132; P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0312, paras 152-153; P-0992: T-092, p. 62,

1647. Several witnesses talked about Mr Yekatom being a feared and much in control commander of his group at this time.⁴³⁴⁰

iii. *Mr Ngaïssona's role in the Anti-Balaka*

1648. The evidence before the Chamber shows that following his return to Bangui and taking up the position of general coordinator in a more formalised structure of the Anti-Balaka, Mr Ngaïssona remained involved with the group's activities.

1649. At the outset, the Chamber notes that the evidence before it, as further outlined below, shows that the knowledge of Mr Ngaïssona and his activities in the context of the Anti-Balaka before he became general coordinator of the movement in January 2014 depended on the perspective and role of each individual testifying thereto. In particular, it is clear from the evidence discussed below that elements on the ground advancing through the provinces in late 2013 may not necessarily have been privy to Mr Ngaïssona's activities at the time, while persons more directly concerned with his actions were.

1650. In the view of the Chamber, the fact that some individuals did not know of Mr Ngaïssona's involvement with the Anti-Balaka before he became general coordinator in January 2014 does not mean that such involvement did not exist.

1651. The Chamber recalls that Mr Ngaïssona became general coordinator of the Anti-Balaka immediately upon his return to Bangui on 14 January 2014.⁴³⁴¹ In the Chamber's view, this is, by itself, an indication that Mr Ngaïssona was familiar with and involved in at least parts of the movement before his officially becoming coordinator.

1652. Furthermore, Alfred Legrand Ngaya stated that when Mr Ngaïssona returned to Bangui, the witness saw that he knew the Anti-Balaka very well, and realised that Mr Ngaïssona had links with the military because he saw him with FACA members.⁴³⁴² For example, on the

line 19 – p. 63, line 3, p. 67, line 9 – p. 68, line 18; T-095, p. 44, line 22 – p. 45, line 25. *See also* P-1558 Statement, CAR-OTP-2105-0195-R01, at 0199-0200, para. 24.

⁴³⁴⁰ P-0884: T-055, p. 71, line 22 – p. 73, line 1; T-056, p. 16, lines 7-19, p. 71, lines 14-17; P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0070, para. 132; P-0974 Statement, CAR-OTP-2058-0165-R01, at 0179, para. 95; P-0954 Statement, CAR-OTP-2048-0171-R03, at 0181, para. 58. *See also* paragraphs 3348-3349 below.

⁴³⁴¹ *See* paragraphs 1564-1574 above.

⁴³⁴² P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0021, para. 59.

day of the meeting with the transition government in January 2014, Alfred Legrand Ngaya went to Mr Ngaïssona's house where he saw him with 'Lieutenant Konaté', and it was clear that they knew each other from before that day.⁴³⁴³ The witness also stated that Mr Ngaïssona was 'very popular' and 'generous'.⁴³⁴⁴ Alfred Legrand Ngaya stated that he went to meet Mr Ngaïssona at the airport when he returned to Bangui; the 'whole neighbourhood was really overjoyed'; and there was a crowd of people at his house celebrating his return.⁴³⁴⁵ The witness testified that everyone knew that Mr Ngaïssona was an influential person, had relationships, was close to Bozizé and a public personality.⁴³⁴⁶ According to Alfred Legrand Ngaya, his exchanges with Mr Ngaïssona while the latter was still in Cameroon were not because he was involved in any organisation, but because he was the former minister of youth, they were looking for some assistance and Mr Ngaïssona had permanent contact with the lawyer of FROCCA.⁴³⁴⁷

1653. The above is in the view of the Chamber well illustrated by the evidence of P-0884, who stated that he did not know Mr Ngaïssona as a political coordinator within the Anti-Balaka before 5 December 2013,⁴³⁴⁸ but at the same time testified that he was in contact with Mr Ngaïssona while the latter was in Cameroon in 2013, being in a group in Cameroon which often worked with Maxime Mokom; and Mr Ngaïssona always told the witness that 'his children' were advancing towards Bangui.⁴³⁴⁹ P-0884 further stated that while Mr Ngaïssona was still in Cameroon in 2013, he was the political coordinator of FROCCA, and when he came back in January 2014, the ComZones chose him to be the general coordinator of the Anti-Balaka.⁴³⁵⁰

1654. Indeed, witnesses who were in the provinces or Zongo themselves stated not having heard of Mr Ngaïssona before they, and he, reached Bangui, but at the same time knew of Maxime

⁴³⁴³ P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0021, para. 59.

⁴³⁴⁴ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0337, para. 87.

⁴³⁴⁵ P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0023, para. 69; P-0808: T-070, p. 42, lines 1-16.

⁴³⁴⁶ P-0808: T-069, p. 24, line 21 – p. 25, line 8.

⁴³⁴⁷ P-0808: T-070, p. 39, line 25 – p. 40, line 15.

⁴³⁴⁸ P-0884: T-055, p. 43, lines 9-22, p. 44, lines 11-17.

⁴³⁴⁹ P-0884: T-055, p. 71, lines 9-21.

⁴³⁵⁰ P-0884: T-058, p. 33, line 15 – p. 34, line 7.

Mokom coordinating their activities.⁴³⁵¹ The Chamber considers this evidence, or the perception of some that Mr Ngaïssona arrived ‘late’ in January 2014,⁴³⁵² not to negate Mr Ngaïssona’s involvement with the Anti-Balaka activities before his return to Bangui in January 2014.

1655. In addition to the above, the Chamber considers an indication for Mr Ngaïssona’s role within the Anti-Balaka, as well as for the role he played therein already in 2013, the reasons for which he was chosen to be the Anti-Balaka general coordinator. Indeed, the evidence as further outlined below shows that the underlying reasons for wanting to have a general coordinator for the Anti-Balaka related to a desire for being represented towards the national and international authorities, while Mr Ngaïssona as an individual was considered the best person for this role because he was very popular among the CAR youth due to his involvement in football activities, and at the same time was known for having comparatively vast financial resources, which could assist in covering the costs for the Anti-Balaka.

1656. Specifically, Alfred Legrand Ngaya testified that there was a sort of vacuum when it came to the messages to be conveyed to the political authorities, and because of the necessity to have a spokesperson, a focal point for the Anti-Balaka, in addition to the Anti-Balaka not having the resources to take care of themselves and Mr Ngaïssona being known for being generous with money and having easy access to higher political officials, the ComZones designated Mr Ngaïssona as leader of the Anti-Balaka.⁴³⁵³

1657. Brice Emotion Namsio stated that after Djotodia’s resignation and before Mr Ngaïssona’s return to Bangui, Mr Ngaïssona called him to ask if he could come to Bangui to lead ‘them’, to which the witness responded that he was only the deputy spokesperson, as Sébastien Wenezoui was the spokesperson and Konaté spokesperson of the FACA in the group, and the witness did not have the authority to approve Mr Ngaïssona’s return, but if he wanted to

⁴³⁵¹ P-0975 Statement, CAR-OTP-2033-7885-R02, at 7892, para. 52; P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1065, para. 40; P-0966 Statement, CAR-OTP-2031-0241-R03, at 0256, para. 88; P-2232: T-075, p. 50, line 23 – p. 51, lines 2, 10, 19-24, p. 54, lines 9-12. *See also* P-1839: T-174, p. 88, lines 1-10.

⁴³⁵² P-0287 Statement, CAR-OTP-2115-0239-R01, at 0247, para. 38.

⁴³⁵³ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0337, para. 87; P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0023, para. 70; P-0808: T-070, p. 42, lines 1 – p. 43, line 9, p. 58, line 23 – p. 59, line 5. *See also* P-2841 Statement, CAR-OTP-2127-4238-R01, at 4244, paras 33-34, at 4244-45, para. 37; P-2841 Corrections, CAR-OTP-2130-4475-R01, at 4476.

return to support them, considering he was an authority, he could do so at his own level.⁴³⁵⁴ Brice Emotion Namsio was also called by a certain ‘Yalemende’ and a certain ‘Kombo’ who said that they wanted to lead the movement.⁴³⁵⁵ Eventually, Brice Emotion Namsio heard from others that Mr Ngaïssona was chosen because he used to be minister of youth and sports, under him the ‘SEMA’ cup was won, and as he was leading the youth (*‘en tête de la jeunesse’*).⁴³⁵⁶ The witness further testified that Mr Ngaïssona was one of their ‘big brothers’ from the 4th arrondissement who was fighting in defence for the CAR youth, in particular ‘those of the 4th’, and he was an ‘economic entrepreneur’ with ‘a high sense of humanism’, so people thought he should be chosen because he had resources and could also ‘prevent’ the youth from ‘going beyond certain limits’ and have ‘a mastery of the situation’.⁴³⁵⁷

1658. Vivien Beina stated that ‘Wenezoui’ told the witness later that he had encouraged Mr Ngaïssona to return to Bangui from Cameroon; the witness testified that ‘Wenezoui’ said at a meeting in Boeing that there was no ‘political personality’ that could be ‘the interface’ with the government and the international community, and that it was ‘important’ that Mr Ngaïssona come to represent them.⁴³⁵⁸ The witness stated that in early 2014, there was no one else to represent those young people, one could not just take any person to do so, and Mr Ngaïssona was a leader, someone ‘who could be listened to by the young people’, he was ‘already in command of an entity’ and from their neighbourhood, so the young people told themselves he could ‘validly represent’ them.⁴³⁵⁹

1659. P-0884 testified that the ComZones from the provinces and from Boy-Rabe ‘loved’ Mr Ngaïssona a lot and wanted him to be the coordinator of the Anti-Balaka movement.⁴³⁶⁰ P-0884 called Mr Ngaïssona as he thought Mr Ngaïssona could ‘compete’ with Samba-Panza and others to be president of the CAR for the transitional period, but it seemed his candidacy was rejected, and thereafter, he became general coordinator of the Anti-Balaka.⁴³⁶¹ P-0884

⁴³⁵⁴ P-0446 Interview Transcript, CAR-OTP-2105-0593-R01, at 0597-99, lines 116-186, at 0602, lines 306-311.

⁴³⁵⁵ P-0446 Interview Transcript, CAR-OTP-2105-0593-R01, at 0599, lines 189-211.

⁴³⁵⁶ P-0446 Interview Transcript, CAR-OTP-2105-0593-R01, at 0601, lines 270-278.

⁴³⁵⁷ P-0446: T-097, p. 75, line 13 – p. 76, line 6.

⁴³⁵⁸ P-0888 First Statement, CAR-OTP-2031-0217-R03, at 0222, para. 32; P-0888: T-123, p. 19, line 16 – p. 20, line 2.

⁴³⁵⁹ P-0888: T-123, p. 21, line 11 – p. 22, line 11.

⁴³⁶⁰ P-0884: T-056, p. 46, line 15 – p. 47, line 6.

⁴³⁶¹ P-0884: T-056, p. 46, line 15 – p. 47, line 6. *See also* P-0965 Interview Transcript, CAR-OTP-2046-0108-R01, at 0114-15, lines 213-231; P-0889: T-109, p. 32, line 17 – p. 33, line 22.

also testified that the government wanted one Anti-Balaka contact point representing the movement because there were several leaders, making clear that it was not the international community or transition government which asked them to set up a coordination.⁴³⁶² P-0884 testified that the Anti-Balaka selected Mr Ngaïssona as coordinator and after that Samba-Panza got in touch with him in that capacity.⁴³⁶³

1660. Jacob Mokpem-Bionli stated that Mr Ngaïssona was chosen to lead the youth because he was ‘a businessman and had the means’ and came to Bangui to ‘restore order’, which happened because ‘he was able to organise the youth’.⁴³⁶⁴ The witness stated that Mr Ngaïssona came in ‘the spirit of conciliation’.⁴³⁶⁵ Jacob Mokpem-Bionli said that Mr Ngaïssona told the youth, ‘We were attacked by foreigners and if we are not careful, the country will go down’.⁴³⁶⁶ The witness testified that when Mr Ngaïssona came to Bangui, it was to organise Anti-Balaka elements, channel them in the direction of achieving peace, so they do not fall into violence, to organise, supervise the Anti-Balaka elements.⁴³⁶⁷

1661. Several other witnesses testified about Mr Ngaïssona being popular in particular among the ‘youth’ in the CAR because of his activities in relation to football and being known as wealthy businessman who had the financial means to provide assistance if required.⁴³⁶⁸ Indeed, Thierry Tribunal Ndokobanda stated that while Maxime Mokom was angry about Mr Ngaïssona’s appointment, he was also relieved because Mr Ngaïssona had the means to help and support the movement, unlike him.⁴³⁶⁹

⁴³⁶² P-0884: T-057, p. 18, lines 2-13; T-058, p. 37, lines 5-23, p. 38, line 24 – p. 41, line 4, p. 86, line 13 – p. 87, line 13.

⁴³⁶³ P-0884: T-058, p. 41, lines 5-9.

⁴³⁶⁴ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0056, para. 40.

⁴³⁶⁵ P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0306, para. 111.

⁴³⁶⁶ P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0306, para. 111.

⁴³⁶⁷ P-0992: T-095, p. 34, line 7 – p. 35, line 11. *See also* D30-4756: T-269-ENG, p. 16, line 12 – p. 17, line 17, p. 18, line 20 – p. 19, line 4, p. 32, line 25 – p. 33, line 2; T-269-FRA, p. 15, line 26 – p. 17, line 5; T-269, p. 18, lines 6-16; P-1847: T-024, p. 19, line 13 – p. 20, line 16. *See also* P-1847 First Statement, CAR-OTP-2061-1534, at 1565, paras 196-197.

⁴³⁶⁸ P-0889: T-109, p. 32, line 17 – p. 33, line 22; P-2843: T-073, p. 20, line 13 – p. 21, line 9; T-074, p. 17, line 17 – p. 20, line 9; P-2232: T-075, p. 8, lines 9-16, p. 9, line 2 – p. 10, line 16, p. 20, line 14 – p. 21, line 6; T-076, p. 50, line 4 – p. 51, line 3; D30-4720: T-279, p. 21, line 14 – p. 22, line 5. *See also* P-0966: T-118, p. 20, line 19 – p. 21, line 13.

⁴³⁶⁹ P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1065, para. 41.

Position within the Anti-Balaka

1662. At the outset, the Chamber emphasises that the question of Mr Ngaïssona having been in control of the Anti-Balaka as a whole or parts thereof is, in the context of the charges in the present case, immaterial. The Chamber has considered the evidence as outlined below, which shows that Mr Ngaïssona in fact did exercise control over the Anti-Balaka as an additional factor to assess his contributions to the Anti-Balaka's activities.

1663. First, various witnesses testified about Mr Ngaïssona being the person to contact when it came to representing the interests of the Anti-Balaka.

1664. Specifically, and most importantly, Catherine Samba-Panza, the transition president at the time, testified that from the Anti-Balaka side, and from January 2014 onwards when she took her position, she had 'no other person' to contact but Mr Ngaïssona, with whom she had her contacts.⁴³⁷⁰ Aurélien Llorca stated that in the view of the CAR Panel, Mr Ngaïssona was indeed coordinating the Anti-Balaka groups from 'a political point of view', and Maxime Mokom was 'in charge of military operations'.⁴³⁷¹ Kasper Agger testified that while different personalities tried to portray themselves as leaders of certain groups of the Anti-Balaka,⁴³⁷² at the time of his interview with Mr Ngaïssona in February 2014, he referred to himself as 'the coordinator of the Anti-Balaka in a general term', portrayed himself in that role, and was looked at as 'an interlocutor'; and the witness found Mr Ngaïssona's place in Bangui by asking for 'Mr Ngaïssona, the coordinator of Balaka'.⁴³⁷³

1665. Second, the Chamber has considered a number of factors indicating that Mr Ngaïssona was in a position to take decisions on behalf of the Anti-Balaka and to direct Anti-Balaka groups to engage in certain actions.

⁴³⁷⁰ P-0952: T-249, p. 38, lines 10-16, p. 34, line 25 – p. 35, line 5; T-251, p. 32, line 5 – p. 33, line 1, p. 33, line 23 – p. 34, line 21; T-251-ENG, p. 35, lines 8-19; T-251-FRA, p. 36, lines 11-26; T-251, p. 95, lines 10-22. *See also* P-0952: T-249, p. 64, line 16 – p. 65, line 16; T-251, p. 83, line 25 – p. 89, line 21, p. 94, line 3 – p. 95, line 5; P-2328: T-047-ENG, p. 41, line 21 – p. 43, line 3; T-047-FRA, p. 43, line 27 – p. 45, line 12; T-048, p. 18, line 22 – p. 22, line 18; P-2269 Statement, CAR-OTP-2111-0336-R01, at 0354, para. 134, at 0356, para. 149; P-0475 Statement, CAR-OTP-2104-0116-R04, at 0133, paras 133, 135, at 0134, paras 145-146; P-0475: T-091, p. 60, lines 9-23, p. 62, lines 15-25, p. 65, lines 18-24.

⁴³⁷¹ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0246, para. 37.

⁴³⁷² P-2012: T-025, p. 56, lines 17-20. *See also* P-2012: T-025, p. 58, line 18 – p. 59, line 5.

⁴³⁷³ P-2012: T-025, p. 56, lines 3-16, p. 59, line 6 – p. 60, line 24.

1666. Specifically, Catherine Samba-Panza testified that when she confronted Mr Ngaïssona with alleged exactions, he would reproach the transition authorities saying they had not done what they should have to get the Anti-Balaka ‘more involved’ and did not ‘take into account their wishes’, he was reproachful and said that ‘he would see what he could do at his level’.⁴³⁷⁴ The witness testified that when Mr Ngaïssona was not appointed to the positions he had requested, he felt ‘very frustrated’ and that he was being pushed aside, out of the transition process; Mr Ngaïssona made the witness understand that ‘several times’ and simply did not accept that; the witness said that Mr Ngaïssona wanted that position and did not get it, and this created problems.⁴³⁷⁵ Catherine Samba-Panza testified that, in 2014, when there were a lot of difficulties in the relations between the transition authorities and the Anti-Balaka, there were ‘*villes mortes*’,⁴³⁷⁶ checkpoints, demonstrations, requests of resignation, which she termed as ‘political problems’ referring to the lack of coordination in managing the transition with the Anti-Balaka.⁴³⁷⁷

1667. On this point, the Chamber has considered the evidence showing that also in the second half of 2014, the Anti-Balaka, under Mr Ngaïssona’s lead, used the setting up of roadblocks, blockades and protests as a means to pressure the government to accede to their demands, or when it was felt that they were subjected to what was perceived as unfair treatment at the hand of the transition authorities.

1668. In particular, Catherine Samba-Panza testified about the Anti-Balaka using barricades and protests against the transition authorities, presenting various demands to be recognised as ‘a patriotic movement of the country’ and be billeted, and protesting against what they considered to be privileged treatment of the Seleka.⁴³⁷⁸

1669. Further evidence before the Chamber shows that the Anti-Balaka attempted to exert pressure on the transition government in various contexts, such as when Catherine Samba-Panza was

⁴³⁷⁴ P-0952: T-249, p. 38, lines 17-22.

⁴³⁷⁵ P-0952: T-250, p. 21, line 13 – p. 22, line 3.

⁴³⁷⁶ The Chamber understands this to refer, in the context it is concerned with, to a general blockade of a locality, leading to a ‘standstill’ of public life.

⁴³⁷⁷ P-0952: T-250-ENG, p. 23, lines 12-23; T-250-FRA, p. 22, lines 1-10.

⁴³⁷⁸ P-0952: T-249, p. 34, line 9 – p. 36, line 15; T-250, p. 58, line 15 – p. 59, line 13. *See also* P-0952: T-251, p. 33, line 23 – p. 34, line 21; P-0801: T-036, p. 46, line 5 – p. 47, line 2; P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0339-40, paras 100-101.

alleged to have misappropriated donations from Angola,⁴³⁷⁹ or following the arrest of Brice Emotion Namsio.⁴³⁸⁰ It appears that within the context of the negotiations and related protests and violence in regard to the latter event, Alfred Legrand Ngaya decided to withdraw from the Anti-Balaka after having faced resistance of Anti-Balaka elements who thought he had, on his own accord, dropped the demand for Catherine Samba-Panza to withdraw.⁴³⁸¹

1670. In this regard, Aurélien Llorca stated that the Anti-Balaka setting up barricades, which stopped life in Bangui, provided political leverage, and the purpose of youth from Boy-Rabe and Combattant setting up barricades on the two strategic access roads, to the airport and PK12, was twofold: to stop any commercial traffic and prevent circulation of international forces, making it difficult to remove barricades without sparking bodily harm.⁴³⁸² The witness testified that Mr Ngaïssona told him that in his view, the Anti-Balaka were not represented sufficiently in the transition government, and that there was a desire to exert pressure on the government through the Anti-Balaka to obtain political leverage.⁴³⁸³

⁴³⁷⁹ P-0952: T-249, p. 59, line 23 – p. 63, line 13. *See also* P-0889 Statement, CAR-OTP-2027-2290-R02, at 2306, para. 98; P-0954 Statement, CAR-OTP-2048-0171-R03, at 0183, para. 71; P-0954: T-166, p. 84, line 16 – p. 85, line 23; T-169, p. 39, line 16 – p. 40, line 3; Press statement, CAR-OTP-2093-0159, at 0159-0160; Press statement, CAR-OTP-2030-0244.

⁴³⁸⁰ P-0952: T-250, p. 51, line 9 – p. 56, line 16 *referring to* Press article, CAR-OTP-2001-5285, at 5285; Press article, CAR-OTP-2001-5342. *See also* P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0334-35, paras 71-73.

⁴³⁸¹ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0335, para. 73, at 0346, paras 136-139; P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0016-17, paras 35-36, at 0035-36, paras 141-149; P-0808 Corrections, CAR-OTP-2134-1742, at 1742; P-0808: T-069-ENG, p. 74, line 2 – p. 77, line 1; T-069-FRA, p. 80, line 7 – p. 81, line 2; T-071, p. 70, line 10 – p. 72, line 23; P-0801: T-035, p. 60, line 23 – p. 63, line 19; T-035-ENG, p. 62, line 5 – p. 63, line 19; T-035-FRA, p. 64, line 15 – p. 66, line 10. *See also* P-0952: T-250, p. 57, line 7 – p. 58, line 13; Letter, CAR-OTP-2092-1738; Letter, CAR-OTP-2092-1740; Post, CAR-OTP-2001-6112; Press article, CAR-OTP-2001-6105. In light of this evidence, the Chamber does not consider credible the claims of Jacob Mokpem-Bionli, who indicated that Mr Ngaïssona was angry with the transition government because it did not respond to their request for the Anti-Balaka to be taken charge of and thus decided a ‘*ville morte*’-operation, that Alfred Legrand Ngaya was threatened simply because he was not authorised to speak on RFI and that it was the ‘fake’ Anti-Balaka that were involved in the mentioned hold-ups, especially when bearing in mind that P-0992 did also say that it was Anti-Balaka elements – not ‘fake’ or otherwise – who threatened Alfred Legrand Ngaya (*see* P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0066-67, paras 104-105; P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0309, para. 129; P-0992: T-092, p. 70, line 25 – p. 71, line 18, p. 72, line 23 – p. 74, line 21; T-093, p. 54, line 12 – p. 55, line 1; P-0992: T-095, p. 15, line 1 – p. 16, line 7).

⁴³⁸² P-0287 Statement, CAR-OTP-2115-0239-R01, at 0249, paras 46-48; P-0287: T-020, p. 15, line 5 – p. 16, line 10, p. 39, line 14 – p. 40, line 10. *See also* CAR Panel Final Report 2015, CAR-OTP-2023-0032, at 0087.

⁴³⁸³ P-0287: T-020, p. 20, lines 14-25; P-0287 Statement, CAR-OTP-2115-0239-R01, at 0251, para. 57. *See also* CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0846, para. 31.

1671. In a similar context, the Chamber notes that the evidence also indicates that Mr Ngaïssona was not in agreement with a call of Gilbert Kamezolai at the end of July 2014 for FACA personnel to return to their barracks and leave the Anti-Balaka.⁴³⁸⁴

1672. Third, the Chamber has considered the evidence, as further outlined below, that Anti-Balaka groups stayed within, and used for their purposes, Mr Ngaïssona's properties in Bangui.

1673. Specifically, P-2050 stated that [REDACTED] they were stopped at a roadblock at the entrance of Boy-Rabe, [REDACTED] all of the Anti-Balaka at the roadblock saluted him [REDACTED].⁴³⁸⁵ P-2050 stated that [REDACTED] told her that it was the Anti-Balaka headquarter and confirmed it was the minister's, Mr Ngaïssona's house, saying, 'yes, this is the house of our boss', calling him '*coordonateur*'.⁴³⁸⁶ P-2050 stated that [REDACTED].⁴³⁸⁷ P-2050 stated that [REDACTED].⁴³⁸⁸ P-2050 stated that [REDACTED].⁴³⁸⁹ P-2050 stated that [REDACTED].⁴³⁹⁰ P-2050 commented [REDACTED]⁴³⁹¹ and that [REDACTED].⁴³⁹² P-2050 thought in relation to [REDACTED] that he told her afterwards that the '*chef*' had been calling [REDACTED].⁴³⁹³ P-2050 testified that when she asked who their boss, coordinator was, [REDACTED] mentioned Mr Ngaïssona by name, and further explained that when [REDACTED] was on the phone, it was very clear from his very submissive body

⁴³⁸⁴ CAR Panel Final Report 2014, CAR-OTP-2001-5386, at 5408, paras 81-82; P-0287 Statement, CAR-OTP-2115-0239-R01, at 0263, para. 115; P-0287: T-020, p. 25, line 9 – p. 27, line 11. *See also* CAR Panel Final Report 2014, CAR-OTP-2001-5386, at 5396, para. 34, at 5430, para. 183; Press article, CAR-OTP-2001-5112, at 5112-13; P-2926 Report, CAR-OTP-2127-4289, at 4321, para. 71; P-2926: T-031, p. 36, line 2 – p. 37, line 19 *referring to* Notes, CAR-OTP-2122-9832-R01; CAR-OTP-2122-9833-R01.

⁴³⁸⁵ P-2050 Statement, CAR-OTP-2076-0911-R02, at 0929-30, paras 95-98.

⁴³⁸⁶ P-2050 Statement, CAR-OTP-2076-0911-R02, at 0930, para. 101; P-2050: T-240, p. 38, line 21 – p. 39, line 4.

⁴³⁸⁷ P-2050 Statement, CAR-OTP-2076-0911-R02, at 0930, para. 102, at 0931, para. 104. *See* Sketch, CAR-OTP-2076-1045.

⁴³⁸⁸ P-2050 Statement, CAR-OTP-2076-0911-R02, at 0933, para. 122; P-2050: T-240, p. 43, line 3 – p. 44, line 6. *See also* Press article, CAR-OTP-2001-4441.

⁴³⁸⁹ P-2050 Statement, CAR-OTP-2076-0911-R02, at 0933, para. 123.

⁴³⁹⁰ P-2050 Statement, CAR-OTP-2076-0911-R02, at 0931, para. 103.

⁴³⁹¹ P-2050 Statement, CAR-OTP-2076-0911-R02, at 0931, para. 107 *referring to* Audio, CAR-OTP-2076-1083, at 00:12:20-00:13:35; Transcript, CAR-OTP-2087-8960, at 8965-66, lines 184-208.

⁴³⁹² P-2050 Statement, CAR-OTP-2076-0911-R02, at 0931, paras 108-109 *referring to* Audio, CAR-OTP-2076-1083, at 00:14:17-00:16:48; Transcript, CAR-OTP-2087-8960, at 8966-69, lines 222-300.

⁴³⁹³ P-2050 Statement, CAR-OTP-2076-0911-R02, at 0932, paras 111-112 *referring to* Audio, CAR-OTP-2076-1083, at 00:18:34; Transcript, CAR-OTP-2087-8960, at 8970, line 350; P-2050: T-240, p. 40, lines 8-11.

language and his submissive way of talking in French that a superior in the chain of command had called.⁴³⁹⁴

1674. Brice Emotion Namsio testified that the military police arrested Larmassoum who was held at Mr Ngaïssona's residence towards Pougoulou market, where '12 Puissances' and his elements were, and the witness went to see and called journalists to film, following which the person was transferred to prison since the witness told '12 Puissances' that they should not hurt him because justice should do its work.⁴³⁹⁵

1675. In light of the above evidence, and further recalling its assessment of P-2251's credibility,⁴³⁹⁶ the Chamber does not rely on P-2251's claim that 'Larma', who he admitted was held by 'Douze Puissances' at Mr Ngaïssona's house, would have lied when saying that they hit him,⁴³⁹⁷ or that [REDACTED].⁴³⁹⁸

1676. This is further underscored by P-2251 himself not denying that Thierry Lebene's group would have been based at Mr Ngaïssona's property [REDACTED].⁴³⁹⁹ The Chamber considers of note in this context that P-2251 also testified that Mr Ngaïssona gave 'strict instructions' that they should not leave and not go out so there should be 'no problems' and 'peace should come back', and if they left 'that base' and fought 'against Seleka', he would no longer support them financially.⁴⁴⁰⁰ P-2251 further stated that [REDACTED] the marabout based in Bossembélé, visited once, [REDACTED] also visited, and [REDACTED].⁴⁴⁰¹ P-2251 stated that once [REDACTED].⁴⁴⁰²

1677. In this context, the Chamber also notes the evidence of Aurélien Llorca, who stated that he interviewed Thierry Lebene on 22 March 2014, not far from where he interviewed

⁴³⁹⁴ P-2050: T-240, p. 9, line 21 – p. 10, line 16, p. 39, line 16 – p. 42, line 21. *See also* CAR-OTP-2087-8960, at 8970, lines 337-347.

⁴³⁹⁵ P-0446: T-098-ENG, p. 35, line 5 – p. 36, line 18; T-098-FRA, p. 39, line 17 – p. 41, line 9.

⁴³⁹⁶ *See* paragraphs 338-347 above.

⁴³⁹⁷ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0066-67, paras 133-135 *referring to* [REDACTED]; P-2251: T-044, p. 15, lines 2-16, p. 19, lines 2-24.

⁴³⁹⁸ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0067, para. 136.

⁴³⁹⁹ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0062-63, paras 111-112; P-2251: T-043, p. 41, lines 1-15.

⁴⁴⁰⁰ P-2251: T-043, p. 45, line 15 – p. 46, line 2.

⁴⁴⁰¹ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0064, para. 123.

⁴⁴⁰² P-2251 Statement, CAR-OTP-2093-0045-R01, at 0064-65, para. 124.

Mr Ngaïssona later in Boy-Rabe.⁴⁴⁰³ Aurélien Llorca stated that Lebene told him that he reported to Mr Ngaïssona, speaking as if he was directly under Mr Ngaïssona, while for the witness it was very clear that [REDACTED] Maxime Mokom was in charge of military operations in the Anti-Balaka.⁴⁴⁰⁴

1678. Aurélien Llorca further stated that a confidential source indicated that in March 2014, Mr Ngaïssona and Bernard Mokom lived together.⁴⁴⁰⁵ The witness stated that the panel knew that the Mokom family had several houses in Bangui, particularly in Boy-Rabe, which were being used by the Anti-Balaka leadership, and that Mr Ngaïssona also had houses in this neighbourhood.⁴⁴⁰⁶ Aurélien Llorca also interviewed Mr Ngaïssona in May 2014 in what he believed was a compound belonging to Bernard Mokom's wife.⁴⁴⁰⁷ Aurélien Llorca opined that the fact that the Anti-Balaka could change 'residency' regularly would help them escape the attempts to arrest them by the international forces; he said that, in his expert capacity, he observed rebellion leaderships supporting the rebellion not necessarily by money but also by other means such as housing.⁴⁴⁰⁸

1679. Fourth, the evidence before the Chamber suggests that Mr Ngaïssona was in a position of influence over Anti-Balaka groups also in 2014, both before⁴⁴⁰⁹ and following the coordination set up in June 2014.⁴⁴¹⁰

1680. In this regard, Aurélien Llorca stated that when he met Mr Ngaïssona on 3 May 2014, he came across commanders from the provinces and Bangui who had come for a coordination

⁴⁴⁰³ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0256, para. 77.

⁴⁴⁰⁴ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0256, para. 78, at 0257, para. 80.

⁴⁴⁰⁵ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0247, para. 39, at 0250-51, para. 53; P-0287: T-020, p. 14, line 10 – p. 15, line 4.

⁴⁴⁰⁶ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0247, para. 39; P-0287: T-020, p. 14, line 10 – p. 15, line 4.

⁴⁴⁰⁷ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0250, para. 53.

⁴⁴⁰⁸ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0247, para. 39; P-0287: T-020, p. 14, line 10 – p. 15, line 4.

⁴⁴⁰⁹ P-0965 Interview Transcripts, CAR-OTP-2046-0150-R01, at 0160, lines 354-358, at 0161, lines 369-392, at 0162-63, lines 427-472; P-0965: T-061, p. 29, lines 1-11, p. 29, line 25 – p. 30, line 4; P-0306: T-065, p. 45, line 11 – p. 46, line 15, p. 54, line 17 – p. 55, line 10; T-066, p. 13, lines 9-15.

⁴⁴¹⁰ P-1858 Statement, CAR-OTP-2063-0050-R04, at 0067, para. 104, at 0067-68, paras 106-108, at 0068, para. 114; P-1858: T-185, p. 32, line 7 – p. 33, line 2, p. 35, lines 3-9; T-187, p. 26, line 4 – p. 28, line 6, p. 30, lines 4-12; P-0954 Statement, CAR-OTP-2048-0171-R03, at 0183, para. 70; P-0954: T-166, p. 64, line 13 – p. 65, line 14, p. 87, line 15 – p. 89, line 3; T-169, p. 37, line 8 – p. 38, line 9, p. 39, lines 8-15, p. 52, lines 11-20. *See also* P-1858 Statement, CAR-OTP-2063-0050-R04, at 0068, para. 112; P-1858: T-186, p. 13, line 16 – p. 15, line 6 *referring to* Mission order, CAR-OTP-2039-0020; P-0287 Statement, CAR-OTP-2115-0239-R01, at 0253, paras 62-63.

meeting.⁴⁴¹¹ The witness stated that during their earlier talk, Thierry Lebene had mentioned Mr Ngaïssona as political coordinator, and that Mr Ngaïssona himself presented as the coordinator of the ‘liberators’, explaining that he represented them politically to defend their rights as ‘freedom fighters’,⁴⁴¹² and further stating that his role as the coordinator, in which he had addressed Catherine Samba-Panza on her election, would be confirmed in a general assembly.⁴⁴¹³ Aurélien Llorca stated that he concluded, based on repeated confirmation to that effect, that Mr Ngaïssona and Maxime Mokom regularly sent Anti-Balaka elements into the provinces, and that he heard that Mr Ngaïssona sent money to local commanders of groups that would then be added to a list of ‘Anti-Balaka commanders’ with their ‘Anti-Balaka element’.⁴⁴¹⁴ The witness testified that Mr Ngaïssona told him that, in his view, the Anti-Balaka were not represented sufficiently in the transition government, and that there was a desire ‘to exert pressure on the government through the Anti-Balaka’ to ‘obtain political leverage’.⁴⁴¹⁵ Aurélien Llorca stated that, in his analysis, someone like Mr Ngaïssona was trying to have ‘more personal political leverage by buying allegiance from these local groups’ since the more elements one had, the stronger the voice with government, UN, etc., and the more relevant he would become – the higher the number of Anti-Balaka under his coordination, the more power he would receive from that; and that is why he needed to maintain contact with the provinces.⁴⁴¹⁶ Aurélien Llorca stated that Mr Ngaïssona responded affirmatively to the witness’ question whether he was in control of the Anti-Balaka groups for example in Boy-Rabe, Combattant, Boeing, Castor, which in the panel’s analysis were indeed in control of the Anti-Balaka in 2014.⁴⁴¹⁷

1681. Aurélien Llorca stated that Mr Ngaïssona explained that he ‘sensitised’ the Anti-Balaka in Bangui and the provinces to reconcile and end the violence, further stating that he came to understand that it did not necessarily mean preaching reconciliation and the end of violence, but that it was a way to maintain and keep some form of ‘unity’ of the movement and the

⁴⁴¹¹ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0250, para. 52, at 0251, para. 55; P-0287: T-021, p. 91, line 15 – p. 92, line 4.

⁴⁴¹² P-0287 Statement, CAR-OTP-2115-0239-R01, at 0251, para. 56, at 0256-57, para. 80.

⁴⁴¹³ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0251, para. 56.

⁴⁴¹⁴ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0252, para. 60.

⁴⁴¹⁵ P-0287: T-020, p. 20, lines 14-25; P-0287 Statement, CAR-OTP-2115-0239-R01, at 0251, para. 57.

⁴⁴¹⁶ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0252, para. 61.

⁴⁴¹⁷ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0254, paras 69-70. See CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0849, para. 48.

‘link’ between the elements in the provinces and the leadership in Bangui, with one of the ways being handing over money to the Anti-Balaka in the provinces on the one side, and on the other side the Anti-Balaka in the provinces having an interest in someone representing them in Bangui.⁴⁴¹⁸

1682. The Chamber notes the evidence which suggests that the Anti-Balaka coordination under Mr Ngaïssona’s lead may not have been in full control of all actions of the various Anti-Balaka groups.⁴⁴¹⁹ As stated above, the Chamber does not consider any inability of Mr Ngaïssona to control Anti-Balaka groups to be of relevance for its determinations. In any event, the Chamber refers to its discussion of the general functioning of the Anti-Balaka within the framework of its structure evolving over time.⁴⁴²⁰

Financing

1683. One of the factors which the Chamber considered for purposes of assessing Mr Ngaïssona’s contributions to the Anti-Balaka in 2014 relates to the question of providing financial assistance.

1684. The Ngaïssona Defence argues that there is no credible evidence showing that Mr Ngaïssona financed the Anti-Balaka after the attack of 5 December 2013 for the purchase of weapons and ammunition.⁴⁴²¹

1685. However, the evidence before the Chamber as further outlined below shows that Mr Ngaïssona continued to provide financial assistance to the Anti-Balaka also following his return to Bangui in January 2014. In this regard, the Chamber considers that the specific purpose of providing money for purchase of weapons or ammunition is not alone determinative for concluding on Mr Ngaïssona’s actions in relation to the charges. It has

⁴⁴¹⁸ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0252, para. 59.

⁴⁴¹⁹ See P-0974 Statement, CAR-OTP-2058-0165-R01, at 0174-75, paras 61-62; P-0974: T-244, p. 14, line 6 – p. 15, line 25; P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0025, para. 79, at 0027, paras 92, 96; P-0954 Statement, CAR-OTP-2048-0171-R03, at 0189, para. 106; P-0954: T-169, p. 22, line 24 – p. 23, line 17, p. 29, line 23 – p. 30, line 12; P-0888: T-123, p. 68, lines 3-14. See also P-1521: T-084, p. 17, line 22 – p. 18, line 12; P-2027 Statement, CAR-OTP-2078-0059-R03, at 0081, para. 134.

⁴⁴²⁰ See section IV.A.7.iii.a.iv below.

⁴⁴²¹ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 507-512.

therefore considered the evidence before it also in relation to provision of financial assistance for other purposes.

1686. More generally, Jacob Mokpem-Bionli stated that Mr Ngaïssona accepted to be the leader of the Anti-Balaka, and therefore to put financial means at their disposal to manage them, meaning organising them to ‘face the mercenaries’.⁴⁴²² The witness described how the ComZones sent support requests to the national coordination and the treasurer of the coordination worked with Mr Ngaïssona to address those requests, who personally gave money from his own pocket.⁴⁴²³ According to Jacob Mokpem-Bionli, each ComZone would receive money every week to feed the fighters.⁴⁴²⁴ The witness said that also other people who had the capability made financial contributions to feed the fighters,⁴⁴²⁵ though he could not see who else apart from Mr Ngaïssona could have actively provided financing for the Anti-Balaka.⁴⁴²⁶

1687. This was echoed by other witnesses who mentioned Mr Ngaïssona providing money to the Anti-Balaka.⁴⁴²⁷ In light of this evidence, the Chamber does not consider that this is put into doubt by the evidence of some other witnesses who indicated never receiving financial assistance from the Anti-Balaka coordination generally, or Mr Ngaïssona more specifically.⁴⁴²⁸ In the view of the Chamber, this is explained by the specific role and perspective of the witnesses at issue at the relevant time.

1688. Further, the evidence before the Chamber indicates that money was provided by Mr Ngaïssona for specific purposes. Some witnesses referred to Mr Ngaïssona providing

⁴⁴²² P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0306, para. 112.

⁴⁴²³ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0065, para. 95; P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0306, para. 114, at 0308, para. 123; P-0992: T-093, p. 35, line 20 – p. 36, line 8, p. 36, line 21 – p. 37, line 3.

⁴⁴²⁴ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0065, para. 94.

⁴⁴²⁵ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0065, para. 94.

⁴⁴²⁶ P-0992: T-093, p. 31, lines 6-24, p. 32, line 20 – p. 33, line 11.

⁴⁴²⁷ P-0975 Statement, CAR-OTP-2033-7885-R02, at 7892, para. 53; P-2673 Statement, CAR-OTP-2127-6435-R01, at 6450, para. 93; P-0965 Interview Transcripts, CAR-OTP-2046-0108-R01, at 0112, lines 134-137; CAR-OTP-2046-0150-R01, at 0157-58, lines 247-256, at 0158, lines 272-291; CAR-OTP-2046-0228-R01, at 0231, lines 105-108; P-0965: T-061, p. 34, lines 12-18, p. 35, lines 9-24; P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0018, para. 44; P-0952: T-249, p. 39, line 9 – p. 40, line 1; T-251, p. 59, lines 9-20.

⁴⁴²⁸ P-1647 Statement, CAR-OTP-2050-0654-R02, at 0665, paras 79, 81; P-2232: T-077, p. 18, line 23 – p. 20, line 6; P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0055, para. 89, at 0057, para. 97; P-0306: T-065, p. 17, lines 17-22; P-2602 Interview Transcript, CAR-OTP-2118-9764-R01, at 9774-76, lines 347-384; D30-4914 Statement, CAR-D30-0024-0001-R01, at 0011, lines 401-406, at 0012-13, lines 468-471.

money for Anti-Balaka elements to pay transport fees when they travelled to coordination meetings.⁴⁴²⁹ Other witnesses spoke of Mr Ngaïssona providing money for food,⁴⁴³⁰ sometimes linking it to thereby deterring elements from committing crimes,⁴⁴³¹ for medication,⁴⁴³² or to assist in case someone died.⁴⁴³³ Witnesses also spoke more generally of Mr Ngaïssona providing money to care of the needs of elements,⁴⁴³⁴ or to finance the coordination.⁴⁴³⁵ Alfred Legrand Ngaya stated in this regard that when Mr Ngaïssona found out they committed ‘a reprehensible act’, he would not provide assistance again.⁴⁴³⁶

1689. As regards the provision of funding for purposes of acquiring weapons and ammunition, the Chamber notes the following evidence.

1690. P-0954 testified that Mr Ngaïssona could not say this over the radio but said it in a meeting, and ‘everyone’ followed, that ‘each ComZone’ had the opportunity to monitor ‘their men’ and if they had ‘little’ money, they should stock munitions and arms to keep – one could never know when these mercenaries might return and this would help in putting up a

⁴⁴²⁹ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0255, para. 78; P-0884: T-058, p. 67, lines 3-24; P-2232: T-076, p. 67, line 15 – p. 68, line 9; T-077, p. 9, line 25 – p. 10, line 9; T-078, p. 49, line 14 – p. 50, line 3; P-0954 Statement, CAR-OTP-2048-0171-R03, at 0189, para. 106; P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0066, para. 101; P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0309, para. 132; P-0889: T-109, p. 85, lines 9-21.

⁴⁴³⁰ P-0954 Statement, CAR-OTP-2048-0171-R03, at 0189, para. 106; P-0888: T-123, p. 20, lines 3-20; P-2269 Statement, CAR-OTP-2111-0336-R01, at 0350, paras 103-104, at 0357, para. 156; P-0884: T-058, p. 66, line 21 – p. 67, line 2; P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0066, para. 101; P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0309, para. 132; P-0889: T-109, p. 34, lines 3-22.

⁴⁴³¹ P-2232: T-076, p. 67, line 15 – p. 68, line 9; T-077, p. 9, line 25 – p. 10, line 9; T-078, p. 49, line 15 – p. 50, line 3; P-1858: T-187, p. 30, lines 13-25; P-0975 Statement, CAR-OTP-2033-7885-R02, at 7892, para. 53; P-0884: T-058, p. 61, line 22 – p. 63, line 5, p. 64, lines 1-4; P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0018, paras 42-43; P-0808: T-069, p. 38, line 1 – p. 39, line 2; T-071, p. 44, line 25 – p. 45, line 25; P-0889: T-109, p. 34, lines 3-22; P-0992: T-095, p. 7, line 18 – p. 9, line 12. *See also* D30-4756: T-269, p. 18, lines 16-19; D30-4496 Statement, CAR-D30-0022-0001-R03, at 0008, para. 44; P-2251 Statement, CAR-OTP-2093-0045-R01, at 0063, para. 117.

⁴⁴³² P-0888: T-123, p. 20, lines 3-20; P-2269 Statement, CAR-OTP-2111-0336-R01, at 0350, paras 103-104, at 0357, para. 156; P-0992: T-093, p. 39, lines 2-13.

⁴⁴³³ P-0954 Statement, CAR-OTP-2048-0171-R03, at 0189, para. 106; P-0888: T-123, p. 20, lines 3-20; P-2269 Statement, CAR-OTP-2111-0336-R01, at 0350, para. 103, at 0357, para. 156.

⁴⁴³⁴ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0257, para. 91; P-2269 Statement, CAR-OTP-2111-0336-R01, at 0349, paras 99-100, at 0350, para. 105; P-0884: T-056, p. 79, lines 2-21, p. 80, lines 6-16; T-058, p. 67, lines 3-24, p. 69, line 17 – p. 70, line 4; P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0023, para. 71; P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0066, para. 101; P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0309, para. 132. *See also* P-2251 Statement, CAR-OTP-2093-0045-R01, at 0064, paras 118, 120; P-2251: T-043, p. 41, line 23 – p. 43, line 2, p. 46, line 3 – p. 47, line 6; T-044, p. 38, lines 6-17.

⁴⁴³⁵ P-1193 Statement, CAR-OTP-2045-0048-R03, at 0056, para. 51.

⁴⁴³⁶ P-0808: T-071, p. 46, lines 1-12. *See also* P-2251 Statement, CAR-OTP-2093-0045-R01, at 0068-69, paras 147-150; P-2251: T-044, p. 37, lines 3-22.

resistance (*‘que chaque ComZone eut l’opportunité de surveiller ses hommes et si vous avez de peu... de l’argent, il faut chercher à vous emprovisionner en munitions et en armes pour garder. On ne sait jamais le retour de ces mercenaires, ça va vous aider à résister. Il a dit ça en réunion et... et que tout le monde a... a suivi ça, mais il ne peut pas dire ça à la radio’*).⁴⁴³⁷

1691. Further, P-0965 stated that Mr Ngaïssona gave ammunition to the group when he had some, or money to each group leader to buy ammunition or weapons of war to continue the fight.⁴⁴³⁸

P-0965 testified that he heard Mr Ngaïssona say to ask people who had any weapons of war or grenades to send them to him because he was looking to buy such supplies, and that Mr Ngaïssona was able to obtain those weapons and give them to ‘the children’ who would work with them.⁴⁴³⁹

1692. P-2232 testified that he recalled one time after 5 December 2013 that Sylvestre Yagouzou arrived at ‘the coordination’ and gave weapons, ammunition, grenades to the coordination which paid for it, specifically Maxime Mokom came out with the money, but Mr Ngaïssona have the money to pay for the weapons or other equipment.⁴⁴⁴⁰ P-2232 said that they did not have enough resources and if needed, Mr Ngaïssona would check out the situation and they would go towards him for money, and he would buy something through his subordinates, associates.⁴⁴⁴¹ P-2232 testified that during meetings some ComZones said they needed materiel to continue the work, and the coordination decided to ask to identify people who were selling arms and point them to the coordination so it could buy weapons.⁴⁴⁴²

1693. The Chamber does not consider this concrete evidence to be weakened by generic assertions of other witnesses who stated not having heard or seen of Mr Ngaïssona providing financial means for the purchase of weapons or ammunition.⁴⁴⁴³

⁴⁴³⁷ P-0954: T-169-ENG, p. 47, line 21 – p. 48, line 6; T-169-FRA, p. 51, line 19 – p. 52, line 4.

⁴⁴³⁸ P-0965 Interview Transcript, CAR-OTP-2046-0150-R01, at 0161, lines 397-402.

⁴⁴³⁹ P-0965: T-061, p. 36, lines 10-19; T-063, p. 34, line 4 – p. 35, line 4.

⁴⁴⁴⁰ P-2232: T-077, p. 21, line 17 – p. 22, line 13; T-078, p. 50, lines 4-25, p. 51, line 4 – p. 52, line 1.

⁴⁴⁴¹ P-2232: T-077, p. 22, line 14 – p. 23, line 6.

⁴⁴⁴² P-2232: T-078, p. 49, lines 1-12.

⁴⁴⁴³ See P-1193: T-125, p. 42, lines 3-13; P-0888: T-123, p. 45, lines 12-16; P-0808: T-071, p. 48, lines 18-24; P-0889: T-109, p. 83, line 8 – p. 84, line 3. See also P-2251: T-044, p. 53, line 25 – p. 54, line 13; P-1521: T-083, p. 47, lines 3-18. P-0889 testified that [REDACTED] (see P-0889: T-109, p. 84, lines 4-15).

1694. Therefore, and on the basis of the evidence as outlined, the Chamber concludes that Mr Ngaïssona continued to provide financial assistance to the Anti-Balaka for various purposes in 2014. The Chamber concludes that these purposes included the purchase of weapons and ammunition.

1695. Further recalling its discussion of Mr Ngaïssona's financial contributions to the activities of groups coalescing into the Anti-Balaka in 2013,⁴⁴⁴⁴ the Chamber concludes that Mr Ngaïssona's financial contributions to the Anti-Balaka activities during the period relevant to the charges were regular and related to the Anti-Balaka manoeuvring or continuing to function. In this way, even if the financial contributions aimed also, or even mainly, at daily subsistence or reimbursement of travel costs for meetings, they inter-locked with the inter-operability of the Anti-Balaka. This is not contradicted by the argument that the 'daily subsistence' was conceived as a means to avoid looting or other criminal acts.

Knowledge and awareness

1696. The evidence before the Chamber shows that Mr Ngaïssona knew of the activities the Anti-Balaka engaged in, including the hostilities during their advance towards Bangui,⁴⁴⁴⁵ the Bangui Attack,⁴⁴⁴⁶ the Bossangoa Attack and the continued hostilities in 2014, and that this included the targeting of the Muslim civilian population.⁴⁴⁴⁷

1697. This is evidenced also by the repeated attempts, despite the above-mentioned knowledge, to absolve the Anti-Balaka from any responsibility for any violent acts, while only seemingly admitting to some Anti-Balaka elements possibly engaging in isolated acts of theft and looting.⁴⁴⁴⁸

1698. First, that the Anti-Balaka committed violent acts was common knowledge in the CAR at the time. Indeed, Catherine Samba-Panza testified that the existence of the various enclaves,

⁴⁴⁴⁴ See paragraphs 828-864 above.

⁴⁴⁴⁵ See paragraph 1495 above.

⁴⁴⁴⁶ See paragraph 2213 below.

⁴⁴⁴⁷ See paragraphs 1301-1304 above.

⁴⁴⁴⁸ See paragraphs 1810-1852 below.

‘evacuations’ of Muslims from there, the attacks were public knowledge, people were waiting for the transport trucks so that they could attack them.⁴⁴⁴⁹

1699.P-0884 testified not knowing if Muslims living in enclaves or very difficult circumstances because of Anti-Balaka attacks was something known at the national coordination level, by Mr Ngaïssona and other members, but ‘normally they should have been aware as coordinator’, and P-0884 stated he himself was aware, and all the people in the CAR knew that in Yaloké, Fula people were ‘holed up’ and suffering.⁴⁴⁵⁰

1700.P-0567 stated that in Bangui it was well known that ‘this type of treatment’, meaning killing, cutting, targeting of Muslim civilians, was happening and pictures of body parts and cut heads were circulating.⁴⁴⁵¹

1701.Brice Emotion Namsio testified in relation to the statements of Catherine Samba-Panza during her visit to Mbaïki on 12 February 2014 that he heard them on the radio and that he personally did not see killings or the like, he followed on the radio that there were killings and ‘things of that nature’, ‘a little bit everywhere’.⁴⁴⁵² The witness testified that ‘somewhere along the line’ there was information on cases of killings, but he did not know ‘who did what’ and about the Anti-Balaka authorities who perpetrated major crimes.⁴⁴⁵³ The witness testified that everybody was aware there had been ‘certain excesses’, and that when the Anti-Balaka arrived the population initially ‘cheered’ them, but unfortunately after a while the population turned against ‘a few Balaka members who were committing crimes somewhere’; so each time there was ‘an event’, they would meet, anybody who had information would provide it, and the coordinator would give them instructions, and they would discuss ‘how to calm the situation’.⁴⁴⁵⁴ Brice Emotion Namsio testified that he heard about the violence in Yaloké and Boda through the radio.⁴⁴⁵⁵ The witness testified that there were no discussions in the national coordination because whenever there was something that did not work out

⁴⁴⁴⁹ P-0952: T-250, p. 67, line 24 – p. 68, line 11.

⁴⁴⁵⁰ P-0884: T-056, p. 84, line 5 – p. 85, line 2.

⁴⁴⁵¹ P-0567 Statement, CAR-OTP-2059-0084-R04, at 0104, paras 131-134.

⁴⁴⁵² P-0446: T-096, p. 76, lines 8-20, p. 78, line 9 – p. 79, line 1.

⁴⁴⁵³ P-0446: T-097, p. 3, line 24 – p. 4, line 11.

⁴⁴⁵⁴ P-0446: T-097, p. 5, lines 3-24.

⁴⁴⁵⁵ P-0446: T-097, p. 11, lines 1-23.

‘he’ called them (‘us’) and said this has happened, so he was informed that in this section there were events.⁴⁴⁵⁶

1702. Second, Catherine Samba-Panza testified that during her meetings with the Anti-Balaka, she did raise the subject; she saw a document during her testimony in which Mr Ngaïssona stated that if they had brought the Anti-Balaka in for ‘the management of the enclaves’, ‘the results would have been different’; and he sent a mission to Boda where things transpired ‘differently’; so, in her view, the Anti-Balaka were aware and they (‘we’) did talk about this, and this was ‘a reason for concern’.⁴⁴⁵⁷

1703. Third, Mr Ngaïssona as general coordinator of the Anti-Balaka received internal reports. In this regard, P-2232 testified that when the attacks in the provinces occurred, ‘the leaders’ called the coordination bureau to give a report.⁴⁴⁵⁸ P-2232 said that each time, [REDACTED] was aware of the operations that were happening and gave a report to ‘the general coordinator’.⁴⁴⁵⁹ P-2232 testified that when elements stole and looted, they would not report to the coordination, but it was the victims who could inform the coordination; but a Muslim victim could not have that possibility; if a vehicle was taken, the coordination could ‘ask’ to give it back, but the problem was that the owner had to give money before it was returned; often it was the thief who asked for money and it was not via the coordination.⁴⁴⁶⁰ P-2232 testified that ‘everyone’ was aware of what was going on, they had contact with the leaders and were able to call people on the ground for information.⁴⁴⁶¹ P-2232 testified that he never saw Mr Ngaïssona being involved in matters pertaining to ‘small amounts’, or money from checkpoints and collection points the reports of those activities went to ‘Mokom’ and ‘Lieutenant Donoh’ and ‘Mokom’ would then use this money for food for the elements on the ground.⁴⁴⁶² P-2232 testified that during the meetings he participated in, they did not talk about what happened in the provinces, they discussed the situation in Bangui only, asking the ComZones to keep their elements in Bangui under control; according to P-2232, in the

⁴⁴⁵⁶ P-0446: T-097, p. 12, line 19 – p. 13, line 3.

⁴⁴⁵⁷ P-0952: T-250, p. 68, line 24 – p. 69, line 7.

⁴⁴⁵⁸ P-2232: T-077, p. 24, lines 6-15.

⁴⁴⁵⁹ P-2232: T-077, p. 24, lines 18-20.

⁴⁴⁶⁰ P-2232: T-077, p. 26, line 18 – p. 27, line 17.

⁴⁴⁶¹ P-2232: T-077, p. 28, line 17 – p. 29, line 2.

⁴⁴⁶² P-2232: T-077, p. 48, lines 4-25, p. 50, line 24 – p. 51, line 24, p. 52, line 6 – p. 53, line 24, p. 54, lines 6-17.

towns of the provinces, ‘there were no Muslims any more’, so they could not fight in those villages in any way, ‘[a]ll provincial sectors were under control of the Anti-Balaka’.⁴⁴⁶³

1704. Jo-Brice Ouabiro Dana stated that after Mr Ngaïssona and ‘Mokom’ took over the leadership of the movement, only what was happening in the provinces was discussed, sometimes they called the ComZones in the provinces and heard about that, but the witness was not privy to what was being discussed, the coordination was responsible for what was happening with other cases and situations in the provinces.⁴⁴⁶⁴ Jo-Brice Ouabiro Dana testified that after his arrival in Bangui, as regards attacks in the provinces, the ComZones called the ‘operations coordinator Mokom’, who reported to Mr Ngaïssona as ‘the general coordinator’.⁴⁴⁶⁵ Jo-Brice Ouabiro Dana testified that ‘Mokom’ said from time to time that ‘the chief’ had called him to tell him about what had been happening in the provinces.⁴⁴⁶⁶

1705. P-0965 stated that everyone who became member of the Anti-Balaka knew they would commit ‘blood crimes’ (*‘crimes de sang’*), so they could not take measures within the Anti-Balaka not to commit crimes.⁴⁴⁶⁷ P-0965 testified that when talking about combat between the Seleka and the Anti-Balaka, the Anti-Balaka were ‘simply shooting at armed Seleka’, but ‘when you see Anti-Balaka killing Muslims, although not all Muslims [were] members of the Seleka’, it was ‘civilians’ they killed.⁴⁴⁶⁸

1706. Jacob Mokpem-Bionli stated that incidents were reported to the national coordination by phone from Ouham, Ouham-Pendé, Mambéré-Kadéï, Nana-Mambéré and Nana-Gribizi, with towns Bouca, Batangafo, Nana-Bakassa, Markounda, Kouki, Bozoum, Pawa, Bokaranga, Kouï, Ngaoundaye, Berbérati, Carnot, Gamboula, Gadzi, Bouar, Baoro, Baboua, Beloko, Mbres and one other.⁴⁴⁶⁹ The witness stated that ‘Djim’, leader of the ‘real’ Anti-Balaka in Bossangoa, countered the attacks of the Seleka and used to keep the witness informed of any incidents in Ouham province.⁴⁴⁷⁰ Jacob Mokpem-Bionli stated that when

⁴⁴⁶³ P-2232: T-077, p. 64, lines 12-20.

⁴⁴⁶⁴ P-0966: T-116, p. 61, line 6 – p. 62, line 4.

⁴⁴⁶⁵ P-0966: T-116, p. 60, line 20 – p. 61, line 5.

⁴⁴⁶⁶ P-0966: T-116, p. 62, lines 5-15.

⁴⁴⁶⁷ P-0965 Interview Transcript, CAR-OTP-2046-0213-R02, at 0214, lines 19-24; P-0965: T-061, p. 37, lines 12-25.

⁴⁴⁶⁸ P-0965: T-061, p. 38, lines 2-12.

⁴⁴⁶⁹ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0061, paras 71-72.

⁴⁴⁷⁰ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0062, para. 75.

something happened and the Anti-Balaka were involved, especially in the hinterland, a team was set up, often led by the ComZone, to observe the reality that happened and report; very often there was lack of subsistence and means to control the elements; these operations were conducted towards the end of 2014.⁴⁴⁷¹ Jacob Mokpem-Bionli stated that the national coordination ‘always insisted for calm and vigilance’ and avoiding ‘confrontation’.⁴⁴⁷²

1707. The Chamber considers the above not negated by Vivien Beina averring that Mr Ngaïssona was not informed of incidents before the coordination set up in June 2014, in particular bearing in mind that the witness also repeatedly stated having gotten involved only at that time,⁴⁴⁷³ nor by P-0889’s suggestion that he would only have heard of thefts of motorcycles or vehicles, but ‘never’ of any other crimes by the Anti-Balaka.⁴⁴⁷⁴

1708. Thus, and in light of the above evidence, the Chamber considers that Mr Ngaïssona was aware, throughout the period relevant to the charges, of the activities of the Anti-Balaka and the violent acts committed by them in light of the fact of this being (i) common knowledge in the CAR at the time; (ii) raised with Mr Ngaïssona by the transition president; and (iii) reported internally in the Anti-Balaka.

iv. General functioning of the Anti-Balaka in 2014

1709. In what follows, the Chamber has assessed the structure and positions within the Anti-Balaka national coordination and its evolving structure and tussles for power. In examining, its structure, the Chamber assessed the evidence it received in relation to the roles of ComZones, Anti-Balaka bases in Bangui, their number, meetings between them, badges issued to them as well as the media statements made by the coordination. The Chamber has also assessed, in this context, the arguments concerning the ‘fake’ Anti-Balaka.

⁴⁴⁷¹ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0067, para. 106; P-0992: T-095, p. 10, line 7 – p. 11, line 14.

⁴⁴⁷² P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0066, para. 101.

⁴⁴⁷³ P-0888: T-123, p. 28, line 12– p. 29, line 3; p. 31, lines 16-24.

⁴⁴⁷⁴ P-0889 Statement, CAR-OTP-2027-2290-R02, at 2305, paras 95-96.

Structure of and positions within the national coordination

1710. The evidence before the Chamber as further outlined below shows that over time, positions within the Anti-Balaka and who held them evolved.⁴⁴⁷⁵ However, when the structure of the Anti-Balaka formalised following Mr Ngaïssona's return to Bangui in the immediate aftermath of Michel Djotodia's resignation,⁴⁴⁷⁶ specific positions were assigned to individuals who acted accordingly.

1711. The evidence before the Chamber shows that within the formalised structure of the Anti-Balaka of early 2014, following Michel Djotodia's resignation, Maxime Mokom remained responsible for operations as coordinator of operations.⁴⁴⁷⁷

1712. P-2232 testified in this regard that Maxime Mokom had worked from the provinces and made it possible for them to advance right up to 5 December 2013, so 'they knew each other and they accepted his position as operations coordinator during the operations', and once Maxime Mokom returned and was appointed 'operations commander', no one opposed that decision.⁴⁴⁷⁸

1713. The evidence before the Chamber further shows that other individuals within this national coordination included, *inter alia*: Sébastien Wenezoui as spokesperson, and later deputy to Mr Ngaïssona;⁴⁴⁷⁹ Brice Émotion Namsio as spokesperson;⁴⁴⁸⁰ Judicael Orofe as secretary-general;⁴⁴⁸¹ Alfred Legrand Ngaya as political advisor;⁴⁴⁸² Jacob Mokpem Bionli as

⁴⁴⁷⁵ See also paragraphs 1717-1737 below.

⁴⁴⁷⁶ See paragraphs 1564-1618 above.

⁴⁴⁷⁷ P-0446 Interview Transcript, CAR-OTP-2059-1523-R01, at 1535, lines 424-439; P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0338, para. 93. See also P-1193 Statement, CAR-OTP-2045-0048-R03, at 0056, para. 48.

⁴⁴⁷⁸ P-2232: T-078, p. 21, line 15 – p. 22, line 4, p. 22, line 24 – p. 23, line 7, p. 23, line 19 – p. 24, line 7.

⁴⁴⁷⁹ P-0884: T-054, p. 14, line 8 – p. 15, line 22; P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0069, para. 123; P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0337, para. 91; P-1193 Statement, CAR-OTP-2045-0048-R03, at 0056, para. 47. See also paragraphs 1717-1737 below.

⁴⁴⁸⁰ P-0446 Interview Transcript, CAR-OTP-2059-1523-R01, at 1537-38, lines 533-557, at 1539, lines 591-597; P-0965 Interview Transcript, CAR-OTP-2046-0228-R01, at 0234, lines 199-214; P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0337, para. 91, at 0348, para. 148; P-2269 Statement, CAR-OTP-2111-0336-R01, at 0351, paras 117-118; P-1193 Statement, CAR-OTP-2045-0048-R03, at 0056, para. 50; P-0889 Statement, CAR-OTP-2027-2290-R02, at 2294, para. 25, at 2304, para. 87.

⁴⁴⁸¹ P-0889 Statement, CAR-OTP-2027-2290-R02, at 2292, para. 13; P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0338, para. 94; P-0446 Interview Transcript, CAR-OTP-2059-1602-R01, at 1618, lines 609-629.

⁴⁴⁸² P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0337, para. 89. See also P-1193 Statement, CAR-OTP-2045-0048-R03, at 0057, para. 56.

communications advisor;⁴⁴⁸³ Joachim Kokaté was seen as external relations or special advisor;⁴⁴⁸⁴ Richard Bejouane as Anti-Balaka chief of staff, with deputy Hyppolite Côme Azounou;⁴⁴⁸⁵ Charles Ngremangou as Anti-Balaka representative to the Samba-Panza administration.⁴⁴⁸⁶

1714. Brice Emotion Namsio stated that after Djotodia's resignation, when Catherine Samba-Panza 'took power', 'they' decided that a bureau be set up for mission orders, which came later, and also press releases, and which depended on the coordination with coordinator Mr Ngaïssona, his deputy ('*son second*') Wenezoui and Kokaté, operation coordinators, and communication and religious advisors.⁴⁴⁸⁷ Alfred Legrand Ngaya stated in this regard that all documents that were approved for release by Mr Ngaïssona were entered into a register and a reference was assigned by the general secretary Judicael Orofei.⁴⁴⁸⁸

1715. Alfred Legrand Ngaya further stated that members of the 'Coordination/Steering Committee' were Mr Ngaïssona, Konaté, Namsio, Wenezoui, Mokom, Kokaté and himself, and that their goal was 'to prevent and control the Anti-Balaka from acting like the Seleka', their role was to 'provide leadership' to the Anti-Balaka and they tried to 'raise awareness of the youth not to commit human rights violations'.⁴⁴⁸⁹ The witness stated that some in the coordination committee had prior close relationships with Mr Ngaïssona, such as Kokaté and Mokom; it was 'difficult to get educated people to join the Anti-Balaka', intellectuals 'feared the ICC'.⁴⁴⁹⁰ According to Alfred Legrand Ngaya, the organisation was 'not

⁴⁴⁸³ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0060, para. 65, at 0061, paras 68-69; P-0992: T-092, p. 8, lines 13-20, p. 52, lines 10-23; P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0337, para. 90. *See also* P-1193 Statement, CAR-OTP-2045-0048-R03, at 0057, para. 57; P-1193: T-124, p. 75, lines 11-20.

⁴⁴⁸⁴ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0337, para. 88; P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0071, para. 141; P-1193 Statement, CAR-OTP-2045-0048-R03, at 0057, para. 55, at 0059, para. 70; P-1193: T-125, p. 57, line 19 – p. 59, line 4.

⁴⁴⁸⁵ P-0446 Interview Transcript, CAR-OTP-2059-1567-R01, at 1575-76, lines 289-331; P-0966 Statement, CAR-OTP-2031-0241-R03, at 0257, para. 90.

⁴⁴⁸⁶ *See* paragraph 1562 above. Witnesses generally described him as one of the Anti-Balaka leaders or commanders (*see* P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0070, para. 130; P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1071, para. 82; P-1193 Statement, CAR-OTP-2045-0048-R03, at 0059, para. 71). The Chamber notes in this regard its discussion of Charles Ngremangou's role in the context of the Bangui Attack below (*see* paragraphs 2338-2342 below).

⁴⁴⁸⁷ P-0446 Interview Transcript, CAR-OTP-2059-1602-R01, at 1619, lines 639-661.

⁴⁴⁸⁸ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0343, para. 122.

⁴⁴⁸⁹ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0344, para. 125.

⁴⁴⁹⁰ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0339, para. 97.

structured properly’ in that for example the chief of staff was ‘not really’ such because there were ‘hardly any troops’.⁴⁴⁹¹

1716. Jo-Brice Ouabiro Dana stated that after the coordination was established, it was decided at the level of the coordination that some of the chiefs with ‘more morals and ability’ should become ComZones, so for example ‘Benjamin’ from Ndjo and Jo-Brice Ouabiro Dana became ComZones of Mandaba in Boy-Rabe, with chiefs under them in the same zone being Patrick Orofei, Mazimbelet and ‘Tiyo’.⁴⁴⁹² The witness stated that each neighbourhood had a ComZone, secretary, chiefs, deputies, elements, with the zones delineated by ‘the Coordination’.⁴⁴⁹³ The witness provided further details on the organisation of his base, including how he maintained discipline.⁴⁴⁹⁴ According to him, literate and illiterate ComZones ‘did not function the same way’.⁴⁴⁹⁵ Jo-Brice Ouabiro Dana stated that it was possible for ‘an Anti-Balaka’ to walk around other districts, but one would speak to the chief first, ‘a chief or a ComZone had to be informed by phone before going into another zone’.⁴⁴⁹⁶ According to the witness, no ComZones from other zones could come to Boy-Rabe, but they could go anywhere; ‘nobody’ would tell them anything because they were ‘the real Anti-Balaka with real gris-gris’; they could ‘create trouble anywhere’.⁴⁴⁹⁷

Evolving structure and tussles for leadership

1717. The evidence before the Chamber as further outlined below illustrates that the Anti-Balaka was, in 2014, subject to certain discussions as to who should be its leader. In the view of the Chamber, such discussions were but a further illustration of various individuals superimposing different personal and political ambitions on the group. At the same time, the person who eventually prevailed in leading the Anti-Balaka was Mr Ngaïssona, and the Anti-Balaka were represented as one movement at peace negotiations and in contacts with the national authorities and international community. Importantly, the Chamber notes, in this

⁴⁴⁹¹ P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0030, para. 114.

⁴⁴⁹² P-0966 Statement, CAR-OTP-2031-0241-R03, at 0254, paras 73-75. See Sketch, CAR-OTP-2031-0268-R01.

⁴⁴⁹³ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0254, para. 74; P-0966 Corrections, CAR-OTP-2135-2583-R01, at 2587; P-0966: T-118, p. 34, lines 12-20.

⁴⁴⁹⁴ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0254-55, paras 76-77, at 0255, paras 79-80.

⁴⁴⁹⁵ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0255, para. 77.

⁴⁴⁹⁶ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0255, para. 81.

⁴⁴⁹⁷ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0255, para. 82.

context, its conclusion on the continuation of hostilities between the Anti-Balaka and the Seleka until the end of February 2014.⁴⁴⁹⁸ Thus, the discussions about leadership happened after the events as charged in the current case took place. Therefore, any discussion of a possible split within the Anti-Balaka as an organisation is, at best, of indirect relevance to the determinations of the Chamber.

1718. In this regard, the Chamber notes the conclusions of the CAR Panel,⁴⁴⁹⁹ which stated in its 2014 interim report that the ‘idiosyncratic complexity of the structure of anti-Balaka is reinforced by the fluidity which characterizes the relationship between its different components’.⁴⁵⁰⁰ According to the report, Mr Ngaïssona and Sébastien Wenezoui claimed to represent ‘Rombhot’ or control the Anti-Balaka groups in Boda and Bouar, while Bara, appointed as Anti-Balaka representative in the government but not recognised as such, was perceived as being behind the initiative of Montaigne that led to Sébastien Wenezoui being chosen as general coordinator, which in turn was qualified by Mr Ngaïssona as ‘farce’.⁴⁵⁰¹ At the time of its report in October 2014, the panel found that the division between factions had deepened following the Brazzaville forum.⁴⁵⁰²

1719. The evidence before the Chamber as further outlined below shows that Sébastien Wenezoui challenged Mr Ngaïssona for his leadership of the Anti-Balaka. Whilst Sébastien Wenezoui proclaimed himself coordinator of the Anti-Balaka at a meeting in Pissmiss in May 2014, following mediation by the NGOs Mouda and PARETO, Mr Ngaïssona prevailed as general coordinator in June 2014, Sébastien Wenezoui being installed as his deputy. The Chamber notes in this regard its conclusions as to the hostilities between the Anti-Balaka and the Seleka until the end of February 2014.⁴⁵⁰³

1720. Importantly in this regard, P-0884 confirmed that there was no Anti-Balaka ‘south’, no Anti-Balaka ‘north’, but one Anti-Balaka with one objective, namely to ‘drive Djotodia and his

⁴⁴⁹⁸ See section IV.A.8.i below.

⁴⁴⁹⁹ CAR Panel Final Report 2014, CAR-OTP-2001-5386, at 5403-08, paras 66-82.

⁴⁵⁰⁰ Annex 5 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0877.

⁴⁵⁰¹ Annex 5 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0877, para. 6. See also CAR Panel Final Report 2014, CAR-OTP-2001-5386, at 5405, para. 71.

⁴⁵⁰² CAR Panel Final Report 2014, CAR-OTP-2001-5386, at 5404, para. 67.

⁴⁵⁰³ See section IV.A.8.i below.

mercenaries out'.⁴⁵⁰⁴ He explained that there was discontent among the ranks, including because of Kokaté on the radio describing the Anti-Balaka from the south as the 'good' Anti-Balaka and the others not, as well as because they thought the movement was being used for political purposes.⁴⁵⁰⁵ P-0884 stated that Sébastien Wenezoui wanted to draw Mr Ngaïssona's attention as they had no information about what was going on and he should not just have political considerations but also think of the fighters and DDR, so Mr Yekatom 'Rambo', Kamezolari and Wenezoui held a meeting at PK9, wanting to dismiss Mr Ngaïssona and designate Wenezoui or 'Yagouzou' as the general coordinator of the Anti-Balaka to provoke a reaction, but since some people did not come, they designated Wenezoui as coordinator.⁴⁵⁰⁶ P-0884 stated that they had invited people from Boy-Rabe, but neither Ngremangou nor Mr Ngaïssona were there because they knew 'full well' what the intention was.⁴⁵⁰⁷

1721. P-0884 testified that Mr Ngaïssona came back to Bangui in January 2014 and became the general coordinator of the Anti-Balaka, while Maxime Mokom initially remained in Zongo and maintained a certain level of communication with Mr Ngaïssona, who also worked with Bernard Mokom and Kokaté.⁴⁵⁰⁸ P-0884 stated that the national coordination was set up at Mr Ngaïssona's house, the list of people was sent out, from February onwards, and once established, meetings were held in public rooms, and what it was about was public and well known.⁴⁵⁰⁹

1722. Following an interview with Sébastien Wenezoui in March 2014 in which he criticised some statements of Mr Ngaïssona and Kokaté, while reiterating that they had all agreed on Mr Ngaïssona as political coordinator and there was no 'north' or 'south' Anti-Balaka⁴⁵¹⁰ and a

⁴⁵⁰⁴ P-0884: T-056, p. 57, lines 17-21. *See also* Video, CAR-OTP-2023-1812, at 00:09:48-00:10:51; Translation, CAR-OTP-2118-5597, at 5599-5600, lines 35-44.

⁴⁵⁰⁵ P-0884: T-056, p. 55, line 16 – p. 57, line 16.

⁴⁵⁰⁶ P-0884: T-056, p. 63, line 9 – p. 66, line 22, p. 67, lines 3-13, p. 68, line 17 – p. 69, line 1. *See also* P-1858 Statement, CAR-OTP-2063-0050-R04, at 0061, para. 68; P-1858: T-186, p. 42, lines 10-15; Press article, CAR-OTP-2001-4867, at 4867; Press article, CAR-D30-0008-0041, at 0041; Press article, CAR-D30-0008-0030, at 0030-31; P-0876: T-085, p. 75, line 15 – p. 77, line 1; T-087, p. 7, lines 6-19.

⁴⁵⁰⁷ P-0884: T-056, p. 67, lines 3-13.

⁴⁵⁰⁸ P-0884: T-058, p. 31, line 12 – p. 33, line 14.

⁴⁵⁰⁹ P-0884: T-058, p. 51, line 7 – p. 52, line 7, p. 53, line 18 – p. 54, line 13, p. 89, lines 13-24, p. 93, line 8 – p. 94, line 17.

⁴⁵¹⁰ Audio, CAR-OTP-2076-0825, at 00:00:02-00:02:40; Transcript, CAR-OTP-2122-7403, at 7404, lines 5-36, at 7405, lines 67-84. *See also* P-0876: T-086, p. 78, line 9 – p. 79, line 12.

written statement signed by various individuals including, *inter alia*, Maxime Mokom, Sylvestre Yagouzou, Brice Emotion Namsio, Euzèbe Emtenou, Benjamin Ouapoutou, Thierry Lebene, Aimé Abel Denamganaï, Richard Bejouane, Guy Mazimbelet, Guy Gervais Mokpem, Dieudonné Houronti, ‘Andilo’ Ngaïbona and Yvon Konaté, in support of Mr Ngaïssona in reaction thereto,⁴⁵¹¹ a gathering was held on 15 May 2014 in which Sébastien Wenezoui was presented as Anti-Balaka general coordinator.

1723. The Chamber has before it video footage of the gathering on 15 May 2014, discussed extensively with various witnesses. In his speech at the meeting, Sébastien Wenezoui stated that they created the Anti-Balaka with everyone, that they tried to organise with ‘Rombhot Yekatom’, Kamezolai, Ngremangou and all brothers, while 16 soldiers based in the Bossangoa area formed the hard core of the Anti-Balaka and arrived to Bangui with them, where they fought well (*‘ils sont arrivés à Bangui avec nous, et nous avons bien combattu’*), but if someone came from abroad and wanted to take advantage, they would not sit idly and watch them destroy the movement which did not have a political character.⁴⁵¹² Léopold Bara also spoke at the gathering, stating that there could be no unified coordination without involving ‘the other side’, speaking in favour of a unified coordination with reference to the previous coordination set up under Mr Ngaïssona’s lead, and reiterating not to forget that it was responsible for the Anti-Balaka exactions, and crimes within the jurisdiction of the ICC were ‘imprescriptible’.⁴⁵¹³

1724. Several witnesses provided additional evidence on the audio-visual evidence mentioned above.⁴⁵¹⁴

⁴⁵¹¹ Press statement, CAR-OTP-2101-4059, at 4059-60. *See also* P-2269 Statement, CAR-OTP-2111-0336-R01, at 0354, para. 137.

⁴⁵¹² Video, CAR-OTP-2084-1331, at 00:01:26-00:03:50; Transcript, CAR-OTP-2107-1586, at 1587, lines 20-41.

⁴⁵¹³ Video, CAR-OTP-2084-1327, at 00:00:00-00:04:06; Transcript, CAR-OTP-2107-1583, at 1584, lines 4-46. *See also* Video, CAR-OTP-2084-1319; Transcript, CAR-OTP-2107-1577; Video, CAR-OTP-2084-1323; Transcript, CAR-OTP-2107-1580 [REDACTED].

⁴⁵¹⁴ P-0808: T-070, p. 47, line 17 – p. 50, line 3 *referring to* Audio, CAR-OTP-2076-0825, p. 52, line 5 – p. 53, line 15 *referring to* Translation, CAR-OTP-2118-5597, at 5599; T-071, p. 25, line 18 – p. 27, line 21 *referring to* Video, CAR-OTP-2084-1331, at 00:00:00-00:01:26; P-0446 Interview Transcript, CAR-OTP-2059-1546-R01, at 1548-49, lines 41-96; P-0446: T-097, p. 5, line 25 – p. 6, line 24; P-0801: T-036, p. 42, line 23 – p. 44, line 14, p. 53, line 5 – p. 54, line 9; P-0876: T-086, p. 89, lines 12-17, p. 90, lines 11-16; T-088, p. 55, line 10 – p. 56, line 1 *referring to* Press article, CAR-OTP-2001-4867. *See also* P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0338, para. 92; P-0808 Corrections, CAR-OTP-2134-1737, at 1739.

1725. Some witnesses suggested that the gathering on 15 May 2014 took place following a request of then-minister Antoinette Montaigne to have a single coordination.⁴⁵¹⁵ The Chamber considers this evidence inconclusive insofar as the same witnesses talking of this request also stated that the ‘south’ decided to have its own coordination because it did not want to be with the ‘north’ regarding which they had heard bad things, such as looting and killings,⁴⁵¹⁶ that until Wenezoui was appointed, the ‘south’ had no structure,⁴⁵¹⁷ or that it was Wenezoui’s appointment which created tension and led to a division between the ‘north’ and ‘south’.⁴⁵¹⁸ Another witness suggests that both Anti-Balaka ‘north’ and ‘south’ were invited to this meeting.⁴⁵¹⁹

1726. This initial disagreement did not last long and in June 2014 a new coordination bureau of the Anti-Balaka was announced with Mr Ngaïssona as general coordinator and Sébastien Wenezoui as his deputy. Indeed, as P-0884 testified, just three weeks later a reconciliation

⁴⁵¹⁵ P-1193: T-124, p. 60, line 13 – p. 63, line 18, p. 64, lines 15-20 *referring to* Video, CAR-OTP-2084-1331, at 00:00:00-00:03:50; P-1858: T-186, p. 42, line 19 – p. 43, line 7, p. 45, lines 3-18 *referring to* Video, CAR-OTP-2084-1327, at 00:00:00-00:03:00; P-0888 First Statement, CAR-OTP-2031-0217-R03, at 0223, paras 38-39; P-0888: T-120, p. 8, lines 18-23, p. p. 82, lines 1-15, p. 84, lines 11-18. *See also* Video, CAR-OTP-2023-1990; Transcript, CAR-OTP-2122-9420. The Chamber has before it a document which suggests that a smaller meeting took place in advance of the gathering on 15 May 2014, pre-determining the choice of Sébastien Wenezoui (*see* Minutes, CAR-OTP-2079-0050). However, the Chamber has not relied on this document in light of the evidence of P-2602, P-0876 and P-0888 concerning this document (*see* P-2602 Interview Transcript, CAR-OTP-2118-9785-R01, at 9789-91, lines 114-204; P-0876: T-088, p. 65, line 13 – p. 66, line 11; P-0888: T-120, p. 83, line 19 – p. 85, line 4), and without further information on the circumstances in which this document was created.

⁴⁵¹⁶ P-1193 Statement, CAR-OTP-2045-0048-R03, at 0054, paras 36-37, 39.

⁴⁵¹⁷ P-0954 Statement, CAR-OTP-2048-0171-R03, at 0179, para. 46; P-0954: T-166, p. 72, lines 12-22; T-167, p. 81, lines 11-15.

⁴⁵¹⁸ P-1858 Statement, CAR-OTP-2063-0050-R04, at 0061, paras 68-70; P-1858: T-187, p. 14, line 23 – p. 15, line 1.

⁴⁵¹⁹ P-0954 Statement, CAR-OTP-2048-0171-R03, at 0182, paras 65-66.

was organised, facilitated by some NGOs.⁴⁵²⁰ Mr Yekatom also attended a meeting to this effect.⁴⁵²¹

1727. The evidence before the Chamber shows that, at the end of June 2014, the Anti-Balaka coordination agreed on its composition retaining Mr Ngaïssona as general coordinator, while Sébastien Wenezoui became his deputy, and Maxime Mokom continuing as the operations coordinator with his deputy Sylvestre Yagouzou, and decided on various other positions.⁴⁵²² According to P-1858, Mr Yekatom was represented in this coordination by general secretary Romaric Vomitiande, general treasurer Vivien Beina, and mediation advisor Paleon Nzilabo.⁴⁵²³

⁴⁵²⁰ P-0884: T-056, p. 61, lines 10-18, p. 62, line 12 – p. 66, line 22, p. 67, lines 15-24. *See* Press statement, CAR-OTP-2084-0164; Video, CAR-OTP-2023-2227; Transcript, CAR-D29-0006-0985. *See also* P-1858 Statement, CAR-OTP-2063-0050-R04, at 0062, paras 71-72; P-1858: T-185, p. 48, line 21 – p. 49, line 5; T-187, p. 15, line 17 – p. 16, line 1; P-0954 Statement, CAR-OTP-2048-0171-R03, at 0182-83, paras 67-69; P-0954: T-166, p. 72, line 23 – p. 76, line 9; T-167, p. 82, lines 1-16, p. 84, lines 4-11; P-0888 First Statement, CAR-OTP-2031-0217-R03, at 0223, para. 40; P-0888: T-120, p. 8, line 15 – p. 10, line 6, p. 85, lines 2-25; P-0446 Interview Transcript, CAR-OTP-2059-1523-R01, at 1541, lines 675-686, at 1542, lines 698-724, at 1543-44, lines 750-800; CAR-OTP-2059-1546-R02, at 1547, lines 32-38; P-2232: T-078, p. 81, lines 9-17; P-0966 Statement, CAR-OTP-2031-0241-R03, at 0258, para. 97; P-1193 Statement, CAR-OTP-2045-0048-R03, at 0054, para. 37; P-1193: T-124, p. 63, line 18 – p. 64, line 4; T-126, p. 56, line 18 – p. 57, line 19, p. 66, line 14 – p. 68, line 1; P-0801: T-036, p. 43, lines 18-23, p. 53, lines 5-13; Annex 13 to CAR Panel Final Report 2014, CAR-OTP-2001-5386, at 5470; P-0287 Statement, CAR-OTP-2115-0239-R01, at 0270-71; P-0287: T-020, p. 39, lines 2-6; Press article, CAR-OTP-2035-0064.

⁴⁵²¹ P-1193 Statement, CAR-OTP-2045-0048-R03, at 0054, para. 38; P-0446 Interview Transcript, CAR-OTP-2059-1523-R01, at 1544, lines 783-797.

⁴⁵²² *See* Press statement, CAR-OTP-2101-3611, at 3613-14; P-1193 Statement, CAR-OTP-2045-0048-R03, at 0055, para. 41, at 0057, para. 58; P-1193: T-124, p. 71, line 24 – p. 72, line 21; P-0992: T-092, p. 61, line 13 – p. 62, line 18; P-0808: T-069, p. 64, lines 13-25; T-070, p. 54, line 7 – p. 55, line 3; P-0446: T-097, p. 29, line 8 – p. 31, line 25, p. 76, line 21 – p. 79, line 6; P-0888 First Statement, CAR-OTP-2031-0217-R03, at 0223, para. 41; P-0801: T-036, p. 54, line 10 – p. 55, line 14; P-1858 Statement, CAR-OTP-2063-0050-R04, at 0062, paras 73-74; P-1858: T-185, p. 35, lines 11-24; T-187, p. 18, line 22 – p. 19, line 1, p. 20, line 7 – p. 21, line 14. The Chamber notes that other versions of the same composition overview seem to be missing the second page (*see* Lists, CAR-OTP-2039-0019; CAR-OTP-2069-3560) or may have been earlier versions of this composition, as the names for some positions are not yet filled in and, in any event, do not contain any stamp or signature (*see* Lists, CAR-OTP-2124-1214; CAR-OTP-2059-0024). *See also* P-0888: T-122, p. 10, line 1 – p. 12, line 24, p. 13, lines 20-23; P-1193 Statement, CAR-OTP-2045-0048-R03, at 0055, para. 44; P-1193: T-126, p. 69, line 23 – p. 70, line 23; T-126- FRA, p. 73, lines 27-28; P-1521: T-082, p. 17, line 14 – p. 18, line 21.

⁴⁵²³ P-1858 Statement, CAR-OTP-2063-0050-R04, at 0062, para. 75. *See also* P-1193 Statement, CAR-OTP-2045-0048-R03, at 0055, para. 45; P-0888 First Statement, CAR-OTP-2031-0217-R03, at 0223, para. 40; P-0888: T-120, p. 9, line 25 – p. 10, line 6.

1728. Some witnesses said that there was ‘no cooperation’ or ‘little interaction’ between ‘north’ and ‘south’ before that time,⁴⁵²⁴ or talked about ‘hostile relations’ between Anti-Balaka from the ‘north’ and ‘south’ before the coordination set up in June 2014.⁴⁵²⁵

1729. The Chamber considers this incorrect on the basis of the evidence before it, as is shown by the various coordination efforts before, during and following the Bangui Attack.⁴⁵²⁶ This evidence shows that even without formalised ‘coordination’ as an organisational entity, the Anti-Balaka coordinated their activities. The Chamber is of the view that even if there was no formalised coordinated entity with a pre-existing hierarchical structure, and even if various political and personal interests superimposed the activities over time, and especially in the aftermath of Michel Djotodia’s resignation, this did not mean that the Anti-Balaka groups did not engage in coordinated activities. It is clear from the evidence before the Chamber that the Anti-Balaka was no static structure that already existed before the time relevant to the charges or remained unchanged throughout that period. However, it is also clear from the evidence that during the period relevant to the charges, the Anti-Balaka groups exhibited clear signs of structure, operational capability and coordination that remained present even if evolving in its details over time.

1730. Eventually, and following a further disagreement surrounding the attendance at the Brazzaville forum,⁴⁵²⁷ Mr Ngaïssona expelled Sébastien Wenezoui from the Anti-Balaka in August 2014, after which Sébastien Wenezoui set up his own movement.⁴⁵²⁸

1731. The evidence before the Chamber further shows that Joachim Kokaté, who was one of the Anti-Balaka representatives in the transition government under Catherine Samba-Panza, distanced himself from the Anti-Balaka around mid-February 2014,⁴⁵²⁹ while Léopold Bara,

⁴⁵²⁴ P-1193: T-124, p. 56, line 24 – p. 57, line 10, p. 64, line 5 – p. 65, line 14; T-125, p. 7, line 24 – p. 8, line 8; P-0954: T-166, p. 65, line 18 – p. 66, line 16, p. 71, lines 5-8; P-1858: T-187, p. 14, lines 11-22, p. 16, lines 2-6; P-0888: T-120, p. 82, lines 1-23; T-123, p. 15, line 4 – p. 18, line 4, p. 29, lines 11-16, p. 32, lines 4-12, p. 46, line 22 – p. 47, line 6; P-0876: T-088, p. 54, line 11 – p. 55, line 9.

⁴⁵²⁵ P-1193 Statement, CAR-OTP-2045-0048-R03, at 0054-55, paras 39-40; P-1193: T-125, p. 42, line 20 – p. 43, line 8.

⁴⁵²⁶ See section IV.A.6.i and paragraphs 1575-1618 above and sections IV.B.1, IV.D.1 below.

⁴⁵²⁷ See also P-0884: T-057, p. 15, line 25 – p. 16, line 14.

⁴⁵²⁸ Press statement, CAR-OTP-2101-4166, at 4168-69. [REDACTED] See also P-1521: T-082, p. 20, lines 13-23.

⁴⁵²⁹ P-0801: T-035, p. 39, line 22 – p. 43, line 10, p. 44, line 15 – p. 48, line 10, p. 49, line 2 – p. 50, line 1, p. 51, line 10 – p. 53, line 3; T-036, p. 40, line 19 – p. 42, line 22; P-0952: T-251, p. 39, lines 9-12; CAR Panel Final Report

another Anti-Balaka representative in the government, was expelled from the Anti-Balaka by Mr Ngaïssona in June 2014,⁴⁵³⁰ on the same day as the Anti-Balaka agreed on a unified coordination with Sébastien Wenezoui as deputy to Mr Ngaïssona.

1732. Moreover, the evidence before the Chamber as further outlined below shows that Mr Ngaïssona and Maxime Mokom divided over who was to lead the Anti-Balaka. It appears that the disagreement developed over time, with discussions taking place following the Brazzaville forum, continuing over the creation of the PCUD by Mr Ngaïssona, and leading to a split following the Nairobi talks in April 2015.⁴⁵³¹

1733. Several witnesses mentioned allegations against Maxime Mokom on having embezzled part of the money which the Anti-Balaka delegation that attended the Brazzaville talks received for its participation.⁴⁵³²

1734. It appears from the evidence that an eventual split of Maxime Mokom from the Anti-Balaka took place after Mr Ngaïssona announced the transformation of the Anti-Balaka into a political party towards the end of 2014, or indeed only after the Nairobi talks in April 2015.⁴⁵³³

2014, CAR-OTP-2001-5386, at 5405-06, para. 72. *See also* Press statement, CAR-OTP-2069-3557; Press articles, CAR-OTP-2001-4601; CAR-OTP-2099-0154; CAR-OTP-2117-0696.

⁴⁵³⁰ Decision, CAR-OTP-2084-0165; P-0876 Interview Transcripts, CAR-OTP-2046-0473-R02, at 0477-78, lines 143-174; CAR-OTP-2046-0500-R01, at 0524-27, lines 848-949; P-0876: T-085, 85, line 2 – p. 86, line 22; T-088, p. 39, line 22 – p. 47, line 22; CAR Panel Final Report 2014, CAR-OTP-2001-5386, at 5405, para. 70; Annex 12 to CAR Panel Final Report 2014, CAR-OTP-2001-5386, at 5469; P-0884: T-056, p. 60, line 22 – p. 61, line 9; T-057, p. 15, lines 8-24 *referring inter alia to* Press article, CAR-OTP-2029-0626; P-0808: T-071, p. 64, line 24 – p. 66, line 11; P-0952: T-251, p. 39, lines 9-12. *See also* P-2926 Report, CAR-OTP-2127-4289, at 4320-21, para. 70. The Chamber considers immaterial in this context that certain other witnesses denied that weapons would have been stored at the football federation (*see* P-2843: T-074, p. 50, line 23 – p. 51, line 19; *see also* P-1193: T-125, p. 46, line 10 – p. 47, line 3). P-0876 made clear that this information was received by Léopold Bara from others [REDACTED]. Whether any weapons were in fact stored at the football federation does not impact the Chamber's discussion of P-0876's evidence on Léopold Bara's removal from the Anti-Balaka.

⁴⁵³¹ *See also* section IV.A.8.i.b below.

⁴⁵³² P-0966: T-118, p. 46, line 22 – p. 48, line 10; P-0954: T-166, p. 76, line 10 – p. 79, line 9, p. 81, line 22 – p. 82, line 6; T-169, p. 55, line 23 – p. 56, line 24, p. 57, line 22 – p. 58, line 5; P-0889 Statement, CAR-OTP-2027-2290-R02, at 2300, para. 59; P-0889: T-110, p. 62, line 17 – p. 64, line 3; P-0888 First Statement, CAR-OTP-2031-0217-R03, at 0227, para. 62; P-0888: T-123, p. 75, line 3 – p. 76, line 6; P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0339, para. 99; P-0808: T-071, p. 47, line 2 – p. 48, line 17. *See also* List, CAR-OTP-2087-9029; P-1193: T-125, p. 47, line 4 – p. 48, line 21; T-127, p. 32, line 7 – p. 33, line 8; P-1521: T-083, p. 48, lines 12-21.

⁴⁵³³ P-0966: T-116, p. 68, line 16 – p. 69, line 17; T-118, p. 49, lines 11-25; P-2232: T-078, p. 8, line 13 – p. 9, line 8; P-0954: T-169, p. 60, line 11 – p. 62, line 7, p. 64, lines 3-14; P-1193 Statement, CAR-OTP-2045-0048-R03, at 0057,

1735. Overall, the evidence in this regard suggests that, at that point in time, Mr Ngaïssona and Maxime Mokom disagreed on the political vision for the movement – namely on whether the return of François Bozizé to power should be supported, which Mr Ngaïssona at that time had moved on from, whereas Maxime Mokom continued to support this position.⁴⁵³⁴

1736. In this context, Aurélien Llorca, who interviewed Maxime Mokom on 27 June 2015,⁴⁵³⁵ heard from the latter that he split from Mr Ngaïssona on 23 October 2014 after Mr Ngaïssona announced the creation of the PCUD, because he did not want to be involved in politics and was just an Anti-Balaka leader who wanted to defend the population from the Seleka.⁴⁵³⁶ Aurélien Llorca stated that Maxime Mokom also said that he wanted to be recognised as the real leader of the Anti-Balaka, politically and militarily, and did not want to be seen ‘solely as a Gbaya’ from Bozizé’s clan.⁴⁵³⁷ Overall, the witness was of the view that [REDACTED].⁴⁵³⁸

1737. Thierry Tribunal Ndokobanda provided further perspective insofar as stating that Maxime Mokom got angry when Mr Ngaïssona was appointed as coordinator.⁴⁵³⁹ The witness said that about three or four months after the meeting at Mr Ngaïssona’s house, still in 2014, Maxime Mokom went to a meeting in Kenya, after which the witness attended a meeting with Maxime Mokom behind the airport in Boeing, with ‘maybe’ 100 other people, at which it was discussed that ‘the military should be given ranks’ and the civilians ministerial or

paras 60-62; P-1193: T-125, p. 54, line 7 – p. 56, line 18, p. 62, line 4 – p. 63, line 16; P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0338, para. 93; P-1042 Interview Transcript, CAR-OTP-2107-0330-R01, at 0332-34, lines 47-124, at 0336-37, line 193-206, at 0337-38, lines 211-246; P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0310, para. 136; P-0992: T-093, p. 42, lines 13-18; T-095, p. 29, line 19 – p. 31, line 14; P-0889 Statement, CAR-OTP-2027-2290-R02, at 2300-01, paras 61-64. *See also* P-2926 Report, CAR-OTP-2127-4289, at 4321, para. 70; Press statement, CAR-OTP-2059-0026; P-1521: T-083, p. 16, line 24 – p. 17, line 10, p. 20, lines 11-19.

⁴⁵³⁴ P-1193 Statement, CAR-OTP-2045-0048-R03, at 0059, para. 69; P-1193: T-125, p. 52, line 13 – p. 53, line 8; P-1858 Statement, CAR-OTP-2063-0050-R04, at 0067, paras 104-105; P-2269 Statement, CAR-OTP-2111-0336-R01, at 0351-52, para. 119; P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0334, para. 67, at 0346, para. 136; P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0019, para. 51; P-0808: T-071, p. 48, line 25 – p. 49, line 16; P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0071, para. 139; P-0889 Statement, CAR-OTP-2027-2290-R02, at 2301, para. 65; P-0888: T-123, p. 9, lines 11-21; P-0888 First Statement, CAR-OTP-2031-0217-R03, at 0227, para. 62; P-0888: T-121, p. 78, lines 4-15.

⁴⁵³⁵ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0260-63, paras 101-114.

⁴⁵³⁶ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0261, para. 104.

⁴⁵³⁷ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0262, para. 111.

⁴⁵³⁸ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0262-63, para. 114.

⁴⁵³⁹ P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1065, para. 42. *See also* P-0808: T-070, p. 44, line 18 – p. 46, line 5; P-0889: T-109, p. 46, line 2 – p. 47, line 15.

other positions in the government, as per the ‘resolutions of the Kenya meeting’.⁴⁵⁴⁰ According to Thierry Tribunal Ndokobanda, at that point in time, there were two groups, one around Maxime Mokom and one around Mr Ngaïssona.⁴⁵⁴¹

ComZones

1738. The evidence before the Chamber, as further outlined below, shows that leaders of Anti-Balaka groups were generally known as ‘zone commanders’ or ‘ComZones’. This evidence shows that such ComZones often remained in place in the context of the Anti-Balaka beginning to formalise a hierarchical structure, while some were also specifically appointed by the coordination. The Chamber considers that irrespective of which designation may have been used, it is clear on the evidence before it that the Anti-Balaka groups had respective leaders which established in certain zones, and that they did not act fully autonomously.

1739. Specifically, P-0975 stated that the structure of the Anti-Balaka once in Bangui remained the same as when they were in the provinces, but some people proclaimed themselves ComZones and gathered men.⁴⁵⁴²

1740. Similarly, Jacob Mokpem-Bionli stated that ComZones were zone commanders in charge of leading the Anti-Balaka in their zones, reporting to the coordination; the elements designated their ComZones and after they were officially appointed in their functions by the national coordination.⁴⁵⁴³ The witness said that when people organised themselves in the hinterland, they needed someone to lead, but they were not called ComZones at the time.⁴⁵⁴⁴

1741. Vivien Beina stated that zone commanders came after the conflict, a ComZone is the commander of the bush elements who came into the city, they were self-proclaimed, not selected by the coordination.⁴⁵⁴⁵ The witness said that the ComZones did not just stay in their own zone, they moved around, but commanders respected each other’s zones.⁴⁵⁴⁶ According

⁴⁵⁴⁰ P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1067, paras 54-55.

⁴⁵⁴¹ P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1068, para. 58.

⁴⁵⁴² P-0975 Statement, CAR-OTP-2033-7885-R02, at 7892, para. 48.

⁴⁵⁴³ P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0303, para. 96.

⁴⁵⁴⁴ P-0992: T-095, p. 6, line 22 – p. 7, line 16.

⁴⁵⁴⁵ P-0888 First Statement, CAR-OTP-2031-0217-R03, at 0225, para. 52; P-0888: T-123, p. 46, lines 11-21.

⁴⁵⁴⁶ P-0888 First Statement, CAR-OTP-2031-0217-R03, at 0225, para. 53.

to the witness, it was after 5 December 2013 that they gathered to give some structure and adopted the term ‘ComZone’ for the leaders.⁴⁵⁴⁷ Vivien Beina said that Mokom had the contacts of all the Anti-Balaka who were in the provinces, but Mr Ngaïssona never called a ComZone.⁴⁵⁴⁸

1742.P-0889 stated that the Anti-Balaka leaders in Bangui or the provinces were ComZones, leaders of a sector, an Anti-Balaka was designated as ComZone once the Seleka were driven out and he took control over that zone.⁴⁵⁴⁹

1743.Jacob Mokpem-Bionli stated that the later national coordination, including Mr Ngaïssona, himself, Olivier Feissona as chief of staff, was regularly informed of what was happening in the provinces.⁴⁵⁵⁰ Jacob Mokpem-Bionli said this national coordination also had mission in-charges (*‘chargés de mission’*) who went to the provinces as necessary, on the basis of mission orders signed by Mr Ngaïssona who often gave money to them for the ComZones to maintain their elements, he wanted good morale of the troops so he helped them.⁴⁵⁵¹

1744.P-0965 stated that ComZones were the people at the head of the various groups, including Hardy (Gobongo (4th arrondissement)), Mokpem (Begoua at PK12), Emotion (Boy-Rabe), Gustav (Combattant (8th arrondissement)), Chocolat (Damala (8th arrondissement)), Bawa (Damala (towards 5th arrondissement)), Modibot Condohasa (Bossembélé), Le Bleu (Yaloké), Tex (Bokangolo), José (Bouca), Osaguin (Damara), Jervain (Damara), Rodrigue (Bangui, then Bouca), Kolongo (110), ‘Rambo’ (Mbaïki road), Thierry aka 12 Puissances (Boban), Aaron in Garam-Boulay, followed by John and then Bria aka Kadhafi.⁴⁵⁵²

1745.Aurélien Llorca stated that in Bangui all neighbourhoods under Anti-Balaka control, such as Boy-Rabe, Combattant, Boeing, Castor, were under control of various ComZones who, in turn, were under the coordination of area coordinators, military coordinator, and on top Mr

⁴⁵⁴⁷ P-0888: T-121, p. 5, line 14 – p. 6, line 2.

⁴⁵⁴⁸ P-0888: T-123, p. 8, lines 2-22, p. 46, lines 10-20.

⁴⁵⁴⁹ P-0889 Statement, CAR-OTP-2027-2290-R02, at 2301, para. 69. *See also* P-0889: T-109, p. 25, lines 19-23.

⁴⁵⁵⁰ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0061, para. 70; P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0308, paras 127-128, at 0312-13, para. 158, at 0313, paras 160-161.

⁴⁵⁵¹ P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0313, paras 163-164.

⁴⁵⁵² P-0965 Interview Transcripts, CAR-OTP-2046-0090-R01, at 0096-0102, lines 189-399, at 0105-06, lines 518-543; CAR-OTP-2046-0228-R01, at 0230-31, lines 50-74; P-0965 Corrections, CAR-OTP-2130-9411, at 9411.

Ngaïssona's coordination.⁴⁵⁵³ The witness stated that ComZones were usually more educated, better dressed and better spoken than 'foot soldiers', commanders included a lot of members of the CAR armed/security forces personnel, although there were exceptions like Andjilo.⁴⁵⁵⁴ Aurélien Llorca stated that Lebene explained during his interview in March 2014 that the Anti-Balaka general staff was composed of area coordinators, companies, sections,⁴⁵⁵⁵ while Florent Kema said during his interview in April 2015 that 'Mokom' used to be the military coordinator.⁴⁵⁵⁶ Aurélien Llorca testified that the panel could establish the structuring of the roles of each echelon within the Anti-Balaka movement.⁴⁵⁵⁷

1746. P-1193 testified that ComZones existed before [REDACTED] 2014, but also stated that he did not know if ComZones existed already before the attack of 5 December 2013.⁴⁵⁵⁸

1747. The Chamber notes that the Prosecution relies on a document entitled '*Liste des Com Zones Antibalaka*' to underpin its submission on the Anti-Balaka's structure.⁴⁵⁵⁹ While it seems that at least some individuals on this list were indeed ComZones or other elements in the Anti-Balaka,⁴⁵⁶⁰ it also seems that others mentioned as such on this list were not.⁴⁵⁶¹ [REDACTED].⁴⁵⁶² P-0889 further testified that this was compiled in the context of DDR efforts, but that it was not an exhaustive list.⁴⁵⁶³ Overall, the Chamber notes that the list contains names also suggested by other evidence as Anti-Balaka elements and/or ComZones, but has not considered it determinative or exhaustive in determining who may have been such.

⁴⁵⁵³ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0246-47, para. 37; P-0287: T-020, p. 13, lines 17-19.

⁴⁵⁵⁴ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0248, paras 43-44.

⁴⁵⁵⁵ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0257, para. 83.

⁴⁵⁵⁶ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0265, para. 129.

⁴⁵⁵⁷ P-0287: T-020, p. 13, lines 3-16.

⁴⁵⁵⁸ P-1193: T-125, p. 15, lines 7-9, p. 16, lines 9-15.

⁴⁵⁵⁹ See List, CAR-OTP-2030-0232, at 0232-0238.

⁴⁵⁶⁰ P-0954: T-166, p. 55, line 10 – p. 56, line 23 *referring to* List, CAR-OTP-2030-0232, p. 62, line 23 – p. 64, line 10; T-168, p. 33, line 15 – p. 34, line 4; P-2602 Interview Transcript, CAR-OTP-2118-9737-R01, at 9758-63, lines 700-881; P-1042 Interview Transcript, CAR-OTP-2107-0591-R01, at 0601-10, lines 311-636. See also List (annotated by P-0954), CAR-REG-0001-0010.

⁴⁵⁶¹ P-0954: T-168, p. 19, lines 5-20; P-0888: T-122, p. 44, line 15 – p. 45, line 7; P-1193: T-127, p. 23, line 20 – p. 24, line 20, p. 35, line 18 – p. 36, line 5.

⁴⁵⁶² P-0889 Statement, CAR-OTP-2027-2290-R02, at 2306, para. 100.

⁴⁵⁶³ P-0889: T-110, p. 4, line 24 – p. 6, line 16.

1748. Various witnesses testified about ComZones both in Bangui and in the provinces falling under the lead of the Anti-Balaka national coordination, being in contact and/or providing reports, including to Mr Ngaïssona,⁴⁵⁶⁴ while at the same time suggesting that they may have enjoyed a certain degree of autonomy.

1749. Alfred Legrand Ngaya stated that there about 20 to 25 ComZones in Bangui who did not necessarily control a specific area or zone, but could be in charge of a group of Anti-Balaka with freedom of movement in the area, for example in Boy-Rabe there were several groups with their own commanders.⁴⁵⁶⁵ The witness testified that ComZones had ‘homogeneous’ and ‘autonomous’ groups that came from various villages and remained within ‘the original groups’ when they came to Bangui.⁴⁵⁶⁶ The witness agreed with the suggestion that ComZones did not necessarily have control or knowledge of the existence of all armed persons within a particular location.⁴⁵⁶⁷ He also agreed with the suggestion that one of the reasons for the lack of control was linked to the insufficiency of international forces and lack of their assistance.⁴⁵⁶⁸ The witness testified that the ComZones were autonomous, independent, one could not give them orders, Mr Ngaïssona’s approach was usually to give them money to help them out, but there was no way for him to put any pressure and Alfred Legrand Ngaya did not know how Mr Ngaïssona could have stopped abuses in the context of missions.⁴⁵⁶⁹ Alfred Legrand Ngaya stated that the coordination contacted the ComZones in the provinces by telephone, they had been given instructions to identify and list their elements, requested MISCA that the Anti-Balaka leadership should be able to visit the provinces with MISCA security to better understand the organisation, but MISCA did not provide security.⁴⁵⁷⁰ Alfred Legrand Ngaya stated that there was one ComZone in each area, generally they did not have deputies and secretaries, and ‘simply organised themselves’.⁴⁵⁷¹

⁴⁵⁶⁴ P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0029, paras 105-106, at 0030, para. 114; P-0884: T-056, p. 58, line 23 – p. 59, line 25, p. 60, lines 13-21, p. 69, line 23 – p. 70, line 4, p. 70, lines 12-19, p. 71, lines 9-13; T-058, p. 54, line 14 – p. 55, line 2, p. 73, lines 2-6, p. 73, lines 19-24; P-2232: T-077, p. 15, line 15 – p. 16, line 13.

⁴⁵⁶⁵ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0338-39, para. 96.

⁴⁵⁶⁶ P-0808: T-072, p. 19, line 9 – p. 20, line 13.

⁴⁵⁶⁷ P-0808: T-072, p. 20, line 14 – p. 21, line 7. *See also* P-2232: T-076, p. 56, lines 6-14.

⁴⁵⁶⁸ P-0808: T-072, p. 22, line 1 – p. 24, line 18.

⁴⁵⁶⁹ P-0808: T-070, p. 42, line 17 – p. 43, line 9; T-071, p. 5, line 12 – p. 8, line 18.

⁴⁵⁷⁰ P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0026, para. 86.

⁴⁵⁷¹ P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0029, para. 108.

1750. P-2269 stated that once the coordination was set up, some people were more in touch with Yaloké, Bossempaté, and Carnot, and they would all report to the coordination.⁴⁵⁷² P-2269 stated that the ComZones held meetings with the coordination, about two to three a month, usually attended by the chiefs who then conveyed the message of the meetings to their elements, mostly discussing the DDR process ‘once things calmed down’.⁴⁵⁷³ P-2269 stated that they also informed the coordination about their problems, which would follow up if anything had to be done.⁴⁵⁷⁴ P-2269 stated that [REDACTED] also maintained contact with ComZones of the provinces, the coordination would inform them when something happened in the provinces and if necessary provide transport for the ComZones of the provinces to come to Bangui.⁴⁵⁷⁵ P-2269 stated that the ComZones of the provinces were elected by ‘the men of the provinces’, and the coordination would be informed of who the ComZones were.⁴⁵⁷⁶ P-2269 stated that [REDACTED] went to the provinces many times, [REDACTED] one could not go to any area without authorisation and [REDACTED] they were all under the coordination.⁴⁵⁷⁷

1751. The evidence before the Chamber includes information on Habib Soussou being appointed by Mr Ngaïssona as ComZone for Boda in mid-2014.⁴⁵⁷⁸ P-1962 stated that as part of the roles [REDACTED] of the provisional coordination in Boda, Habib Soussou [REDACTED] were also keeping the national coordination in Bangui, Mr Ngaïssona directly or someone else in the coordination like Wenezoui, informed about the situation in Boda [REDACTED].⁴⁵⁷⁹ P-1962 stated that [REDACTED].⁴⁵⁸⁰ P-1962 testified that at the time of the reconciliation mission in Boda, the Anti-Balaka there recognised Mr Ngaïssona as the

⁴⁵⁷² P-2269 Statement, CAR-OTP-2111-0336-R01, at 0344, para. 62.

⁴⁵⁷³ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0352, para. 121.

⁴⁵⁷⁴ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0352, paras 120, 123-124.

⁴⁵⁷⁵ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0352-53, para. 126.

⁴⁵⁷⁶ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0353, para. 127.

⁴⁵⁷⁷ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0353, paras 128-131.

⁴⁵⁷⁸ Annex 11 to CAR Panel Final Report 2014, CAR-OTP-2001-5386, at 5466. See P-0287 Statement, CAR-OTP-2115-0239-R01, at 0270. See also P-2269 Statement, CAR-OTP-2111-0336-R01, at 0356, paras 150-153; P-0808: T-070, p. 76, line 23 – p. 77, line 20.

⁴⁵⁷⁹ P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0055, paras 85-87; P-1962: T-139, p. 28, lines 8-14, p. 29, line 24 – p. 30, line 24, p. 32, lines 6-9. See also P-1962: T-140, p. 27, line 23 – p. 28, line 25, p. 29, line 16 – p. 30, line 14.

⁴⁵⁸⁰ P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0056-57, para. 95.

sole coordinator; they distrusted people who presented themselves as coordinator or anything of that nature.⁴⁵⁸¹ P-1962 stated that [REDACTED].⁴⁵⁸²

1752. In relation to Carnot, Barthélémy Namsenmo stated that as coordinator/ComZone of Carnot after the period relevant to the charges, he would be called to go to meetings by his own means, then reimbursed by Mr Ngaïssona's coordination, but they did not receive information from the coordination through other means, only sometimes through radio or receiving '*communiqués*'.⁴⁵⁸³

1753. P-2556 testified generally that the coordinator in Bangui received reports of everything, all coordinators provided reports.⁴⁵⁸⁴ P-2556 further testified that Mr Ngaïssona was the national coordinator and when he gave instructions, they would be carried out and sent on to the elements to be implemented in the field, for example when instructing them to put elements at the entry and exit points of the town, or to send photos for new ID cards.⁴⁵⁸⁵ P-2556 testified that during that time, maybe around the third month until the end of 2014, the national coordinator and ComZones communicated regularly.⁴⁵⁸⁶ P-2556 testified that when passing on information and instructions, the ComZone said he had just spoken with the 'high authorities' in Bangui, and they knew these authorities were 'actually Mr Ngaïssona'.⁴⁵⁸⁷

1754. P-0876 stated, when asked about a 'structure' of the Anti-Balaka for the attack on 5 December 2013, that at the bottom were the elements, followed by ComZones, about a hundred though these included about 30 main ones, then intermediaries who looked for money to feed each group, one or two military coordinators on the ground, including Konaté, '12 Puissances', 'Rombho', Kamezolai, all this headed by Ngremangou who was in contact with those abroad, including Maxime Mokom in Zongo and '*les Bozizé*', with the political structure including François Bozizé, Lin Banoukepa, Levy Yakété, Pascale Koyagbele,

⁴⁵⁸¹ P-1962: T-139, p. 19, lines 17-23.

⁴⁵⁸² P-1962: T-139, p. 32, lines 10-15, p. 66, lines 1-9.

⁴⁵⁸³ P-1042 Interview Transcript, CAR-OTP-2107-0554-R01, at 0583-88, lines 985-1165; P-1042: T-164, p. 23, line 25 – p. 25, line 7. *See also* P-1042 Interview Transcript, CAR-OTP-2107-0554-R01, at 0589-90, lines 1169-1210.

⁴⁵⁸⁴ P-2556: T-145, p. 34, lines 16-20.

⁴⁵⁸⁵ P-2556: T-145, p. 12, line 25 – p. 14, line 2; T-146, p. 46, line 7 – p. 47, line 17.

⁴⁵⁸⁶ P-2556: T-145, p. 14, line 15 – p. 15, line 6, p. 16, line 23 – p. 17, line 18; T-146, p. 42, line 12 – p. 43, line 4, p. 49, lines 14-24.

⁴⁵⁸⁷ P-2556: T-145, p. 15, line 17 – p. 16, line 14.

Francis Bozizé, Kokaté, Mr Ngaïssona.⁴⁵⁸⁸ P-0876 qualified this by stating that there would not have been a pyramid structure of the Anti-Balaka general coordination, his answer concerned self-defence groups coming together for the purpose of defending villages and the empirical representation, which was not a structured entity as such.⁴⁵⁸⁹ P-0876 testified that between January 2014 and June 2014, there was no coordination that brought together the ‘two camps’, but Mr Ngaïssona continued making statements as general coordinator, even when ComZones said that some individuals acted on their behalf, ‘whereas they had no interaction with the elements on the ground’.⁴⁵⁹⁰

1755. P-1193 testified, speaking of the time following the setting up of the June 2014 coordination, that ComZones came from Bangui and the provinces for meetings at which they received messages from the coordination, concerning that ‘the war was over’, that ‘everyone should be accepted as brothers’, and they ‘were to get ready for the elections’.⁴⁵⁹¹ P-1193 testified that they did not have all the information because no ComZones said what they had done and even if they heard over the radio that certain things happened, people in the hinterland would deny it systematically.⁴⁵⁹² P-1193 testified that there was no possibility of forcing a ComZone to a meeting if they refused, the coordination was in some way a means to unify people who had ‘goodwill and wanted to pass on the message’.⁴⁵⁹³ P-1193 agreed with the suggestion that the coordination did not have the means for example to disarm, but did have ‘the communications to avoid the crimes and work towards peace’.⁴⁵⁹⁴ P-1193 further agreed with the suggestion that at the time, there was a vacuum in security authority in the CAR.⁴⁵⁹⁵

1756. P-1521 testified that the role of the coordinator was to represent them on a political level, but also agreed with the suggestion that the chain of command was not respected, this was

⁴⁵⁸⁸ P-0876 Interview Transcript, CAR-OTP-2046-0267-R01, at 0277-79, lines 386-437, at 0280, line 466; P-0876: T-088, p. 24, lines 2-23, p. 25, line 18 – p. 26, line 5.

⁴⁵⁸⁹ P-0876: T-089, p. 14, line 3 – p. 16, line 12.

⁴⁵⁹⁰ P-0876: T-088, p. 54, line 11 – p. 55, line 9.

⁴⁵⁹¹ P-1193: T-124, p. 73, line 12 – p. 74, line 10.

⁴⁵⁹² P-1193: T-124, p. 74, lines 12-19; T-125, p. 15, lines 10-17.

⁴⁵⁹³ P-1193: T-125, p. 15, line 18 – p. 16, line 8.

⁴⁵⁹⁴ P-1193: T-125, p. 17, lines 9-15.

⁴⁵⁹⁵ P-1193: T-125, p. 17, line 23 – p. 18, line 1.

set up to control the ‘true’ Anti-Balaka under certain chiefs.⁴⁵⁹⁶ P-1521 testified that there were about 20 ComZones in Bangui when including Bimbo and Begoua, about eight zones across Bangui plus two on the Damara and Bouali axis, and numerous ComZones outside of Bangui.⁴⁵⁹⁷ P-1521 also mentioned ‘prefectural coordinators’.⁴⁵⁹⁸ P-1521 testified that they decided to have a coordinator of operations to ‘investigate and control’ ComZones.⁴⁵⁹⁹ The Chamber does not consider credible the witness’s suggestion that Mr Ngaïssona would in the beginning have been against the creation of the position of an operations coordinator because he did not think it was necessary and that it was only given to Maxime Mokom so there would not be ‘too much frustration’.⁴⁶⁰⁰ It is clear from the evidence before the Chamber, as outlined above, that Maxime Mokom was, without question or hesitation, designated to be operations coordinator upon Mr Ngaïssona’s return to Bangui and the initial steps to formalise the structure of the Anti-Balaka.⁴⁶⁰¹ P-1521 testified that between January and June 2014, it was the same structure which continued to function because the ComZones were each responsible for their elements, even when Mr Ngaïssona came to represent them, he did not have control of the movement, did not ‘master’ all the ComZones or elements.⁴⁶⁰²

Anti-Balaka bases in Bangui

1757. The evidence before the Chamber as outlined below shows that following the coordinated attacks of 5 December 2013, Anti-Balaka groups set up across different neighbourhoods in Bangui. Indeed, the Chamber notes that Anti-Balaka groups had already set up in some of these locations prior to and in awaiting execution of the Bangui Attack.⁴⁶⁰³ It appears that position of bases and Anti-Balaka groups stationed there evolved over time. Thus, and in the current context, the Chamber has examined the position of bases in Bangui as an indication

⁴⁵⁹⁶ P-1521: T-082, p. 18, line 22 – p. 20, line 12 *referring to* Organigram, CAR-OTP-2046-0630, p. 23, lines 10-20, p. 25, lines 1-19, p. 36, line 22 – p. 37, line 17 *referring to* List, CAR-OTP-2046-0631; T-083, p. 14, lines 11-18, p. 32, line 3 – p. 33, line 13 *referring to* Organigram, CAR-OTP-2046-0630, p. 34, lines 4-8; T-084, p. 60, line 19 – p. 62, line 8.

⁴⁵⁹⁷ P-1521: T-082, p. 26, line 17 – p. 27, line 18, p. 32, lines 1-8.

⁴⁵⁹⁸ P-1521: T-082, p. 36, line 20 – p. 37, line 17 *referring to* List, CAR-OTP-2046-0631; T-084, p. 60, line 19 – p. 62, line 8.

⁴⁵⁹⁹ P-1521: T-082, p. 20, line 25 – p. 22, line 19; T-083, p. 33, lines 3-13.

⁴⁶⁰⁰ P-1521: T-083, p. 34, lines 9-18.

⁴⁶⁰¹ See paragraphs 1564-1574 above.

⁴⁶⁰² P-1521: T-083, p. 14, line 24 – p. 15, line 19, p. 34, line 19 – p. 35, line 12, p. 36, lines 9-16, p. 38, line 21 – p. 39, line 2.

⁴⁶⁰³ See section IV.B.1.v below.

of the reach of Anti-Balaka groups within the city after the attack of 5 December 2013, as well as of the level of structure and organisation. The Chamber further notes its discussion of the location of Mr Yekatom's group following 5 December 2013 below.⁴⁶⁰⁴

1758. For instance, Thierry Lebene aka 12 Puissances was based at Mr Ngaïssona's concession.⁴⁶⁰⁵ The Chamber recalls in this regard its discussion of [REDACTED].⁴⁶⁰⁶

1759. Further, Brice Emotion Namsio stated that following the Bangui Attack, the so-called Anti-Balaka groups could not withdraw leaving the population, so they organised and divided the neighbourhoods to protect the peaceful population against the Seleka.⁴⁶⁰⁷ He stated that for example, 'Gremangou' and Wenezoui had more than 2000 elements behind the airport, which they dispatched into the neighbourhoods to protect the population in Boeing against the Seleka because at some point Seleka left KM5 and entered Boeing to commit violence.⁴⁶⁰⁸ The witness detailed further that, *inter alia*, Guy Mazimbele was behind the national assembly; Andjilo was in Boy-Rabe, Bafio, at his uncle's who was also deputy operations coordinator, 'Ndemate' Dieudonné, together also with Andjilo's younger brother Dieudonné Ngaïbona; Benjamin Ouapoutou was based in Mandaba, still in Boy-Rabe; Yvon Konaté and his deputy Feissona Olivier were in Cité Jean XXIII; 'Gremangou' and Wenezoui were in Boeing, behind the airport; Mokpem was towards PK12; Yamdjourngou Gustave, in Cité Jean XXIII; 'Ouranti' was based at PK12; Emtenou and Bruno Ngaïssona, his deputy, were next to the compound of Mr Ngaïssona's father; and Touaboy was at PK12, at the north exit of Bangui.⁴⁶⁰⁹ Jo-Brice Ouabiro Dana additionally mentioned that, for the

⁴⁶⁰⁴ See sections IV.D.1, IV.E.1-IV.E.2 below.

⁴⁶⁰⁵ P-0446 Interview Transcript, CAR-OTP-2059-1546-R02, at 1555, lines 330-338; P-0966 Statement, CAR-OTP-2031-0241-R03, at 0253-54, paras 71-72; P-2232: T-075, p. 48, line 23 – p. 49, line 14, p. 52, lines 22-24. See also P-1530 Statement, CAR-OTP-2054-0249-R02, at 0252-59, paras 17-46; Sketch, CAR-OTP-2054-0265.

⁴⁶⁰⁶ [REDACTED]

⁴⁶⁰⁷ P-0446 Interview Transcript, CAR-OTP-2059-1546-R02, at 1562, lines 560-579.

⁴⁶⁰⁸ P-0446 Interview Transcript, CAR-OTP-2059-1546-R02, at 1562, lines 579-588.

⁴⁶⁰⁹ P-0446 Interview Transcripts, CAR-OTP-2059-1546-R02, at 1554-62, lines 269-549; CAR-OTP-2059-1567-R01, at 1568, lines 12-22. See also P-0966 Statement, CAR-OTP-2031-0241-R03, at 0254, para. 72; P-0966: T-118, p. 14, lines 3-23; P-1858 Statement, CAR-OTP-2063-0050-R04, at 0068-69, para. 116; P-0461 Statement, CAR-OTP-2031-0190-R01, at 0195-96, paras 29-32, at 0197, para. 35; Sketches, CAR-OTP-2031-0202; CAR-OTP-2031-0203; Satellite image (annotated by P-0461), CAR-OTP-2031-0204; Satellite image (annotated by P-0461), CAR-OTP-2031-0205 (P-0461 described Anti-Balaka under lead of 'Mokom' with deputies Yvon Konaté, 'Texe' and 'Mokpem' in the 4th arrondissement covering the axis from Ngoubagara, Gobongo-PK10-PK12 towards Damara to PK45); P-1530 Statement, CAR-OTP-2054-0249-R02, at 0259-60, paras 47-50, 52, at 0262, para. 57; Sketch, CAR-OTP-2054-0266; P-2251 Statement, CAR-OTP-2093-0045-R01, at 0073, para. 182.

time after the attacks of 5 December 2013 and before the return of Mr Ngaïssona, ‘Kolongo’, the witness’s cousin was at Mandaba; Mokpem at PK10 Gobongo; and ‘Sol-Sol’ in PK12.⁴⁶¹⁰

1760. Jo-Brice Ouabiro Dana, who returned to Bangui when Mr Ngaïssona was already there and acted as Anti-Balaka coordinator, but before Maxime Mokom arrived, stated that at the time the Anti-Balaka controlled the neighbourhoods of Boy-Rabe, 8th arrondissement, Combattant and PK12.⁴⁶¹¹ Jo-Brice Ouabiro Dana said that his cousin ‘Kolongo’ was a chief in Mandaba, Boy-Rabe, but left for Damara, leaving his elements without chief, and the witness replaced him, later being appointed as ComZone of Mandaba by Mr Ngaïssona.⁴⁶¹² According to the witness, when Mr Ngaïssona returned to Bangui, the chiefs met and the localities were divided into zones, the various zone commanders put into place, with the concept of ComZones coming once the coordination had been put in place and bases transformed into zones led by ComZones.⁴⁶¹³ When Jo-Brice Ouabiro Dana got to Bangui, he was taken to the home of Mr Ngaïssona, the coordinator, and told which zone.⁴⁶¹⁴ The witness testified that Kema became a ComZone when they arrived in Bossembélé, he was ComZone in Bossangoa.⁴⁶¹⁵

1761. Alfred Legrand Ngaya mentioned Anti-Balaka bases near the airport in Boeing, in Combattants, including in Sylvestre Yagouzou’s house, Damala, Boy-Rabe, Bafio, Dedenge and Mandaba.⁴⁶¹⁶ According to the witness, the only two arrondissements which did not have Anti-Balaka bases were the 1st and the 3rd.⁴⁶¹⁷

1762. P-0975 testified that [REDACTED] whereas he decided to stay in Bangui.⁴⁶¹⁸

⁴⁶¹⁰ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0254, para. 72; P-0966: T-118, p. 14, lines 3-23.

⁴⁶¹¹ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0253, para. 70.

⁴⁶¹² P-0966 Statement, CAR-OTP-2031-0241-R03, at 0253, para. 71.

⁴⁶¹³ P-0966: T-118, p. 14, line 3 – p. 15, line 22.

⁴⁶¹⁴ P-0966: T-118, p. 14, line 24 – p. 15, line 22.

⁴⁶¹⁵ P-0966: T-118, p. 18, line 4 – p. 19, line 7.

⁴⁶¹⁶ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0344-45, para. 127, at 0345-46, paras 130-135; P-0808: T-072, p. 32, lines 7-21, p. 35, line 16 – p. 37, line 5. See Sketches, CAR-OTP-2025-0387; CAR-OTP-2025-0389; CAR-OTP-2025-0391; CAR-OTP-2025-0393; CAR-OTP-2025-0395; Satellite images (annotated by P-0808), CAR-OTP-2025-0388; CAR-OTP-2025-0390; CAR-OTP-2025-0392; CAR-OTP-2025-0394.

⁴⁶¹⁷ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0345, para. 127; P-0808: T-072, p. 32, lines 7-21.

⁴⁶¹⁸ P-0975 Statement, CAR-OTP-2033-7885-R02, at 7891, paras 43, 46.

1763. Thierry Tribunal Ndokobanda stated that when he returned to Bangui two weeks after Catherine Samba-Panza took over, Hervé Ganazoui told him that he was at the ‘Big Boss’s’ – Mr Ngaïssona’s – house.⁴⁶¹⁹

1764. [REDACTED] Basile Mbomon established a base in Bimbo 1 [REDACTED].⁴⁶²⁰

1765. P-2269 stated that after Djotodia’s resignation, the chiefs spread to different neighbourhoods to protect them [REDACTED].⁴⁶²¹ According to P-2269, ComZones were positioned in a strategic manner, according to the various spots from which one could attack Bangui, and depending on where the elements came from.⁴⁶²²

1766. The Chamber has before it a typed list of names entitled ‘*Liste des Antibalakas Bangui – phase 1*’, which lists names, at particular bases, each associated with a specific individual, such as, *inter alia*, ‘Base SOS L[ebene Thierry]’, ‘Base Ndressl O[uapoutou] Benjamin’, ‘Base N[goumboutou] 2 G[odonam] Achille’, ‘Base PK 13 N[ganafio] Honoré’, ‘Base E[agle Monastere] D[enamganaï] Abel’, ‘Base N[goulanga Bimbo1] M[bomon] Basil’, ‘B[ase Bafio] N[domate] Dieuonné’.⁴⁶²³ The evidence before the Chamber suggests that this list was put together for purposes of participation in a DDR programme.⁴⁶²⁴ The Chamber notes in this context a document seemingly of February 2014 outlining a suggested project for DDR of Anti-Balaka combatants, which mentions, *inter alia*, the following bases with related ComZones and number of elements: (i) Boy-Rabe: Andilo Ngaïbona – 260; Ouapoutou Benjamin – 402; Lebene Thierry – 730; Denamganaï Aimé Abel – 350; Mazimbelet Guy – 449; (ii) Cité Jean XXIII: Yadjoungou Guy Gustave – 308; Konaté Yvon – 368; Bejouane Richard – 286; (iii) PK 12: Mokpem Guy Gervais – 446.⁴⁶²⁵ The Chamber

⁴⁶¹⁹ P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1066, paras 45-46.

⁴⁶²⁰ [REDACTED]

⁴⁶²¹ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0348, para. 93.

⁴⁶²² P-2269 Statement, CAR-OTP-2111-0336-R01, at 0349, para. 97.

⁴⁶²³ List, CAR-OTP-2039-0031. The Chamber notes that the last page of the document appears to show a different format to the rest, and bears handwritten annotations. It is further unclear whether pages may be missing, as the consecutive numbering of names ends at 929 on page 0048, while page 0049 includes numbers 1459 to 1500.

⁴⁶²⁴ P-1193 Statement, CAR-OTP-2045-0048-R03, at 0060, para. 81; P-1193: T-126, p. 34, line 11 – p. 36, line 4; P-1858: T-186, p. 23, line 10 – p. 24, line 19; P-0954: T-168, p. 14, line 16 – p. 16, line 3. *See also* P-2251 Statement, CAR-OTP-2093-0045-R01, at 0072-73, paras 176-181; P-2251: T-044, p. 20, line 14 – p. 21, line 6.

⁴⁶²⁵ Project, CAR-OTP-2025-0362, at 0366-67. *See also* paragraphs 1864-1868 below.

further notes that the document refers to an overall total number of elements in Bangui of 10,084.⁴⁶²⁶

Numbers of elements

1767. The evidence before the Chamber concerning the number of Anti-Balaka elements across the CAR in 2014 varies, but suggests that overall, by February 2014, there would have been approximately 50,000 Anti-Balaka elements in Bangui and across the provinces.⁴⁶²⁷

Meetings

1768. The evidence before the Chamber as further outlined below shows that in 2014, meetings of Anti-Balaka leaders and ComZones were convened by and held at Mr Ngaïssona's properties as well as at the Azimut hotel, as paid for by Mr Ngaïssona.⁴⁶²⁸ While the evidence is unclear as to the frequency of such meetings, it is clear that meetings were held to discuss a variety of matters.

1769. For example, P-2232 described attending a meeting following his return from Zongo at Mr Ngaïssona's residence in Boy-Rabe which was attended by various Anti-Balaka leaders, including 'Inga', 'Leroi', 'Bawa', 'Dongodo', 'Ngoyace', 'Andjilo', 'Mazimbele', 'Bernard Mokom', Mr Ngaïssona, but not Mr Yekatom, and many ComZones, including from Bangui and the provinces.⁴⁶²⁹ P-2232 said that the coordinator asked for the needs of all ComZones, in particular in relation to health, to see the status of the combatants and who has injured.⁴⁶³⁰ P-2232 testified that Mokom asked the ComZones to present an assessment of their needs, particularly their weapons, and promised that he would visit them at their various bases.⁴⁶³¹ P-2232 further testified that when Mauri asked to be reimbursed for his expenses, 'father

⁴⁶²⁶ Project, CAR-OTP-2025-0362, at 0367. *See also* paragraphs 1864-1868 below.

⁴⁶²⁷ *See* P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0340, para. 105; P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0025, para. 82; P-0446: T-097, p. 18, lines 22 – p. 19, line 24, p. 21, lines 2-22; Projects, CAR-OTP-2025-0362, at 0367; CAR-OTP-2025-0372, at 0377; CAR-OTP-2087-9176, at 9181. *See also* P-0884: T-058, p. 94, line 18 – p. 95, line 18; Press article, CAR-OTP-2117-0708, at 0708.

⁴⁶²⁸ *See* paragraph 1688 above.

⁴⁶²⁹ P-2232: T-075, p. 47, lines 2-20; T-076, p. 51, line 17 – p. 52, line 24, p. 53, lines 9-22; T-078, p. 60, line 25 – p. 63, line 10.

⁴⁶³⁰ *See also* P-2232: T-076, p. 63, lines 8-25.

⁴⁶³¹ P-2232: T-075, p. 48, lines 11-19, p. 52, lines 16-22; T-076, p. 53, line 23 – p. 54, line 24, p. 58, lines 16-25, p. 64, line 15 – p. 5, line 1.

Bernard’ answered, ‘We have not yet reached our objectives. We cannot reimburse you now. Keep a record of all your expenditure and the day will come when we can reimburse you’.⁴⁶³² P-2232 said that no other promises were made, but they did insist on their expenses because they had expended on the elements until their arrival in Bangui.⁴⁶³³

1770.P-2232 testified that he participated in a second meeting at Mr Ngaïssona’s residence at which ‘he’ spoke about the French ambassador.⁴⁶³⁴ P-2232 stated that some said they had come from far away, ‘Bernard’ said that he would not leave them without support, that they must continue to fight until they regained power, at which moment they would receive compensation, and also said, ‘What can a simple woman do as a president? What can she give us? And you, what can you get from a woman?’.⁴⁶³⁵ P-2232 stated that ‘Maxime’ said their objective was that they had to do ‘everything’ to attain their objective so that ‘everybody could have compensation’; every leader must make sure that the elements ‘did everything so that no exactions took place’; the elements should not ‘shoot anyhow’, should not ‘waste ammunition’, because ‘the fight continues’.⁴⁶³⁶

1771.P-2232 testified that several meetings took place, not all of which he attended, and he did not attend ‘closed-session’ meetings which often took place after the general meetings.⁴⁶³⁷ P-2232 said that he attended [REDACTED] meetings at Mr Ngaïssona’s residence,⁴⁶³⁸ [REDACTED].⁴⁶³⁹

1772.Thierry Tribunal Ndokobanda stated that he participated in a meeting at the second compound of Mr Ngaïssona to which he was invited by ‘Mokom’, with the objective of appointing chiefs of the Anti-Balaka to see Catherine Samba-Panza to discuss peace in the

⁴⁶³² P-2232: T-076, p. 54, lines 20-24, p. 64, line 23 – p. 65, line 1; T-077, p. 6, line 19 – p. 7, line 2.

⁴⁶³³ P-2232: T-076, p. 62, lines 11-25.

⁴⁶³⁴ P-2232: T-076, p. 65, lines 11-25.

⁴⁶³⁵ P-2232: T-076, p. 66, line 6 – p. 67, line 2.

⁴⁶³⁶ P-2232: T-076, p. 67, lines 5-13.

⁴⁶³⁷ P-2232: T-077, p. 16, line 14 – p. 17, line 20; T-078, p. 64, lines 13-24.

⁴⁶³⁸ P-2232: T-078, p. 64, lines 13-24.

⁴⁶³⁹ P-2232: T-078, p. 65, line 20 – p. 66, line 4.

country.⁴⁶⁴⁰ The witness said that many people were present, including from the prefectures, but that he only knew ‘Mokom’, ‘Ganazoui’ and Mr Ngaïssona.⁴⁶⁴¹

1773. Jo-Brice Ouabiro Dana testified that he heard from Azounou Hyppolite Côme that ‘the supervisor of everything’, the coordinator, was Mr Ngaïssona, and that all activities and coordination were happening ‘in his compound’.⁴⁶⁴² The witness said that this was how he went to the first meeting, during which Mr Ngaïssona asked where he was from, what had happened in Bossangoa, and then the discussion was interrupted because many people had arrived and a meeting was scheduled in his residence, at which many topics were discussed,⁴⁶⁴³ including the identification and recognition of all the Anti-Balaka bases in Boy-Rabe.⁴⁶⁴⁴

1774. Jo-Brice Ouabiro Dana testified that he took part in all the coordination meetings to give an account about what was happening in the provinces.⁴⁶⁴⁵ The witness said that they had meetings regularly at the Azimut hotel.⁴⁶⁴⁶ The witness thought it was several months after his return to Bangui before he attended the meeting at which Mr Ngaïssona was designated national coordinator.⁴⁶⁴⁷

1775. P-0884 testified that Mr Ngaïssona organised meetings at his home, summoning the ComZones, but P-0884 did not attend and would hear about them only afterwards.⁴⁶⁴⁸

1776. Alfred Legrand Ngaya stated that they did not have regular meetings, ‘maybe only once a month’, and meeting four or five times between January and October 2014.⁴⁶⁴⁹ The witness said that the general coordinator Mr Ngaïssona would decide when it was necessary to meet, and the secretary-general, Judicial Orofei, informed them accordingly.⁴⁶⁵⁰ Alfred Legrand Ngaya said that the majority of their meetings were held at Mr Ngaïssona’s house in Boy-

⁴⁶⁴⁰ P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1067, para. 52.

⁴⁶⁴¹ P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1067, para. 52.

⁴⁶⁴² P-0966: T-116, p. 55, lines 4-21, p. 56, line 10 – p. 57, line 3.

⁴⁶⁴³ P-0966: T-116, p. 56, line 12 – p. 57, line 14.

⁴⁶⁴⁴ P-0966: T-116, p. 57, lines 15-22.

⁴⁶⁴⁵ P-0966: T-118, p. 22, line 6 – p. 23, line 4.

⁴⁶⁴⁶ P-0966: T-118, p. 22, line 6 – p. 23, line 4.

⁴⁶⁴⁷ P-0966: T-118, p. 23, lines 13-21.

⁴⁶⁴⁸ P-0884: T-056, p. 78, line 16 – p. 79, line 1.

⁴⁶⁴⁹ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0339, para. 98.

⁴⁶⁵⁰ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0339, para. 98, at 0342-43, para. 120.

Rabe, but for a big group they would meet at a conference facility in a hotel, usually when all ComZones gathered, which happened ‘at least three times’, in preparation of ‘the Brazzaville talks’ and the Bangui forum, and when it was decided to turn the movement into a political party.⁴⁶⁵¹

1777. Brice Emotion Namsio stated that there were meetings in Boeing, for example organised by ‘Gremangou’ to give orders to ‘his FACA’ soldiers within the Anti-Balaka – the witness was not present, he distributed information when he went on the ground for example after meetings with Mr Ngaïssona or Wenezoui.⁴⁶⁵² According to Brice Emotion Namsio, meetings took place at the compound of Mr Ngaïssona’s father in Boy-Rabe.⁴⁶⁵³ The witness took part in a general assembly at Azimut hotel which took place after the Brazzaville forum, and there were others in which he did not participate because he went to secure the convoy.⁴⁶⁵⁴ According to the witness, meetings took place twice at the compound and sometimes at the hotel.⁴⁶⁵⁵

1778. P-1719 testified he met Mr Ngaïssona [REDACTED].⁴⁶⁵⁶ P-1719 said on another occasion [REDACTED] they were told Mr Ngaïssona had decided to transform the Anti-Balaka movement into a political party, idea with which P-1719 did not agree.⁴⁶⁵⁷

1779. P-0889 stated that all coordination meetings took place at Mr Ngaïssona’s place in Boy-Rabe (Poungoulou) or at the Azimut hotel.⁴⁶⁵⁸ P-0889 stated that when Mr Ngaïssona wanted to hold a meeting, Judicial Orofei called all the leaders.⁴⁶⁵⁹ P-0889 further stated that the content of press releases was decided by the coordination, decisions were taken by majority with which Mr Ngaïssona had to align, but he was the leader.⁴⁶⁶⁰

⁴⁶⁵¹ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0339, para. 98.

⁴⁶⁵² P-0446 Interview Transcript, CAR-OTP-2059-1546-R02, at 1564-65, lines 655-675.

⁴⁶⁵³ P-0446 Interview Transcript, CAR-OTP-2059-1586-R01, at 1600-01, lines 574-580.

⁴⁶⁵⁴ P-0446 Interview Transcript, CAR-OTP-2059-1626-R01, at 1629-30, lines 115-131.

⁴⁶⁵⁵ P-0446 Interview Transcript, CAR-OTP-2059-1648-R01, at 1670, lines 819-826.

⁴⁶⁵⁶ P-1719: T-142, p. 60, lines 3-17.

⁴⁶⁵⁷ P-1719: T-142-ENG, p. 60, line 18 – p. 61, line 23; T-142-FRA, p. 61, line 27 – p. 63, line 7; T-144, p. 52, line 23 – p. 54, line 4, p. 55, line 12 – p. 59, line 24.

⁴⁶⁵⁸ P-0889 Statement, CAR-OTP-2027-2290-R02, at 2301, paras 66-67; P-0889: T-109, p. 76, lines 3-15.

⁴⁶⁵⁹ P-0889 Statement, CAR-OTP-2027-2290-R02, at 2301, para. 69.

⁴⁶⁶⁰ P-0889 Statement, CAR-OTP-2027-2290-R02, at 2301-02, para. 71.

1780. The Chamber notes Jacob Mokpem-Bionli's testimony that during the time he was involved, meetings of the national coordination were held weekly or monthly, depending on the topics to be discussed, mostly at the Azimut hotel, sometimes at Mr Ngaïssona's compound at Boy-Rabe, and some with ComZones or smaller groups at the witness's house.⁴⁶⁶¹ Jacob Mokpem-Bionli further stated that ComZones from the provinces attended the meetings and disseminated the results of the meeting to their provinces.⁴⁶⁶² In a similar context, speaking of the coordination as of June 2014, P-1858 talked of meetings held at the Azimut hotel under Mr Ngaïssona's authority, which sometimes Mr Yekatom attended; the witness agreed that Romaric Vomitiade, Vivien Beina and Paleon Zilabo also attended these meetings.⁴⁶⁶³ P-1858 stated that such meetings concerned coordination of the various groups with the aim to restore peace, and Mr Ngaïssona convened meetings to warn ComZones 'not to continue in a disorderly manner', with meetings held not weekly or monthly but when a matter was to be discussed.⁴⁶⁶⁴

1781. In light of the above, the Chamber does not rely on the evidence of P-0965 on this aspect, who testified that meetings at Mr Ngaïssona's house took place twice a week.⁴⁶⁶⁵

1782. P-1962 talked of a meeting in June 2014 to which Mr Ngaïssona called Habib Soussou and the commanders in Boda [REDACTED].⁴⁶⁶⁶ P-1962 stated that many Anti-Balaka were present at this meeting, including Maxime Mokom, Wenezoui, '12 Puissances', and Anti-Balaka commanders from Bambari, Sibut, Bossangoa, Kaga Bandoro, Carnot and Berberati ('Chiki Chiki'), Gamboula, Gazi (Rodrigue), Yaloke ('Le Bleu'), Bossembélé, Bossemtélé, Boali and Damara; apart from the coordinators from Boda and Bambari, the others were all

⁴⁶⁶¹ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0066, para. 100; P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0308, para. 124, at 0309, para. 131; P-0992: T-095, p. 16, lines 8-18. The Chamber notes that the witness thought the first meeting of the national coordination took place in April 2014 (see P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0308, para. 124), but considers this to be related to the specific perspective and role of the witness at the time. On the basis of the evidence before it, as discussed above and below, the Chamber is of the view that meetings were also held earlier.

⁴⁶⁶² P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0066, para. 101; P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0309, para. 131.

⁴⁶⁶³ P-1858 Statement, CAR-OTP-2063-0050-R04, at 0062, para. 76; P-1858: T-185, p. 49, line 19 – p. 50, line 12; T-186, p. 46, lines 7-14. See P-0888: T-122, p. 14, lines 1-15; T-123, p. 40, lines 5-13, p. 40, line 24 – p. 41, line 4.

⁴⁶⁶⁴ P-1858: T-185, p. 44, lines 13-24, p. 45, line 19 – p. 46, line 15; T-187, p. 22, line 21 – p. 23, line 5. See also P-0888: T-123, p. 42, lines 6-20.

⁴⁶⁶⁵ P-0965: T-062, p. 25, lines 12-16, p. 27, lines 4-23; T-063, p. 33, line 23 – p. 34, line 3.

⁴⁶⁶⁶ P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0057-58, paras 99-101; P-1962: T-139, p. 62, line 15 – p. 63, line 15.

ComZones [REDACTED].⁴⁶⁶⁷ P-1962 said that [REDACTED].⁴⁶⁶⁸ P-1962 testified that he never heard Mr Ngaïssona advocating for or encouraging crimes against the Muslim population.⁴⁶⁶⁹ P-1962 stated that a strategy for disarmament was also discussed, but not everybody was in agreement, with some refusing to put down their arms.⁴⁶⁷⁰ P-1962 stated that the day after the meeting, Mr Ngaïssona officially appointed Habib Soussou as coordinator of Boda [REDACTED].⁴⁶⁷¹

1783. Both P-1521 and P-2251 mentioned meetings in relation to the Brazzaville forum.⁴⁶⁷² P-2251 stated he did not attend any meetings of ComZones,⁴⁶⁷³ [REDACTED].⁴⁶⁷⁴

1784. Aurélien Llorca stated that the Anti-Balaka from the provinces met Mr Ngaïssona in Bangui during coordination meetings, often openly staying at Hotel Azimut, the owner of which the witness learned to be connected to the Anti-Balaka, but he was not aware of coordination meetings before May 2014.⁴⁶⁷⁵

'Fake' Anti-Balaka

1785. The Chamber received a significant amount of evidence on the discussions about so-called 'fake' Anti-Balaka.

1786. The Ngaïssona Defence argues in this regard that the existence of 'fake' Anti-Balaka 'impeded the effective demarcation of the Anti-Balaka groups', which makes it 'impossible to know who allegedly committed crimes and if those crimes were committed as opportunistic acts, or within the alleged shared intent of the group'.⁴⁶⁷⁶

⁴⁶⁶⁷ P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0058, paras 103-105, at 0064, para. 138; P-1962: T-139, p. 27, lines 13-18.

⁴⁶⁶⁸ P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0058, para. 102; P-1962: T-139, p. 27, lines 23-25, p. 64, lines 17-24; T-140, p. 7, line 13 – p. 8, line 9.

⁴⁶⁶⁹ P-1962: T-140, p. 9, line 2 – p. 10, line 6.

⁴⁶⁷⁰ P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0059, para. 108.

⁴⁶⁷¹ P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0059-60, para. 109. See Title, CAR-OTP-2068-0077.

⁴⁶⁷² P-1521: T-082, p. 10, lines 3-20; T-083, p. 40, line 23 – p. 41, line 17; P-2251 Statement, CAR-OTP-2093-0045-R01, at 0076, para. 201.

⁴⁶⁷³ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0076, para. 199.

⁴⁶⁷⁴ P-1521: T-083, p. 40, lines 17-22.

⁴⁶⁷⁵ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0254, para. 68; P-0287: T-021, p. 99, line 11 – p. 100, line 6.

⁴⁶⁷⁶ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 234-237.

1787. The evidence before the Chamber as further outlined below shows that the concept of ‘fake’ Anti-Balaka was used in varying contexts and for varying purposes throughout the time relevant to the charges. In particular, it was used by Anti-Balaka leaders such as Mr Ngaïssona to suggest that violence and abuses attributed to the Anti-Balaka would instead have been committed by individuals not linked to the Anti-Balaka, who used its name for purposes of committing such violence.

1788. Aurélien Llorca stated that when he interviewed Mr Ngaïssona in March 2014 and asked him about violence and exactions committed by Anti-Balaka elements, Mr Ngaïssona responded that this was done by uncontrolled elements or ‘fake’ Anti-Balaka, explaining that he had asked the international forces in a press release to arrest the ‘fake’ Anti-Balaka, but not having himself taken ‘any specific measures’ since he was not able to stop said acts.⁴⁶⁷⁷ The witness testified that in the CAR panel’s analysis, an Anti-Balaka element became ‘uncontrolled’ when acting ‘out of bounds’, such that an element could have been ‘controlled’ in the evening before, but became ‘uncontrolled’ the day on which they committed some exaction or a particular act.⁴⁶⁷⁸ Aurélien Llorca testified that one needed to distinguish between political coordination and military structure of the organisation, in that, some acts might have been ‘uncontrolled’ because one could not ascribed some political responsibility for them, but they still fell under a military strategy consistent with their execution.⁴⁶⁷⁹

1789. Aurélien Llorca stated that Lebene told him during his interview in March 2014 that those in the government, such as Kokaté and Bara, did not represent the Anti-Balaka but were self-interested and that people in the government were encouraging the commission of crimes to discredit the Anti-Balaka, for example ‘Larmassou’ was ‘manipulated by the government’.⁴⁶⁸⁰ The witness stated that Lebene also told him that all ‘real’ Anti-Balaka bore badges, which allowed them to distinguish the ‘real’ from the ‘fake’ Anti-Balaka.⁴⁶⁸¹ Aurélien Llorca stated that Lebene also said that Andjilo was a company commander in

⁴⁶⁷⁷ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0251-52, para. 57; P-0287: T-020, p. 18, line 22 – p. 20, line 10, p. 23, line 21 – p. 24, line 1.

⁴⁶⁷⁸ P-0287: T-020, p. 23, lines 2-8; T-021, p. 87, lines 5-22.

⁴⁶⁷⁹ P-0287: T-021, p. 88, lines 6-25.

⁴⁶⁸⁰ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0257, para. 81.

⁴⁶⁸¹ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0258, para. 85.

Bouca, but when asked to meet him, Lebene explained that Andjilo had left on a ‘sensibilisation’ mission two weeks earlier.⁴⁶⁸²

1790. Kasper Agger stated that when he interviewed Mr Ngaïssona in February 2014, the latter claimed that killings were not committed by ‘real’ but by ‘fake’ Anti-Balaka which did not respect the orders from him and other Anti-Balaka leaders.⁴⁶⁸³ The witness thought that the term ‘Anti-Balaka’ became a cover as well for what any time before them would have been called criminals, using it to try to legitimise their largely criminal actions.⁴⁶⁸⁴

1791. In this same vein, a press release issued by the Anti-Balaka general coordination on 1 February 2014 speaks of fake Anti-Balaka (*‘faux antibalaka’*) that infiltrated the movement with bad intentions and for easy gain, while the Anti-Balaka ‘combatants’ are committed, in line with their principles, not to steal and loot.⁴⁶⁸⁵ Another press release issued after the Brazzaville talks complains about the Anti-Balaka being blamed for all acts of violence and abuse in Bangui or the provinces although almost all (the *‘quasi-totalité’*) of the Anti-Balaka is committed to dialogue, peace and restoring security in the CAR.⁴⁶⁸⁶

1792. Witnesses during their testimonies used the concept of ‘fake’ Anti-Balaka, depending on their personal perspective, to describe individuals that did not have the same experience as themselves advancing through the provinces, were not initiated with rituals to obtain *gris-gris*,⁴⁶⁸⁷ or were ‘rogue’ in that they committed acts which did not accord with the witnesses’ respective own ideas of what a ‘real’ Anti-Balaka element was meant to behave like.⁴⁶⁸⁸ However, this did not necessarily mean to the witnesses that the individuals designated as such were civilian individuals who merely operated under the Anti-Balaka ‘label’ or

⁴⁶⁸² P-0287 Statement, CAR-OTP-2115-0239-R01, at 0258, para. 85.

⁴⁶⁸³ P-2012 Statement, CAR-OTP-2091-0127-R01, at 0134, paras 31-32; P-2012: T-025, p. 46, lines 2-9. *See also* Report ‘Behind the Headlines’, CAR-OTP-2001-2564, at 2579; P-2012 Statement, CAR-OTP-2091-0127-R01, at 0136-37, para. 48; P-2012: T-026, p. 26, lines 6-23, p. 27, line 3 – p. 28, line 16, p. 29, lines 3-12.

⁴⁶⁸⁴ P-2012: T-025, p. 43, lines 2-15. *See also* Report ‘Warlord Business’, CAR-OTP-2091-0202, at 0215; P-2012: T-025, p. 45, line 8 – p. 46, line 1.

⁴⁶⁸⁵ Press statement, CAR-OTP-2084-0147, at 0147.

⁴⁶⁸⁶ Press statement, CAR-OTP-2124-1222, at 1222.

⁴⁶⁸⁷ *See* P-0966: T-118, p. 29, lines 17-24; P-1143 Statement, CAR-OTP-2058-0227-R03, at 0245, para. 117; P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0063-64, paras 85-86.

⁴⁶⁸⁸ *See* P-0975 Statement, CAR-OTP-2033-7885-R02, at 7891, para. 45; P-0966 Statement, CAR-OTP-2031-0241-R03, at 0256, para. 83; P-0966: T-118, p. 29, lines s-16.

otherwise not in fact Anti-Balaka elements.⁴⁶⁸⁹ Witnesses also spoke of persons who were not known to be Anti-Balaka but committed violent acts and abuses under its name, and were thus ‘fake’ Anti-Balaka.⁴⁶⁹⁰

1793. Various witnesses talked about the difficulty to distinguish between ‘real’ and ‘fake’ Anti-Balaka.⁴⁶⁹¹ The Chamber considers the testimony of Catherine Samba-Panza instructive in this regard, in her agreeing that it was not always possible to identify the ‘true perpetrators’ of exactions since not all armed civilians were Anti-Balaka, and neither journalists nor the population could always distinguish.⁴⁶⁹² Yet, she also clarified that generally speaking given the context and events in specific areas, it was quite likely that the people who were attributed with the crimes ‘were the ones indeed’, and that it depended on the location, the time, and the general political and security backdrop.⁴⁶⁹³

1794. The Chamber considers that the fact of the concept of ‘fake’ Anti-Balaka being used to blame violent acts and abuses in falsely attributing them to ‘outsiders’ is clearly illustrated by the example of Andjilo. The Chamber is convinced that the evidence before it shows that Andjilo was one of the initial members of the self-defence groups that coalesced into the Anti-Balaka, recalling in this regard its discussion on the groups forming in the Bossangoa

⁴⁶⁸⁹ See P-0975 Statement, CAR-OTP-2033-7885-R02, at 7891, para. 44; P-0966: T-118, p. 28, line 15 – p. 29, line 3, p. 30, line 22 – p. 31, line 11, p. 32, line 25 – p. 33, line 10; P-1143 Statement, CAR-OTP-2058-0227-R03, at 0244, para. 113; P-2232: T-077, p. 25, lines 15-18; P-1647 Statement, CAR-OTP-2050-0654-R02, at 0666, para. 84; P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0063-64, paras 85-86.

⁴⁶⁹⁰ See P-2232: T-077, p. 40, lines 13-17; T-079, p. 25, lines 2-13; P-1193: T-124, p. 68, line 19 – p. 69, line 9; T-125, p. 10, line 23 – p. 11, line 16, p. 12, line 5 – p. 13, line 25; P-0884: T-057, p. 5, lines 7-11, p. 5, line 24 – p. 6, line 25, p. 8, line 24 – p. 9, line 3, p. 18, lines 14-25; T-057-ENG, p. 6, lines 15-25; T-057-FRA, p. 6, lines 17-28; P-0954: T-167, p. 26, line 24 – p. 27, line 4, p. 28, lines 5-15, p. 31, lines 3-12; P-1858: T-187, p. 7, line 23 – p. 8, line 3; P-0888: T-123, p. 12, lines 6-14, p. 13, lines 8-22, p. 64, line 7 – p. 65, line 5; P-0808: T-070, p. 38, lines 2-20; P-0446 Interview Transcripts, CAR-OTP-2059-1602-R01, at 1616-17, lines 536-566; CAR-OTP-2105-0402-R02, at 0428-29, lines 948-959; CAR-OTP-2105-0430-R02, at 0458-60, lines 974-1068; P-0446: T-098, p. 89, lines 6-10; P-0808: T-071, p. 11, line 10 – p. 12, line 24, p. 13, line 19 – p. 14, line 24; P-0952: T-249, p. 46, line 21 – p. 48, line 5; T-251, p. 39, line 23 – p. 40, line 16; P-0567 Statement, CAR-OTP-2059-0084-R04, at 0103, para. 121; P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0816, para. 58; P-1577: T-028, p. 42, line 25 – p. 44, line 14. *See also* Video, CAR-OTP-2042-4677, at 00:38:42-00:39:22, 00:42:59-00:43:11; Translation, CAR-OTP-2122-8916, at 8929, lines 441-452, at 8931, lines 517-519; P-2050: T-240, p. 10, line 17 – p. 11, line 9.

⁴⁶⁹¹ See P-0801: T-036, p. 80, line 9 – p. 81, line 20; P-1858: T-187, p. 9, lines 4-7, p. 31, lines 7-11; P-0992: T-093, p. 39, line 14 – p. 40, line 15; P-0888: T-123, p. 13, line 23 – p. 14, line 4; P-0808: T-072, p. 5, line 25 – p. 9, line 3; P-0446 Interview Transcript, CAR-OTP-2059-1602-R01, at 1617, lines 567-584; P-0446: T-098, p. 91, lines 6-17; P-0567 Statement, CAR-OTP-2059-0084-R04, at 0103, para. 122; P-2926: T-032, p. 80, line 10 – p. 81, line 8.

⁴⁶⁹² P-0952: T-251, p. 20, line 10 – p. 21, line 15; T-252, p. 28, line 19 – 31, line 18, p. 35, line 24 – p. 36, line 20.

⁴⁶⁹³ P-0952: T-251, p. 20, line 10 – p. 21, line 15; T-252, p. 28, line 19 – 31, line 18, p. 35, line 24 – p. 36, line 20.

area.⁴⁶⁹⁴ The Chamber further recalls that Andjilo was one of the individuals who, with a group that he led, descended through the provinces towards Bangui, and participated in attacks, including against Muslim civilians, in this advance.⁴⁶⁹⁵ The Chamber also refers to its discussion that, following this advance to Bangui, Andjilo was one of the individuals who, with a group that he led, participated in the coordinated attack on Bangui on 5 December 2013.⁴⁶⁹⁶

1795. The evidence shows that disagreements with Mr Ngaïssona, likely on the basis of financial disappointments, led to a fallout between Andjilo and specifically Mr Ngaïssona, and that Andjilo eventually returned to Bouca at some point in 2014. However, the evidence does not show that Andjilo, at any point during the relevant time, did not consider himself or was not considered by others as an element and indeed group leader within the Anti-Balaka, falling under the general coordination under lead of Mr Ngaïssona.

1796. Indeed, several witnesses mentioned disagreements, speaking in varying details, between Andjilo and Mr Ngaïssona.⁴⁶⁹⁷ At the same time, witnesses mentioned Andjilo as part of the Anti-Balaka who participated in coordinated actions,⁴⁶⁹⁸ and as being hierarchically subordinate to Mr Ngaïssona at any given time during the relevant period.⁴⁶⁹⁹ The Chamber considers particularly illustrative the evidence of Alfred Legrand Ngaya, who explained that he and Mr Ngaïssona spoke to Andjilo directly to encourage him to change his ways, and that the only person who could speak to Andjilo was Mr Ngaïssona, but Andjilo did not listen to them, and the coordination had no control over him and his group.⁴⁷⁰⁰ In line with the

⁴⁶⁹⁴ See section IV.A.4.i.b, IV.A.4.i.c above.

⁴⁶⁹⁵ See section IV.A.6.i above.

⁴⁶⁹⁶ See section IV.B.1.ii.a below.

⁴⁶⁹⁷ P-0889 Statement, CAR-OTP-2027-2290-R02, at 2305, para. 89; P-0889: T-110, p. 16, line 15 – p. 17, line 1; P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0313-14, para. 165; P-0876 Interview Transcript, CAR-OTP-2046-0500-R01, at 0506-07, lines 213-237, at 0512-13, lines 436-440; P-0884: T-058, p. 69, lines 5-16; P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0024-25, para. 78; P-0808: T-071, p. 62, lines 3-9; D30-4756: T-269, p. 20, line 14 – p. 22, line 12. See also P-2027 Statement, CAR-OTP-2078-0059-R03, at 0085, para. 155.

⁴⁶⁹⁸ P-0889 Statement, CAR-OTP-2027-2290-R02, at 2304-05, para. 89. See also CAR Panel Final Report 2014, CAR-OTP-2001-5386, at 5407-08, paras 79-80; section IV.A.6.i above; paragraphs IV.B.1.ii.a below.

⁴⁶⁹⁹ P-0876 Interview Transcript, CAR-OTP-2046-0500-R01, at 0509-10, lines 325-344; P-0876: T-088, p. 31, line 8 – p. 32, line 12; P-0975 Statement, CAR-OTP-2033-7885-R02, at 7894, para. 61. See also P-0954 Statement, CAR-OTP-2048-0171-R03, at 0179, para. 48; P-2251: T-043, p. 56, lines 13-17; T-044, p. 48, line 25 – p. 50, line 11.

⁴⁷⁰⁰ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0334, para. 65, at 0346, para. 139; P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0027-28, para. 98, at 0031, para. 116. See also P-0966: T-117, p. 41, line 21 – p. 42, line 10; P-0954 Statement, CAR-OTP-2048-0171-R03, at 0179, para. 48; P-0974 Statement, CAR-OTP-2058-0165-R01, at 0179-80, para. 98, at 0180, para. 100; P-0974: T-244, p. 44, line 19 – p. 45, line 8.

evidence as outlined above, the witness thus considered Andjilo, who to him clearly was an Anti-Balaka element, still a ‘fake’ Anti-Balaka.⁴⁷⁰¹

1797. In light of the above, the Chamber considers irrelevant that some witnesses may have considered Andjilo as a ‘fake’ Anti-Balaka, due to their own personal definition of what a ‘fake’ Anti-Balaka would be. It is clear from the evidence before it that Andjilo was an element and group leader within the Anti-Balaka, considered himself as such, and was seen by others as such.

1798. Another individual mentioned as example for a ‘fake’ Anti-Balaka is Guy Mazimbelet, with several witnesses mentioning him as being beyond anyone’s control.⁴⁷⁰² At the same time, the evidence before the Chamber shows that while this may have been the case, Guy Mazimbelet was indeed an Anti-Balaka element and considered as such at least during the period directly relevant to the charges.⁴⁷⁰³

1799. A further individual mentioned as being an example for ‘fake’ Anti-Balaka was Jean-Jacques Larmassoum (‘Larmassoum’).⁴⁷⁰⁴ The Chamber considers of note that while this individual is mentioned by witnesses in this specific context, his name does not appear in relation to any of the events relevant to the charged crimes. Further bearing in mind that the Chamber

⁴⁷⁰¹ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0342, para. 115.

⁴⁷⁰² See P-1193: T-125, p. 21, lines 5-10; P-0954: T-169, p. 52, line 21 – p. 53, line 2.

⁴⁷⁰³ P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0019-20, para. 52, at 0027, para. 93; P-0966 Statement, CAR-OTP-2031-0241-R03, at 0255, para. 78; P-0966: T-118, p. 33, line 11 – p. 34, line 14; P-1858 Statement, CAR-OTP-2063-0050-R04, at 0068, paras 110-111; P-1858: T-187, p. 31, lines 1-6; P-0287 Statement, CAR-OTP-2115-0239-R01, at 0260, paras 97-100; P-0287: T-020, p. 23, lines 14-20. See also P-0889 Statement, CAR-OTP-2027-2290-R02, at 2301, para. 68; D30-4756: T-269, p. 15, line 2 – p. 16, line 7.

⁴⁷⁰⁴ See P-2232: T-078, p. 82, line 17 – p. 83, line 19 (the witness stated that Larmassoum was a former soldier and rebel leader and not part of the Anti-Balaka; he thought Larmassoum was arrested around Gobongo because of a holdup or theft, tortured in Andjilo’s area, then released and handed over to the gendarmerie on intervention by Mr Ngaïssona and Maxime Mokom); P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0315-16, paras 177-179; P-0992: T-093, p. 46, line 23 – p. 47, line 22, p. 49, line 23 – p. 51, line 3, p. 53, line 3 – p. 54, line 11 (the witness stated that Larmassoum and his group were among the ‘fake’ Anti-Balaka, and his ‘mistakes’ did not just come from the Anti-Balaka, but had been going on for a very long time; the witness said a ‘team’ fighting against ‘fake’ Anti-Balaka put an end to their activities and Larmassoum was taken to the gendarmerie); P-0446: T-098-ENG, p. 35, line 5 – p. 36, line 18; T-098-FRA, p. 39, line 17 – p. 41, line 9 (the witness testified that individuals who said to be Anti-Balaka were behind the ‘ETM’ base, former ‘UCATEX’, ‘Combattant’ and thereabouts, there were cases of robbery and others, so the ‘military police’ arrested Larmassoum, who was held at Mr Ngaïssona’s residence towards Pougoulou market, where ‘12 Puissances’ and his elements were, and P-0446 went to see and called journalists to film, following which he was transferred to prison since P-0446 told ‘12 Puissances’ that they should not hurt him because justice should do its work). See also Audio, CAR-OTP-2042-3693, at 00:00-00:23; Transcript, CAR-D29-0006-0609, at 0609, lines 4-9; P-0808: T-071, p. 77, line 15 – p. 79, line 13; P-2328: T-049, p. 53, line 3 – p. 54, line 3.

discusses the identity of perpetrators in relation to each individual incident relevant to the charges, it considers a detailed discussion of what this individual may have done, under the name of the Anti-Balaka or otherwise, of no further relevance. At the same time, the Chamber recalls its discussion of the evidence of [REDACTED].⁴⁷⁰⁵

1800. Overall, the Chamber considers that the existence of ‘fake’ Anti-Balaka as a generalised concept is immaterial to its determinations for purposes of the charges insofar as the Chamber discusses the specific individuals involved and their place or role within the Anti-Balaka in relation to each charged incident, as well as in relation to the hostilities during the advance in 2013, and in early 2014. Furthermore, the Chamber is of the view that the generalised concept is immaterial on a broader level insofar as the existence of individuals allegedly operating under the name of the Anti-Balaka does not, in and of itself, negate the existence of (i) a structure or organisation within and among those that considered themselves to be ‘real’ Anti-Balaka; (ii) the shared core objectives of those that considered themselves to be ‘real’ Anti-Balaka; and (iii) the hostilities engaged in by Anti-Balaka elements to such extent as to amount to an armed conflict with the Seleka. The Chamber further notes that these hostilities are not claimed to have been engaged in by ‘fake’ Anti-Balaka, indeed, in particular as regards the hostilities during the advance in 2013, the generalised concept of the ‘fake’ Anti-Balaka was brought up only much later in 2014.

Anti-Balaka badges

1801. The evidence before the Chamber as further outlined below shows that at some point in 2014 and thereafter,⁴⁷⁰⁶ the Anti-Balaka national coordination, under Mr Ngaïssona’s lead, decided to issue badges to Anti-Balaka elements.

1802. The Chamber has before it a number of different items which appear to be Anti-Balaka badges or ID cards. One format, visible on a card issued in the name of Mr Yekatom and bearing his picture, bears an Anti-Balaka logo, name, function, nationality and address of the bearer, an ID card number, stamp and signature.⁴⁷⁰⁷ This same format is visible in other

⁴⁷⁰⁵ See [REDACTED]. See also Annex 5 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0876.

⁴⁷⁰⁶ See P-0884: T-058, p. 76, lines 2-9, p. 95, lines 19-22, p. 96, lines 2-5

⁴⁷⁰⁷ See Card, CAR-OTP-2136-0257, at 0257.

examples,⁴⁷⁰⁸ including in an electronic blank version obtained by Kasper Agger in February 2014 that he called ‘template’,⁴⁷⁰⁹ and as photographed by P-2050 in February 2014,⁴⁷¹⁰ as well as by the CAR Panel in March 2014.⁴⁷¹¹

1803. The Chamber notes in this context that the Defence questioned the authenticity, probative value and relevance of the badges seized during a particular search operation.⁴⁷¹² At the outset, the Chamber recalls that it recognised submission of the items at issue having found that the badges were collected by the national authorities in the execution of a cooperation request in accordance with the national law and relevant domestic procedures.⁴⁷¹³ Further, bearing in mind that the format of the badges in question corresponds to that of the badges found by other individuals in other contexts and directly linked to persons who were identified and identified themselves as Anti-Balaka elements, the Chamber considers unnecessary to further address these submissions. This is the case even more so in light of the Chamber considering the issuance of such badges in regard to a very specific and limited, aspect of its factual conclusions. In particular, overall, the Chamber has considered the

⁴⁷⁰⁸ See Cards, CAR-OTP-2136-0217; CAR-OTP-2136-0219; CAR-OTP-2136-0221 (showing name and photograph of Habib Beina); CAR-OTP-2136-0223; CAR-OTP-2136-0225; CAR-OTP-2136-0227; CAR-OTP-2136-0229; CAR-OTP-2136-0231; CAR-OTP-2136-0233 (showing name and photograph of Junior ‘Kapex Ozou’); CAR-OTP-2136-0235; CAR-OTP-2136-0237 (showing name and photograph of Fiacre Mballo); CAR-OTP-2136-0239 (showing name and photograph of Maxime Mokom); CAR-OTP-2136-0241; CAR-OTP-2136-0243; CAR-OTP-2136-0245; CAR-OTP-2136-0247; CAR-OTP-2136-0249 (showing name and photograph of Judicael Orofeï); CAR-OTP-2136-0251; CAR-OTP-2136-0253; CAR-OTP-2136-0255.

⁴⁷⁰⁹ See Templates, CAR-OTP-2091-0290; CAR-OTP-2091-0291; P-2012 Statement, CAR-OTP-2091-0127-R01, at 0137, para. 50, at 0144; P-2012: T-025, p. 53, line 14 – p. 54, line 2.

⁴⁷¹⁰ See Photographs, CAR-OTP-2076-1275; CAR-OTP-2076-1282.

⁴⁷¹¹ See Annex 5.3 to CAR Panel Interim Report 2014, CAR-OTP-2001-6251, at 6301-02.

⁴⁷¹² [Public Redacted Version of the “Yekatom Defence Response to the Prosecution’s “Request for leave to add 9 items to the List of Evidence collected from \[REDACTED\]”, ICC-01/14-01/18-1394-Conf, 6 May 2022](#)”, ICC-01/14-01/18-1415-Conf, 19 May 2022, ICC-01/14-01/18-1415-Red, paras 13, 23, 25; [Version publique expurgée de la « Réponse de la Défense de M. Yekatom à la « Treizième requête de l’Accusation aux fins de soumission formelle d’éléments de preuve sur le fondement de l’article 69\(3\) du Statut de Rome, via la “Bar Table” », ICC-01/14-01/18-2048-Conf », 20 November 2023, ICC-01/14-01/18-2128-Red \(with confidential Annexes A and B\), paras 9, 13, 19-26; Public Redacted Version of Defence Response to the “Treizième requête de l’Accusation aux fins de soumission formelle d’éléments de preuve sur le fondement de l’article 69\(3\) du Statut de Rome, via la “Bar Table””, \(ICC-01/14-01/18-2131-Conf\), filed on 6 October 2023, 17 November 2023, ICC-01/14-01/18-2131-Red \(with confidential Annexes 1 and 2\), paras 20-31. See also \[Public Redacted Version of “Defence response to the Prosecution’s “Request for leave to add 9 items to the List of Evidence collected from \\[REDACTED\\]” \\(ICC-01/14-01/18-1394-Conf\\)”, 19 May 2022, ICC-01/14-01/18-1417-Conf, 26 September 2022 \\(notified on 27 September 2022\\), ICC-01/14-01/18-1417-Red.\]\(#\)](#)

⁴⁷¹³ Decision on the Thirteenth Prosecution Submission Request from the Bar Table (Anti-Balaka and Governmental Documents), 10 November 2023, ICC-01/14-01/18-2199-Conf (public redacted version issued on the same day, ICC-01/14-01/18-2199-Red), paras 10-19.

handing out of badges in the context of the efforts to provide additional structure to the Anti-Balaka.

1804. The Chamber notes that, in the electronic version of a different format, provided by P-0889, a slightly different Anti-Balaka logo can be seen, with a different pictogram, specifying the name, function, nationality, town/village and company of the bearer, an ID card number, stamp and signature.⁴⁷¹⁴ The evidence suggests that this format was used at a later stage.⁴⁷¹⁵ The Chamber notes that the signature visible on these cards seems similar to that linked to Mr Ngaïssona in different documents.⁴⁷¹⁶

1805. The evidence shows that these badges had a two-fold, inter-connected, purpose: (i) to distinguish what were considered ‘real’ from ‘fake’ Anti-Balaka;⁴⁷¹⁷ and (ii) for an eventual demobilisation (DDR) programme.⁴⁷¹⁸

1806. However, the evidence also shows that not every Anti-Balaka element had a badge. Several witnesses talked of Anti-Balaka elements not obtaining badges, for example because they

⁴⁷¹⁴ See Cards, CAR-OTP-2030-0230; CAR-OTP-2030-0231; P-0889 Interview Transcript, CAR-OTP-2122-7781-R02, at 7805, lines 864-870, at 7813-21, lines 1161-1429; P-0889: T-110, p. 29, lines 5-14.

⁴⁷¹⁵ See Cards, CAR-OTP-2112-1330; CAR-OTP-2112-1332; CAR-OTP-2112-1334; P-2556 Statement, CAR-OTP-2112-1300-R01, at 1308, para. 62; P-2251: T-043, p. 49, lines 3-13.

⁴⁷¹⁶ See e.g. Press statements, CAR-OTP-2084-0146, at 0146; CAR-OTP-2084-0147, at 0147; CAR-OTP-2084-0148, at 0149; CAR-OTP-2084-0150, 0150; CAR-OTP-2084-0151, at 0152.

⁴⁷¹⁷ P-0889 Statement, CAR-OTP-2027-2290-R02, at 2302, para. 72; P-0884: T-057, p. 7, lines 1-10; T-058, p. 75, line 1 – p. 76, line 1; P-0966 Statement, CAR-OTP-2031-0241-R03, at 0257, para. 90; P-0287 Statement, CAR-OTP-2115-0239-R01, at 0258, para. 85; P-0992: T-093, p. 41, lines 14-23; P-0446 Interview Transcript, CAR-OTP-2059-1626-R01, at 1630, lines 138-150, at 1631, lines 170-178; P-0446: T-097, p. 13, line 19 – p. 14, line 16; P-2602 Interview Transcript, CAR-OTP-2118-9785-R01, at 9792-94, lines 240-290; P-1042 Interview Transcript, CAR-OTP-2107-0370-R01, at 0382-83, lines 385-438, at 0390-91, lines 662-693; P-1042: T-164, p. 28, line 21 – p. 29, line 7; P-1962 Second Statement, CAR-OTP-2071-0003-R02, at 0010, paras 43, 45, at 0011, paras 55, 57, at 0014, paras 70, 76; P-1962: T-140, p. 10, lines 15-22. See Annex 5.3 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0882; P-0287: T-020, p. 33, lines 5-13. See also Photograph, CAR-OTP-2031-1252; P-0966: T-116, p. 69, line 18 – p. 70, line 17; P-0965 Interview Transcript, CAR-OTP-2046-0213-R02, at 0214, lines 31-38; P-0876: T-088, p. 73, line 23 – p. 74, line 10; P-2251 Statement, CAR-OTP-2093-0045-R01, at 0065, para. 126; P-1521: T-083, p. 49, lines 3-13; Annex 5.3 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0882-83, which includes several other photographs of ID cards carried by certain Anti-Balaka members in the period between March and May 2014. The Chamber notes that the cards appear largely uniform with information about the bearer (full name, function, nationality, address), the Anti-Balaka ‘logo’ and CAR insignia, being titled ‘*carte d’identification*’, numbered, signed, and stamped, yet it is not visible under whose authority.

⁴⁷¹⁸ P-1193 Statement, CAR-OTP-2045-0048-R03, at 0060, para. 80; P-1193: T-125, p. 23, line 22 – p. 24, line 14, p. 27, lines 7-14; P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0341-42, paras 113-114; P-0808: T-070, p. 59, line 13 – p. 60, line 3; T-072, p. 21, lines 8-25; P-1042 Interview Transcript, CAR-OTP-2107-0370-R01, at 0382-83, lines 385-438; P-1042: T-164, p. 28, line 21 – p. 29, line 7; P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0058, para. 101; P-1962: T-140, p. 10, lines 15-18; P-0889: T-110, p. 28, line 6 – p. 29, line 22. See also P-2251: T-044, p. 50, lines 4-22.

did not have the funds to pay for them, yet were still ‘real’ Anti-Balaka.⁴⁷¹⁹ At the same time, witnesses also mentioned ‘fake’ badges, and misuse of badges.⁴⁷²⁰

1807. The evidence suggests that badges were issued on initiation and with the support of the Anti-Balaka general coordination, specifically also the financial support of Mr Ngaïssona.⁴⁷²¹ Several witnesses mentioned that the elements had to pay for such badges.⁴⁷²² The evidence further indicates that various formats of badges were in circulation,⁴⁷²³ and that at some stage the issuing of cards was stopped.⁴⁷²⁴

1808. Aurélien Llorca, member of the CAR Panel, concluded on the basis of his analysis, including from his meeting with Mr Ngaïssona on 3 May 2014, that someone like Mr Ngaïssona was trying to have more personal political leverage by buying allegiance from local groups – the more elements one had, the stronger one’s voice with the government, the UN, etc., meaning the more elements he could claim as falling ‘under his umbrella’, the more relevant he could become.⁴⁷²⁵ The witness explained that to the panel, the badges were issued to ‘prove’ that people were under Mr Ngaïssona’s organisation,⁴⁷²⁶ as well as at the coordination’s initiative

⁴⁷¹⁹ P-0884: T-058, p. 96, lines 6-17; P-1042 Interview Transcript, CAR-OTP-2107-0370-R01, at 0371-72, lines 8-49, at 0385, lines 478-490; P-1962 Second Statement, CAR-OTP-2071-0003-R02, at 0011, para. 50.

⁴⁷²⁰ P-0808: T-070, p. 61, lines 1-13; P-1042: T-164, p. 29, line 15 – p. 30, line 4, p. 30, line 20 – p. 32, line 12, p. 32, line 23 – p. 33, line 9; P-1962: T-140, p. 17, lines 13-24. *See also* P-2328: T-048, p. 74, line 20 – p. 76, line 25, p. 80, lines 7-17; P-1521: T-083, p. 49, lines 14-18, p. 50, lines 4-20; P-2251: T-043, p. 48, line 16 – p. 49, line 2; T-044, p. 50, line 23 – p. 51, line 5.

⁴⁷²¹ P-2232: T-077, p. 32, lines 2-8; P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0065-66, para. 98; P-0965: T-062, p. 24, line 13 – p. 25, line 11; P-0889 Statement, CAR-OTP-2027-2290-R02, at 2302, para. 73, at 2308, para. 114; P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0342, paras 115-117; P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0025, para. 83; P-0808: T-070, p. 60, lines 4-20; P-1042 Interview Transcripts, CAR-OTP-2107-0330-R01, at 0359, lines 972-983; CAR-OTP-2107-0370-R01, at 0371-72, lines 8-49, at 0374-76, lines 124-184, at 0377-78, lines 203-266; CAR-OTP-2107-0691-R01, at 0714-15, lines 788-829; P-1042: T-163, p. 44, line 20 – p. 45, line 5; P-2556 Statement, CAR-OTP-2112-1300-R01, at 1308, para. 55; P-2556: T-146, p. 32, line 24 – p. 33, line 11; P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0058, para. 101. *See also* P-2012: T-025, p. 52, line 24 – p. 53, line 13, p. 55, lines 3-8; P-2251 Statement, CAR-OTP-2093-0045-R01, at 0065, para. 125.

⁴⁷²² P-2602 Interview Transcript, CAR-OTP-2118-9785-R01, at 9792-94, lines 240-290; P-1042 Interview Transcript, CAR-OTP-2107-0370-R01, at 0371-72, lines 8-49, at 0385, lines 478-490; P-1962 Second Statement, CAR-OTP-2071-0003-R02, at 0010, para. 44; P-1962: T-140, p. 10, line 23 – p. 11, line 4. *See also* P-2251 Statement, CAR-OTP-2093-0045-R01, at 0065, para. 127; P-1521: T-083, p. 49, line 23 – p. 50, line 3.

⁴⁷²³ P-2556 Statement, CAR-OTP-2112-1300-R01, at 1308, para. 56; P-2393 Statement, CAR-OTP-2108-0140-R03, at 0160, paras 100-101. *See* P-2556 Statement, CAR-OTP-2112-1300-R01, at 1308, para. 62 *referring to* Cards, CAR-OTP-2112-1330; CAR-OTP-2112-1332; CAR-OTP-2112-1334. *See also* P-2251: T-043, p. 49, lines 3-13.

⁴⁷²⁴ P-0889 Statement, CAR-OTP-2027-2290-R02, at 2302, para. 74. *See also* P-1521: T-083, p. 49, line 23 – p. 50, line 3.

⁴⁷²⁵ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0252, para. 61.

⁴⁷²⁶ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0252, para. 61.

with a view to improving the Anti-Balaka's visibility in the field.⁴⁷²⁷ According to Aurélien Llorca, this concerned visibility towards local inhabitants, but also towards international forces to show the scope and the 'numerical presence on the ground' of the Anti-Balaka over a huge area of the CAR.⁴⁷²⁸ Aurélien Llorca saw many Anti-Balaka members carrying badges throughout his missions to the CAR.⁴⁷²⁹

1809. Kasper Agger stated that a local journalist whom he interviewed in 2015 said that the Anti-Balaka were afraid of registering their names with Mr Ngaïssona for badges and formal membership in the Anti-Balaka because they feared of being accused of crimes by the ICC.⁴⁷³⁰

Media statements

1810. The Chamber has before it various media statements attributed to the Anti-Balaka, for the most part seemingly signed by Mr Ngaïssona in his capacity as Anti-Balaka general coordinator since his return to Bangui.⁴⁷³¹

1811. In a press release of 1 February 2014,⁴⁷³² reference is made to recent violence in Bangui and in the hinterland, 'often wrongly attributed' (*souvent imputée à tort*) to the Anti-Balaka movement, with the wish to clarify that the ultimate aim of the movement was to 'deliver the Central African people' from the 'claws of the bloodthirsty' (*griffes des sanguinaires*) Seleka, which is now reached.⁴⁷³³ It refers to confusion between 'fake' Anti-Balaka which infiltrated the movement with bad intentions, the Anti-Balaka combatants who had committed not to steal or loot, to whom cases of looting and theft were attributed.⁴⁷³⁴ The general coordinator of the Anti-Balaka declines any responsibility and calls for vigilance of the CAR and international forces to track down these 'criminals' (*malfrats*) who use the

⁴⁷²⁷ P-0287: T-020, p. 33, lines 5-13.

⁴⁷²⁸ P-0287: T-020, p. 33, lines 14-21.

⁴⁷²⁹ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0269. *See also* P-2050: T-240, p. 11, lines 10-17, p. 12, lines 1-22; Photograph, CAR-OTP-2076-1282.

⁴⁷³⁰ P-2012 Statement, CAR-OTP-2091-0127-R01, at 0140, para. 64. *See* P-2012 Interview notes, CAR-OTP-2091-0237-R01, at 0249.

⁴⁷³¹ *See also* P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0311, paras 148-150.

⁴⁷³² Press statement, CAR-OTP-2084-0147.

⁴⁷³³ Press statement, CAR-OTP-2084-0147, at 0147.

⁴⁷³⁴ Press statement, CAR-OTP-2084-0147, at 0147.

label of the Anti-Balaka to commit any type of exactions, and reiterates the commitment of the Anti-Balaka to peace and normalisation, with a view to harmonious and lasting development of the CAR.⁴⁷³⁵

1812. In another press release dated 11 February 2014,⁴⁷³⁶ issue is taken with the ‘incendiary remarks’ of the Sangaris and MISCA commanders earlier that month who said that the Anti-Balaka needed to be put out of action, further stating that after the election of Catherine Samba-Panza, the Anti-Balaka had committed to a new dynamic of pacification and normalisation, that the entire CAR population was motivated by a desire for vengeance and asking how and why the Anti-Balaka in its entirety would take responsibility for isolated acts committed by as yet unidentified individuals,⁴⁷³⁷ and further reiterating the commitment of the Anti-Balaka in favour of a dynamic and irreversible process of pacification and normalisation which presumes that all national and international instances take pertinent and efficient actions.⁴⁷³⁸ The Chamber considers of import to point to an additional statement in this press release which appears to criticise that ‘Muslims’, in general, were speaking up against the Anti-Balaka ‘combatants’, who are described as ‘worthy sons of the country’ (*‘dignes fils du pays’*) which engaged in the ‘saving work’ (*‘œuvre salvatrice’*).⁴⁷³⁹

1813. The Chamber notes that in the meantime, Catherine Samba-Panza visited Mbaïki in the wake of the removal of the Muslim population from Mbaïki and warned the Anti-Balaka to stop committing violent acts.⁴⁷⁴⁰ Just before, the Sangaris commander had called the Anti-Balaka ‘enemies of peace’.⁴⁷⁴¹

⁴⁷³⁵ Press statement, CAR-OTP-2084-0147, at 0147.

⁴⁷³⁶ Press statement, CAR-OTP-2084-0148. *See also* Press statement, CAR-OTP-2110-0143.

⁴⁷³⁷ Press statement, CAR-OTP-2084-0148, at 0148.

⁴⁷³⁸ Press statement, CAR-OTP-2084-0148, at 0149.

⁴⁷³⁹ Press statement, CAR-OTP-2084-0148, at 0149.

⁴⁷⁴⁰ *See* paragraph 1300 above.

⁴⁷⁴¹ *See* Press articles, CAR-OTP-2057-0963; CAR-OTP-2117-0704. *See also* Video, CAR-OTP-2090-0408, at 00:00:00-00:00:34; Transcript, CAR-OTP-2107-1598, at 1599.

1814. The Chamber notes that around this time, several Anti-Balaka elements were arrested by the CAR authorities,⁴⁷⁴² and Anti-Balaka groups carried out various attacks in localities in western CAR prefectures.⁴⁷⁴³

1815. The following press release of likely 17 February 2014,⁴⁷⁴⁴ is not signed by Mr Ngaïssona, but by various other individuals, including *inter alia* Sylvestre Yagouzou, Brice Emotion Namsio, Sébastien Wenezoui, Benjamin Ouapoutou, Thierry Lebene, Aimé Abel Denamganaï, Richard Bejouane, Guy Gustave Yadjoungou, Guy Gervais Mokpem, Yvon Donoh, Dieudonné Houronti and Maxime Mokom.⁴⁷⁴⁵ It expresses deep concern about being labelled as ‘enemies of the peace’ earlier that month and the statements of Catherine Samba-Panza in Mbaïki,⁴⁷⁴⁶ and, *inter alia*: (i) refers to the violence and abuses committed by the Seleka;⁴⁷⁴⁷ (ii) states that the Anti-Balaka emerged from self-defence groups exclusively composed of young Central Africans exasperated by the Seleka violence and whose actions are justified by ‘the right of resistance’ (*‘le droit à la résistance’*); (iii) recalls that after asking for a recomposition of the national transition council, it welcomed the election of Catherine Samba-Panza; (iv) states that the entire Central African population is inspired by a desire for revenge and that it is difficult to distinguish between acts committed by the population out of vengeance, and those committed by ‘certain’ Anti-Balaka, while acts committed by individuals out of vengeance or for other reasons are wrongly attributed to the Anti-Balaka; and (v) says that despite the disregard of the new transition authorities towards

⁴⁷⁴² See Letters, CAR-OTP-0080-0685; CAR-OTP-2101-3615; CAR-OTP-0080-0690. See also Report, CAR-OTP-2030-0984, at 0987; P-2328: T-047, p. 49, line 18 – p. 51, line 5, p. 52, lines 1-25; T-048, p. 56, lines 3-13, p. 62, line 14 – p. 63, line 3; P-1521: T-083, p. 68, lines 2-16; P-0801: T-035, p. 37, line 9 – p. 40, line 15; Letter, CAR-OTP-2100-1698.

⁴⁷⁴³ See section IV.A.8.ii below.

⁴⁷⁴⁴ Press statement, CAR-OTP-2084-0049, at 0049, 0053. See also Email, CAR-OTP-2080-2806. The Chamber notes that it has various versions of this statement before it, including with Mr Ngaïssona’s name, but no signatures, or a receipt stamp of an organisation (see Press statements, CAR-OTP-2006-1210, CAR-OTP-2025-0380, CAR-OTP-2060-0590; CAR-OTP-2084-0049; CAR-OTP-2084-0079; CAR-OTP-2084-0111; CAR-OTP-2084-0158; CAR-OTP-2087-9118; CAR-OTP-2090-0603; CAR-OTP-2122-9857). See also P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0344, para. 124; P-0808 Corrections, CAR-OTP-2134-1737, at 1740.

⁴⁷⁴⁵ Press statement, CAR-OTP-2084-0049, at 0053-54. The Chamber notes that the front page indicates the date of 14 February 2014, while the last page before the signatures indicates 17 February 2014. The Chamber considers the latter date more likely as the main text refers to events which it states took place on 15 February 2014 (at 0052).

⁴⁷⁴⁶ Press statement, CAR-OTP-2084-0049, at 0051.

⁴⁷⁴⁷ Press statement, CAR-OTP-2084-0049, at 0049.

the Anti-Balaka, the latter are committed to the ‘new dynamic’ of peace and restoring security in the CAR.⁴⁷⁴⁸

1816. The statement further (i) regrets the ‘arbitrary arrest’ of 10 Anti-Balaka elements pursuant to a warrant of arrest; (ii) ‘vehemently’ denounces (*avec véhémence*) the attempted arrest of general coordinator Mr Ngaïssona; (iii) questions whether the transition authorities are indeed willing to embark on reconciliation, peace and normalisation, in light of the stance taken towards the Anti-Balaka;⁴⁷⁴⁹ (iv) recalls that the coordination expressed on several occasions its availability to work in collaboration with the international forces in the context of concerted actions to return peace and security to the CAR; (v) states that the Anti-Balaka are not ‘enemies of peace’, ‘even if it is true that in the ranks of this movement, investigations must be carried out to determine those responsible for possible exactions’ (*même s’il est vrai que dans le rang dudit mouvement, des enquêtes doivent être diligentées pour déterminer les responsables des éventuelles exactions*); (vi) demands the unconditional release of the 10 Anti-Balaka elements ‘arrested arbitrarily’ on 15 February 2014; (vii) recommends, with a view to quickly returning to peace and security, the billeting of Anti-Balaka and taking their charge while, on the other hand, facilitating the return of those interested to their communities in the provinces;⁴⁷⁵⁰ and (viii) reaffirms its availability to discuss with the new transition authorities and other national and international components for pacification and normalisation of life in the CAR.⁴⁷⁵¹

1817. The Chamber considers of note that while the above statement denounces violence committed by the Seleka and alleged confusion of perpetrators, it does not specifically mention any of the events, at the time widely known and reported, taking place in various localities in the western CAR.⁴⁷⁵²

1818. Alfred Legrand Ngaya stated that Mr Ngaïssona contributed to this document and approved its release, but that he and Alfred Legrand Ngaya in the end decided not to sign the

⁴⁷⁴⁸ Press statement, CAR-OTP-2084-0049, at 0050.

⁴⁷⁴⁹ Press statement, CAR-OTP-2084-0049, at 0051.

⁴⁷⁵⁰ Press statement, CAR-OTP-2084-0049, at 0052.

⁴⁷⁵¹ Press statement, CAR-OTP-2084-0049, at 0053.

⁴⁷⁵² See section IV.A.8.ii below.

document.⁴⁷⁵³ The witness agreed with the suggestion that Mr Yekatom's name does not appear on this document because at the time he was not in the 'Ngaïssona wing'.⁴⁷⁵⁴

1819. The Chamber considers important in the context of the wording of these press releases Kasper Agger's evidence that during his interview with Mr Ngaïssona at the end of February 2014, the latter made clear that he regarded himself as a very important person within, and a senior leader of, the Anti-Balaka, and the witness regarded him as 'very influential' at the time, it was his understanding that Mr Ngaïssona was particularly 'powerful and influential among the Bangui-based Anti-Balaka groups'.⁴⁷⁵⁵ Kasper Agger testified that Mr Ngaïssona presented himself as national coordinator, stated that he was organising the Anti-Balaka, said that they had to defend themselves against the foreigners, the Muslims, and in that sense portrayed himself as someone influential in at least having control over some parts of the Anti-Balaka, particularly around the Boy-Rabe and Bangui area.⁴⁷⁵⁶

1820. Further, Kasper Agger testified that during his interview on 25 February 2014, Mr Ngaïssona referred to the Seleka having taken power of the country, and being mainly a Muslim group, particularly on the command level, with Muslims from the northern CAR, Sudan or Chad, and speaking Arabic; they would be more friendly towards their local Muslims, while there was more resistance from the FACA, mainly in the central and western part of the country, being non-Muslims; and when the FACA started to organise the resistance against the Seleka together with the Anti-Balaka, members of the PG, in particular that were close to François Bozizé, they 'obviously' would 'target Muslims' and 'Muslim communities' as well; what Mr Ngaïssona expressed to the witness was that it was 'a form of resistance' and that these were 'self-protection groups' from the local populations against the Muslims: 'We cannot accept the attacks by the Muslims'.⁴⁷⁵⁷

1821. In the view of the Chamber, it is clear from this that Mr Ngaïssona, at a time at which the Anti-Balaka under his lead as general coordinator appeared to be calling for peace and

⁴⁷⁵³ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0342-43, paras 119-121, at 0343, para. 124; P-0808 Corrections, CAR-OTP-2134-1737, at 1740.

⁴⁷⁵⁴ P-0808: T-072, p. 41, line 24 – p. 43, line 19. *See also* P-0876: T-086, p. 79, lines 13-23.

⁴⁷⁵⁵ P-2012 Statement, CAR-OTP-2091-0127-R01, at 0134, para. 33.

⁴⁷⁵⁶ P-2012: T-025, p. 17, lines 4-22.

⁴⁷⁵⁷ P-2012: T-025, p. 18, line 21 – p. 19, line 19.

reconciliation, continued to see ‘Muslims’, in general, as ‘the foreigners’ in the country against whom the Anti-Balaka had ‘defended’. This is also made apparent by the billeting and emergency assistance project proposals of February 2014, which clearly refer to Anti-Balaka elements including individuals being motivated by revenge and acting against both Seleka and Muslims considered to have supported the Seleka.⁴⁷⁵⁸

1822. In another reaction to the Sangaris commander’s statement that the Anti-Balaka were the ‘enemies of peace’, Mr Ngaïssona is recorded as asking the Anti-Balaka to withdraw and abandon all combat to allow identification of ‘fake’ Anti-Balaka which were tarnishing the name of the ‘real’ Anti-Balaka, so that MISCA and Sangaris could go after those who committed crimes under the name of the Anti-Balaka, further asking that the arrested ‘youth’ be liberated to join others at cantonment sites to reassure them in their decision to withdraw and to wait for the result of their approach to the government for negotiations to facilitate billeting, disarmament and return of those interested to their regions of origin, considering it a pretext of the government to say it had no means to facilitate such measures.⁴⁷⁵⁹

1823. P-2232 testified in this regard that Mr Ngaïssona made this speech after that of the Sangaris commander, that following a clash in which the Burundian contingent intervened and Sangaris soldiers were wounded, Sangaris made the declaration of war on the Anti-Balaka, and Mr Ngaïssona had to make this statement, after which the Sangaris withdrew their declaration against the Anti-Balaka.⁴⁷⁶⁰

1824. Alfred Legrand Ngaya commented that actions were undertaken and there was an attempt to billet Anti-Balaka in Mr Ngaïssona’s warehouse, he tried to feed the Anti-Balaka, but he was single-handed and could not solve the problem, there was no follow-up to the initial steps.⁴⁷⁶¹

1825. In another radio address around the same time, Mr Ngaïssona is heard launching an appeal to all Anti-Balaka to let themselves be billeted to ‘eradicate’ the bandits hiding under the name of the Anti-Balaka and commit violence, asking all Anti-Balaka to cease the violence

⁴⁷⁵⁸ See paragraphs 1864-1868 below.

⁴⁷⁵⁹ Audio, CAR-OTP-2042-2641, at 00:20:15-00:23:10; Transcript, CAR-OTP-2107-2997; Translation, CAR-OTP-2118-5622, at 5624-25, lines 19-53.

⁴⁷⁶⁰ P-2232: T-078, p. 76, line 5 – p. 81, line 7.

⁴⁷⁶¹ P-0808: T-071, p. 17, line 19 – p. 20, line 3.

and the government to free the arrested Anti-Balaka elements.⁴⁷⁶² He stated that the Anti-Balaka's goal of driving out the 'demons' that invaded the country and Michel Djotodia had been achieved, and that the Anti-Balaka waited for a gesture from the government in their support.⁴⁷⁶³

1826. Various statements were issued by the Anti-Balaka coordination under Mr Ngaïssona's lead after February 2014. The Chamber refers in this regard to its conclusions as to the duration of the active conflict in the CAR in 2014.⁴⁷⁶⁴ The Chamber has therefore considered these statements in the specific context of the Anti-Balaka coordination, under Mr Ngaïssona's lead, engaged at that time in negotiations with the government and international authorities.

1827. In an RFI interview published at the beginning of April 2014, Mr Ngaïssona is presented as head of the '*coordination des combattants pour la paix en Centrafrique*', 'differently put the wing of the Anti-Balaka which is not represented in the government', and which, 'according to him' constituted the majority of the movements controlling the south of the country.⁴⁷⁶⁵ The article reports Mr Ngaïssona as saying that the Anti-Balaka control almost the entire country, Bangui and the hinterland, and that this movement, which was born since the attack on Bangui on 5 December 2013, now waits for the CAR government to recognise this '*acte de bravoure de ces enfants*' and to reach out for dialogue '*parce que les anti-balaka, à partir d'aujourd'hui, ont décidé de ne plus continuer les hostilités*'.⁴⁷⁶⁶ When asked about the 'wing' under Joachim Kokaté, Mr Ngaïssona is reported as stating:

[I]es anti-balaka que je coordonne sont un seul et même mouvement qui est réparti sur tout l'étendu du territoire. Quand je donne l'ordre à ces enfants, je pense que c'est immédiatement suivi d'effet. Donc, si on veut que la paix revienne définitivement dans ce pays, il faut dialoguer avec la coordination – son staff – pour qu'il y ait la paix définitive en République centrafricaine.⁴⁷⁶⁷

⁴⁷⁶² Audio, CAR-OTP-2042-2467, at 00:25:19-00:26:48; Transcript, CAR-OTP-2107-1489, at 1490, lines 7-21.

⁴⁷⁶³ Audio, CAR-OTP-2042-2467, at 00:27:02-00:28:05; Transcript, CAR-OTP-2107-1489, at 1490, lines 25-36.

⁴⁷⁶⁴ See section IV.A.8.i below.

⁴⁷⁶⁵ Press article, CAR-OTP-2001-4818, at 4818.

⁴⁷⁶⁶ Press article, CAR-OTP-2001-4818, at 4818.

⁴⁷⁶⁷ Press article, CAR-OTP-2001-4818, at 4819. (Translation from French to English by the Registry) 'The Anti-Balaka I coordinate are one and the same movement spread across the entire territory. When I give an order to these children, I believe it is acted upon immediately. So if the wish is for peace to definitively return in this country, it is necessary to enter into dialogue with the coordination – its staff – for there to be definitive peace in the Central African Republic.'

1828. Asked which conditions they would have when such dialogue starts, Mr Ngaïssona is reporting as stating:

Faire partir les mercenaires. Le gouvernement doit respecter au moins ces enfant, [sic] désarmer complètement le Kilomètre 5 et il faut que les Boko-Haram qui se trouvent aujourd'hui dans cet arrondissement le quittent. On demandera aussi, peut-être au niveau de l'Assemblée, qui l'on inscrive dans l'Histoire de la RCA l'affaire des anti-balaka qui est une émanation populaire. Cet acte de bravoure mériterait d'être immortalisé dans l'Histoire de la République centrafricaine.⁴⁷⁶⁸

1829. In relation to the situation in Boda, Mr Ngaïssona is reported as stating that the government made the mistake of sending someone not known by the Anti-Balaka to talk to 'these children', which upset them, so instead there would need to be dialogue with a reliable interlocutor, and if he went there, the results would be 'markedly different'.⁴⁷⁶⁹

1830. The Chamber considers Mr Ngaïssona's reaction to the question whether he is linked to François Bozizé or is fighting for him of interest insofar as it illustrates his own evolving allegiances. Specifically, after stating that this is a mistake and '*Un pouvoir, c'est un pouvoir. Un pouvoir est passé; il faut tourner la page et puis avancer*', Mr Ngaïssona is reported as stating:

Non, non, non! Il ne faut pas que les gens s'imaginent des choses. Avant Bozizé, j'avais fait mes affaires et je vivais bien. Pendant le régime de Bozizé, j'ai continué à faire mes affaires. En dehors de cela, laissez Bozizé tranquille. Laissez Ngaïssona tranquille dans son élan.⁴⁷⁷⁰

1831. Joachim Kokaté insisted in relation to this interview that there was no Anti-Balaka 'wing' managed by him.⁴⁷⁷¹ The witness testified that with his statement about his orders being followed, Mr Ngaïssona confirmed what the Anti-Balaka said at the transition government

⁴⁷⁶⁸ Press article, CAR-OTP-2001-4818, at 4819. (Translation from French to English by the Registry) 'Get the mercenaries out. The government must at least respect these children, fully disarm Kilometre 5 and get Boko-Haram – who are currently in this arrondissement – to leave it. We'll also demand, perhaps at parliament level, that the story of the Anti-Balaka – which arose from the people – go down in the History of the CAR. This act of bravery deserves to be immortalized in the History of the Central African Republic.'

⁴⁷⁶⁹ Press article, CAR-OTP-2001-4818, at 4819.

⁴⁷⁷⁰ Press article, CAR-OTP-2001-4818, at 4819. (Translation from French to English by the Registry) 'No, no, no! People should stop imagining these things. Before Bozizé, I did my own thing and lived well. When Bozizé was in power, I continued doing my own thing. And apart from that, leave Bozizé alone. Leave Ngaïssona alone as he goes about his business.'

⁴⁷⁷¹ P-0801: T-036, p. 37, lines 5-25.

about following the orders of Mr Ngaïssona who organised and financed them.⁴⁷⁷² In relation to Boda, Joachim Kokaté testified that he had a role to play as ‘facilitator’⁴⁷⁷³ and one had to go through Mr Yekatom to talk, people signed the document not to touch the Muslim community but attacked afterwards.⁴⁷⁷⁴

1832.P-1962, in Boda at the time, agreed that if it had been Mr Ngaïssona who went there, there would have been changes because he was listened to more, he agreed that the characterisation given by Mr Ngaïssona on his orders being followed was correct, but he did not have the means to enforce his instructions by the elements and ComZones in Boda.⁴⁷⁷⁵

1833.Jean-Jacques Demafouth testified in relation to this interview that there was a great difference between what was said and the reality they knew during the transitional period, the message of putting an end to hostilities was not respected.⁴⁷⁷⁶

1834.Around the time of this interview, specifically at the beginning of April 2014, the Anti-Balaka coordination continued to issue press releases. One release of 3 April 2014 reiterates the taking of power and violence committed by the Seleka, leading to the mobilisation of ‘youth’ in the villages which eventually entered Bangui on 5 December 2013.⁴⁷⁷⁷ It states that Mr Ngaïssona as Anti-Balaka coordinator expressed the availability to work with the international forces to eliminate violence against civilians and while without result, the Anti-Balaka themselves organised to track down malefactors, such as Larmassoum, and yet the Sangaris commander called them ‘enemies of peace’ and Catherine Samba-Panza declared war on them, while some Anti-Balaka leaders including Mr Ngaïssona were subject to an arrest warrant.⁴⁷⁷⁸ The statement further denounces continued violence by Seleka, Boda being set on fire and people being killed by Muslims, KM5 not being accessible because of heavily armed Muslims continue to kill the non-Muslim civilian population and innocent people, and continues that for the Anti-Balaka it is time to stop killings and engage in a

⁴⁷⁷² P-0801: T-036, p. 38, lines 10-20.

⁴⁷⁷³ P-0801: T-036, p. 38, line 25 – p. 40, line 3.

⁴⁷⁷⁴ P-0801: T-036, p. 40, lines 6-17.

⁴⁷⁷⁵ P-1962: T-139, p. 21, lines 1-23, p. 22, lines 13-20, p. 59, lines 1-19; T-140, p. 7, lines 4-8.

⁴⁷⁷⁶ P-2328: T-047, p. 38, line 14 – p. 39, line 11; T-047-ENG, p. 39, line 24 – p. 40, line 22; T-047-FRA, p. 41, line 1 – p. 42, line 21.

⁴⁷⁷⁷ Press statement, CAR-OTP-2110-0145, at 0145.

⁴⁷⁷⁸ Press statement, CAR-OTP-2110-0145, at 0146-47.

dynamic of national reconciliation, position taken by the Anti-Balaka since the election of the transition president.⁴⁷⁷⁹

1835. Various members of the Anti-Balaka pronounced similar statements around this time.⁴⁷⁸⁰

1836. At this time, the Anti-Balaka coordination issued a press release which states

[...] le Coordonnateur Général du Mouvement des Patriotes Antibalaka, Monsieur Patrice Edouard N[gaïssona], en attendant d'entrer en négociation avec les Autorités gouvernementales, prend l'engagement solennel en ce jour, 04 Avril 2013 [sic],⁴⁷⁸¹ de déclarer la fin de toutes hostilités sur toute l'étendue du territoire national.

A cet effet, le Coordonnateur national du Mouvement des Antibalaka, demande impérativement à tous Chef des bataillons des Patriotes Antibalaka, de veiller à l'observation scrupuleuse de la présente décision. Ils doivent instruire tous les patriotes Antibalaka, afin que ceux-ci regagnent leur base respective.⁴⁷⁸²

1837. Aurélien Llorca testified in this regard that this was a press release in 'a very specific context', namely discussions that had been embarked upon with the transition authorities.⁴⁷⁸³

The witness stated that he did not believe that violence actually ended at this stage, but Mr Ngaïssona referred to this order to 'end the hostilities' on a regular basis in later press communiqués and statements.⁴⁷⁸⁴

⁴⁷⁷⁹ Press statement, CAR-OTP-2110-0145, at 0148-50.

⁴⁷⁸⁰ Video, CAR-OTP-2023-1845; Transcript, CAR-OTP-2107-1504, at 1505-06; Audio, CAR-OTP-2042-2987; Transcript, CAR-OTP-2135-1575, at 1581, lines 200-214; Translation, CAR-OTP-2129-1728.

⁴⁷⁸¹ The Chamber notes that this date is written in the original text, but considers it clear from the context that this was in fact meant to refer to 4 April 2014.

⁴⁷⁸² Press statement, CAR-OTP-2066-2102, at 2102. (Translation from French to English by the Registry) '[...] the General Coordinator of the Anti-Balaka Movement of Patriots, Mr Patrice Edouard Ngaïssona, in anticipation of entering into negotiations with the government authorities, gives a solemn undertaking on this day, 4 April 2013, to declare the end of all hostilities throughout the entire national territory. To this end, the National Coordinator of the Anti-Balaka Movement imperatively requires that all battalion leaders of the Anti-Balaka Patriots ensure that this decision is scrupulously complied with. They must instruct all the Anti-Balaka patriots so that they return to their respective base.'

⁴⁷⁸³ P-0287: T-020, p. 34, lines 2-8 *referring to* Annex 5.8 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0893.

⁴⁷⁸⁴ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0269-70.

1838. The same was repeated in a release dated 11 April 2014⁴⁷⁸⁵ and reiterated in May 2014 following consultations with the ComZones in preparation of the Brazzaville talks.⁴⁷⁸⁶

1839. The Chamber has further considered in this context a handwritten document dated 17 April 2014, which states:

Je sousigné Patrice Edouard N[gaïssona] Coordonateur General des Anti-Balaka, atteste par la presente suite à ma rencontre ce jour avec Son Excellence la présidente de la Republique, que je décide de donner une chance à la paix et à la reconciliation. Je m'engage à respecter les lois de la Republique et m'engage à soutenir pleinement le gouvernement de transition aussi que la charte de la Transition. Je demande par consequent à tous les Anti-balaka de faire de même et à respecter cette consigne sans Condition.⁴⁷⁸⁷ [sic]

1840. Catherine Samba-Panza confirmed that this document was signed by Mr Ngaïssona⁴⁷⁸⁸ following a meeting he attended with her at the presidency, during which MISCA forces arrived to arrest Mr Ngaïssona on the basis of an arrest warrant which had been issued against him by the public prosecutor.⁴⁷⁸⁹ The witness testified that she did not want this to happen at the presidency in light of her reconciliation efforts, so she and Mr Ngaïssona stayed at the office for several hours and 'of course' all the other Anti-Balaka who were there informed the others in the neighbourhood and Boy-Rabe and all other Anti-Balaka districts were rather emotional about it and said, 'If Mr Ngaïssona is arrested, Bangui will burn, we will burn Bangui'.⁴⁷⁹⁰ Catherine Samba-Panza testified that General Tumenta said that the public prosecutor needed to intervene, provided that Mr Ngaïssona made a statement and acknowledged responsibility for the actions caused by him in the past, and in the end

⁴⁷⁸⁵ Press statement, CAR-OTP-2084-0150, at 0150. *See also* P-0475: T-091, p. 67, line 11 – p. 68, line 7; P-0808: T-071, p. 24, line 14 – p. 25, line 17; P-1962: T-139, p. 62, lines 3-13; P-1521: T-083, p. 71, line 23 – p. 73, line 3.

⁴⁷⁸⁶ Press statement, CAR-OTP-2084-0155, at 0155. *See also* P-0808: T-071, p. 33, line 22 – p. 34, line 20, p. 35, lines 9-16.

⁴⁷⁸⁷ Declaration, CAR-OTP-2101-1821. (Translation from French to English by the Registry) 'I, the undersigned, Patrice Edouard Ngaïssona, General Coordinator of the Anti-Balaka, hereby confirm that, further to my meeting on this day with Her Excellency, the President of the Republic, I have decided to give peace and reconciliation a chance. I undertake to respect the laws of the Republic and undertake to fully support the transitional government as well as the Charter of the Transition. I would therefore ask all Anti-Balaka to do likewise and unconditionally comply with this instruction.'

⁴⁷⁸⁸ P-0952: T-249, p. 53, lines 1-21.

⁴⁷⁸⁹ P-0952: T-249, p. 50, line 16 – p. 51, line 24. *See* Warrant, CAR-OTP-2003-0019, at 0476-79.

⁴⁷⁹⁰ P-0952: T-249, p. 50, line 16 – p. 52, line 8.

Mr Ngaïssona copied and signed a declaration drafted by the prosecutor, and conditions were set which Mr Ngaïssona had to abide by.⁴⁷⁹¹

1841. On the basis of this evidence, the Chamber considers that the commitment to peace of Mr Ngaïssona was thus signed as the immediate result of his impending arrest. The Chamber considers of note in this regard that in a later document issued by the Anti-Balaka coordination, the meeting at the presidency on 17 April 2014 is mentioned as a ‘restart’ to the dialogue (*‘relancé le dialogue’*) with the government.⁴⁷⁹²

1842. In another press release of 29 May 2014, the events at Fatima church the day before are condemned, stating that the ‘enemies of the CAR’ struck again, and criticising the ‘complacent and lax, if not complicit’ attitude of the international armed forces, in particular MISCA, whose mandate it is to oversee the cantonment of Muslims in KM5, yet allows them to leave their camp armed to commit such major atrocities.⁴⁷⁹³ The Chamber considers this document to be another illustration of the Anti-Balaka and its national coordination, led by Mr Ngaïssona, equating Seleka or other violence-committing individuals with Muslims in PK5 in general. It is of note that this statement was made at a time when the Anti-Balaka national coordination had repeatedly expressed its commitment to peace and security in the CAR. Yet clearly the underlying mindset remained the same.

1843. A press release of 24 June 2014 confirmed the coordination established following involvement of NGOs, which confirmed Mr Ngaïssona as general coordinator and Sébastien Wenezoui as his deputy.⁴⁷⁹⁴

1844. In June 2014, at a time when most of the Seleka had retreated to the north or were billeted in camps in Bangui⁴⁷⁹⁵ and parts of the Muslim civilian population especially in the west of

⁴⁷⁹¹ P-0952: T-249, p. 52, lines 9-25; T-250, p. 41, lines 6-18. *See also* P-0876 Interview Transcript, CAR-OTP-2046-0500-R01, at 0507, lines 252-260, at 0508, lines 296-309; P-2328: T-047, p. 26, lines 1-8, p. 31, line 17 – p. 34, line 2, p. 35, line 10 – p. 36, line 25, p. 37, line 15 – p. 38, line 6; Press article, CAR-OTP-2002-0719; Minutes, CAR-OTP-2099-0251; Notification, CAR-OTP-0080-0739; Report, CAR-OTP-2030-0984, at 0987.

⁴⁷⁹² Project, CAR-OTP-2025-0396, at 0399.

⁴⁷⁹³ Press statement, CAR-OTP-2084-0153, at 0153.

⁴⁷⁹⁴ Press statement, CAR-OTP-2084-0164, at 0164. *See also* P-1858: T-187, p. 19, line 2 – p. 20, line 4; P-0888: T-123, p. 33, line 20 – p. 34, line 9.

⁴⁷⁹⁵ *See* paragraphs 1558-1560 above.

the CAR had been forced to leave their localities,⁴⁷⁹⁶ the Anti-Balaka coordination also presented a project concerning the peace process, outlining the general context of Seleka violence that had pushed the Central African youth in towns and the hinterland to organise into self-defence movement, and the Anti-Balaka, to protect the CAR population and following their advance through the provinces, eventually reach Bangui for the attack of 5 December 2013.⁴⁷⁹⁷ It criticises that despite the Anti-Balaka's enthusiasm for the new transition authorities, they were seen as enemies of peace and tracked down by international forces, yet the meeting at the presidency on 17 April 2014 restarted the dialogue with the government, and states that while the implication of the Anti-Balaka coordination in the new dynamic of dialogue allowed to manage the security situation in Bangui, in certain localities in the provinces, the counter-productive behaviour has once again emerged in the Anti-Balaka ranks (*'dans certaines localités de provinces, des comportements contre-productifs sont encore relevés dans les rangs des Antibalaka'*).⁴⁷⁹⁸ The document further criticises the favourable treatment of Seleka and not being taken into account despite the engage of the Anti-Balaka to cede hostilities since the election of Catherine Samba-Panza, as well as the international forces, and outlines steps for a communication and sensitisation programme to achieve peace.⁴⁷⁹⁹

1845. A press release of 3 July 2014 reiterates that the Anti-Balaka is committed to the process of dialogue and concertation with a view to returning to normality and peace, that in this context regular meetings with the other part to the conflict take place and progress in the discussions can be seen, that at the same time Sangaris still arbitrarily arrests military leaders of the Anti-Balaka without reasons, which could lead to nefarious consequences for the dialogue and reconciliation process.⁴⁸⁰⁰

1846. A press release of 14 July 2014 states that in light of the latest developments in the socio-political situation of the country in relation to the launch of the process of dialogue and

⁴⁷⁹⁶ See sections IV.A.8.ii, IV.E.6 below.

⁴⁷⁹⁷ Project, CAR-OTP-2025-0396, at 0398. See also P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0347, para. 143; P-0808: T-071, p. 35, line 17 – p. 38, line 24; T-072, p. 14, lines 9-25; P-0446: T-098, p. 19, line 18 – p. 21, line 10; P-0888: T-123, p. 52, line 16 – p. 53, line 25; Letters, CAR-OTP-2025-0408.

⁴⁷⁹⁸ Project, CAR-OTP-2025-0396, at 0399.

⁴⁷⁹⁹ Project, CAR-OTP-2025-0396, at 0400-06.

⁴⁸⁰⁰ Press statement, CAR-OTP-2084-0166, at 0166. See also Email, CAR-OTP-2080-2816-R01.

national reconciliation, the Anti-Balaka coordination notes with consternation the stagnation provoked by the Central African political class which risks compromising the Brazzaville forum.⁴⁸⁰¹

1847. In an interview around this time, Mr Ngaïssona outlined his view of his role as Anti-Balaka coordinator,⁴⁸⁰² having been asked how he came to be national coordinator of the Anti-Balaka since the previous December, and stated that the Anti-Balaka came into being *‘parce que des étrangers ont accompagné les S[eleka] qui étaient de vrais Centrafricains lors de leur entrée dans B[angui] et que ceux-ci ont fait beaucoup du mal au peuple centrafricain’*.⁴⁸⁰³ He reiterated that the Anti-Balaka were not trouble-makers or militia, but patriots, and that their sacrifice needed to be recognised.⁴⁸⁰⁴ He further stated that the Anti-Balaka rose against armed people that committed crimes against the Central African population, and continued:

Un étranger qui vient dans notre pays, pour faire de l’occupation, prendre des armes et tuer les enfants du pays, nous ne pouvons pas accepter cela et voir les enfants du pays souffrir. Mais par contre, nos frères musulmans centrafricains, avec lesquels nous étions habitués à cohabiter avant l’indépendance, après l’indépendance, nous vivions ensemble, Dieu fera en sorte que nous continuions à vivre ensemble et à rester ensemble.⁴⁸⁰⁵

1848. The Chamber considers this of particular note in light of the fact that despite repeatedly stating their commitment for peace and reconciliation, Mr Ngaïssona in this statement continued to draw a distinction between ‘foreign’ Muslims in the CAR and others, defining those ‘foreign’ Muslims as those that had come to the CAR for work, as opposed to Muslims

⁴⁸⁰¹ Press statement, CAR-OTP-2084-0174, at 0174-75. See also P-0888: T-123, p. 63, line 2 – p. 64, line 6 referring to Press statement, CAR-OTP-2101-3611, p. 65, lines 10-16 referring to Press statement, CAR-OTP-2124-1222.

⁴⁸⁰² Audio, CAR-OTP-2042-0916, at 00:06:00-00:07:22; Transcript, CAR-OTP-2088-0646; Translation, CAR-OTP-2088-0649, at 0652, lines 71-84.

⁴⁸⁰³ Translation, CAR-OTP-2088-0649, at 0651, lines 12-42. (Translation from French to English by the Registry) ‘The Anti-Balaka movement came into being because foreigners accompanied the Seleka who were genuine Central African nationals at the time of their entry into Bangui, and the former caused great harm to the Central African people.’

⁴⁸⁰⁴ Translation, CAR-OTP-2088-0649, at 0652, lines 53-59.

⁴⁸⁰⁵ Translation, CAR-OTP-2088-0649, at 0652-53, lines 85-94. (Translation from French to English by the Registry) ‘A foreigner who comes into our country and occupies it, takes up arms and kills the children of the country, that is something we cannot accept, while watching our country’s children suffering. However, on the other hand, with regard to our Central African Muslim brothers with whom we had been used to cohabiting before independence and living together after independence, God will make it possible for us to continue living together and to remain together.’

that had been living in the CAR already before the country's independence. This mirrors the mindset expressed in speeches of François Bozizé already before the Seleka coup.⁴⁸⁰⁶

1849. Further, when asked about his 're-election' as national coordination at an Anti-Balaka general assembly on the 27th day of the previous month, which the Chamber understands to be a reference to the setting up of the coordination in June 2014,⁴⁸⁰⁷ Mr Ngaïssona stated that the misunderstanding was simply based on '*incompréhension mutuelle*' which was not serious, but the media made it big, and they wanted to 'reunite' for purposes of the peace process, but this problem is fully solved.⁴⁸⁰⁸

1850. In the continuing discussion, Mr Ngaïssona referred to the document he signed instructing the Anti-Balaka to respect the Ramadan period,⁴⁸⁰⁹ and spoke of uncontrolled elements when asked about violent acts committed by the Anti-Balaka, while also stating:

[n]ous ne pouvons pas mentir et dire que les A[nti-Balaka] n'ont rien fait non! Dans un tel mouvement, il y a ce genre d'individus. J'ai signé un document pour que les auteurs soient directement envoyés devant la justice pour être jugés car la souffrance endurée par les enfants dans la brousse avant d'entrer à B[angui] n'aura pas été vaine uniquement à cause du comportement d'un seul individu. Et la plupart sont ceux qui ont rejoint le rang des A[nti-Balaka] ici à B[angui]. [...] Nous ne pouvons pas continuer comme ça à diriger des incontrôlés alors que nous avons bien identifié ces individus, et nous les connaissons très bien.⁴⁸¹⁰

1851. In a similar vein, in an interview published on 5 August 2014, Mr Ngaïssona is reported as stating that '*[l]es tueries, on n'en fait plus*'.⁴⁸¹¹

⁴⁸⁰⁶ See paragraphs 1240-1288 above.

⁴⁸⁰⁷ See paragraphs 1717-1737 below.

⁴⁸⁰⁸ Translation, CAR-OTP-2088-0649, at 0653, lines 102-129.

⁴⁸⁰⁹ Translation, CAR-OTP-2088-0649, at 0654, lines 133-158. See also paragraph 1889 below.

⁴⁸¹⁰ Translation, CAR-OTP-2088-0649, at 0654-55, lines 159-187. (Translation from French to English by the Registry) 'We cannot lie by claiming that the Anti-Balaka didn't do anything. No! In such a movement, you always have these types of individuals. I signed a document instructing that the perpetrators should be taken directly before the justice system to be tried, because the suffering endured by the children in the bush before their entry into Bangui would not have been in vain solely because of the conduct of a single individual. Besides, the majority is made up of those who joined the ranks of the Anti-Balaka here in Bangui [...] Well, we cannot continue like this, keeping rogue elements under our leadership whereas we have clearly identified those individuals, and we know very well who they are.'

⁴⁸¹¹ Press article, CAR-OTP-2068-0619, at 0619. The Chamber notes that the Ngaïssona Defence argues that the article is full of approximations, in particular that Mr Ngaïssona is not quoted as having claimed 53,000 elements and fails to mention the arrest warrant of April 2014, thereby casting doubt on the reliability of information contained therein

1852. The Chamber considers this to show Mr Ngaïssona's awareness of violent acts having been committed by Anti-Balaka elements, while at the same time trying to portray those as isolated acts by specifically identified individuals, which, at that time, Mr Ngaïssona knew not to be correct.

b. Activities in the context of reconciliation

1853. The Chamber has received evidence on reconciliation activities that members of the Anti-Balaka, including Mr Ngaïssona and Mr Yekatom, were involved in.

1854. The Yekatom Defence argues that Mr Yekatom answered a 'call to protect the civilian population as a whole and to prevent further atrocities and human rights abuses', and 'took up arms to defend the population from enemy forces and mitigate escalating local tensions [...] with full commitment to his military training and respect for IHL principles', remaining 'steadfast in his efforts to restore peace and reconciliation' in the CAR.⁴⁸¹²

1855. The Ngaïssona Defence argues that Mr Ngaïssona's 'consistent words and actions throughout 2014 demonstrate that his one and only objective was to bring peace back in CAR and put an end to the crisis', and 'show his commitment and engagement for the return of peace in CAR', thus demonstrating that his actions, to the extent they could be deemed as contributions, 'were not made with the specific aim of facilitating any offence, nor that of furthering any criminal activities'.⁴⁸¹³

1856. The Chamber has considered the evidence, as further outlined below, in the overall context of the information before it. The Chamber considers that this evidence shows that while the Anti-Balaka, and specifically Mr Ngaïssona and Mr Yekatom, did engage in activities also aimed at peace and reconciliation, these were set in the context of broader peace negotiations

(see ICC-01/14-01/18-1942-Conf-Anx1, pp. 106-107). At the same time, the Ngaïssona Defence argues that the item can be relied on for purposes of showing that Mr Ngaïssona did not receive any money, including not from François Bozizé. Overall, the Chamber has considered this article in the context of other evidence before it, referencing a limited excerpt for a specific and limited purpose in its determinations. The Chamber therefore does not consider necessary to address the Ngaïssona Defence's submissions any further.

⁴⁸¹² [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 2-3. *See also* paras 351-354.

⁴⁸¹³ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 582-606. *See also* paras 607-608.

with the CAR government and international authorities.⁴⁸¹⁴ They also took place at a time when no more large-scale active hostilities were taking place, when the Seleka had mostly retreated to the north or was billeted,⁴⁸¹⁵ and when Muslim civilians especially in the west of the CAR had been forced to leave their localities.

1857. Importantly, the Chamber has also considered the occasions when Mr Ngaïssona and Mr Yekatom did not intervene or condemn the actions of the Anti-Balaka, including violent acts and abuses committed by them: including in the context of their advance towards Bangui, during attacks on Bossangoa and Bangui, or during the advance of Mr Yekatom's group on the PK9-Mbaïki axis. Indeed, in those contexts, which are of relevance to the charges in this case, neither Mr Ngaïssona nor Mr Yekatom condemned any of the Anti-Balaka's activities, or sanctioned individuals for their actions, and especially the national coordination under Mr Ngaïssona's lead repeatedly referred to the Anti-Balaka having acted heroically and to the transition government being ungrateful because it was felt that it did not recognise the 'act of deliverance' the Anti-Balaka in their view performed.⁴⁸¹⁶

1858. Indeed, Catherine Samba-Panza testified that she had a lot of exchanges with the Anti-Balaka and was never closed to any form of exchange with them, yet Mr Ngaïssona said all the time that the authorities were not open and that the government was ungrateful.⁴⁸¹⁷

1859. This attitude is reflected in the evidence of Alfred Legrand Ngaya, who opined that it was the transition government which had no incentive to stop the violence because it allowed them to stay in government longer, which was why they refused to work with the Anti-Balaka, the FACA had to arrange security in the neighbourhoods, and the international forces did nothing to help.⁴⁸¹⁸

⁴⁸¹⁴ See section IV.A.8.i below.

⁴⁸¹⁵ See paragraphs 1558-1560 above; section IV.A.8.i below.

⁴⁸¹⁶ See paragraphs 1696-1708, 1810-1852 above.

⁴⁸¹⁷ P-0952: T-250, p. 38, line 22 – p. 39, line 14, p. 40, line 20 – p. 41, line 3. See also Press statement, CAR-OTP-2101-3611, at 3611-12.

⁴⁸¹⁸ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0344, para. 126; P-0808: T-071, p. 14, line 25 – p. 17, line 18, p. 40, line 24 – p. 41, line 13; T-072, p. 43, line 20 – p. 44, line 11, p. 44, line 25 – p. 45, line 7.

1860. It is within this context that the Chamber has considered the evidence of witnesses who mentioned the peaceful and reconciliatory attitude and approach of Mr Ngaïssona⁴⁸¹⁹ and Mr Yekatom⁴⁸²⁰ in general, or more specifically, towards the Muslim civilian population, whether stated to have been the same throughout 2014,⁴⁸²¹ or more specifically related to the second half of that year.⁴⁸²²

1861. The Chamber considers the importance of the context well illustrated by the evidence of Vivien Beina. While describing how grateful the people in the Lobaye were to Mr Yekatom for his efforts and stating that this was why they elected him as member of parliament, Vivien Beina further testified that during those elections there were practically no Muslims in the Lobaye, and even Christians who had converted refused to vote because they were afraid.⁴⁸²³

1862. Among the activities engaged in by the Anti-Balaka, and by Mr Ngaïssona and Mr Yekatom more specifically, the Chamber notes the press statement issued by the Anti-Balaka general coordination, as signed by Mr Ngaïssona, on occasion of Catherine Samba-Panza's election as new transition president.⁴⁸²⁴

1863. Further, the evidence before the Chamber as outlined below shows that the Anti-Balaka coordination requested billeting of the Anti-Balaka elements comparable to the billeting of Seleka in Bangui, leading to frustration when this did not happen. The question of billeting

⁴⁸¹⁹ P-0446: T-098, p. 25, line 16 – p. 26, line 11; P-1193: T-125, p. 23, lines 9-15; P-0889: T-110, p. 24, line 20 – p. 25, line 15; D30-4504: T-283, p. 58, line 4 – p. 60, line 14; D30-4953 Statement, CAR-D30-0026-0001-R01, at 0004, para. 38; D30-4914 Statement, CAR-D30-0024-0001-R01, at 0018, lines 685-688; D30-4914: T-303, p. 32, line 13 – p. 36, line 22, p. 38, line 12 – p. 39, line 13; P-0801: T-035, p. 58, line 18 – p. 59, line 19, p. 60, line 25 – p. 61, line 23; T-035-ENG, p. 59, lines 8-11; T-035-FRA, p. 61, lines 14-19; P-2027: T-040, p. 11, lines 16-22; P-2251: T-043, p. 44, line 22 – p. 45, line 14; T-044, p. 53, lines 2-15, p. 42, line 1 – p. 43, line 8; P-1521: T-083, p. 8, line 24 – p. 9, line 6, p. 39, lines 3-7, p. 78, lines 11-23. *See also* Letter, CAR-OTP-2092-1735.

⁴⁸²⁰ P-0888: T-122, p. 17, line 4 – p. 20, line 6, p. 21, line 10 – p. 24, line 15, p. 24, line 19 – p. 29, line 6, p. 31, line 18 – p. 33, line 23, p. 33, line 25 – p. 38, line 12; P-0446: T-099, p. 75, line 23 – p. 76, line 3. *See also* paragraphs 1638-1639 above.

⁴⁸²¹ P-0808: T-071, p. 20, line 22 – p. 24, line 13; P-0889: T-109, p. 33, line 23 – p. 34, line 2; P-1858: T-187, p. 4, line 22 – p. 5, line 2; P-1193: T-125, p. 37, lines 7-15.

⁴⁸²² P-0446: T-098, p. 27, line 1 – p. 28, line 2; T-099, p. 51, lines 10-21; P-1193 Statement, CAR-OTP-2045-0048-R03, at 0055, para. 42; P-1193: T-124, p. 56, lines 5-17, p. 67, line 11 – p. 68, line 19, p. 69, lines 11-22; T-124-FRA, p. 73, lines 18-25; T-125, p. 8, line 17 – p. 9, line 7, p. 14, line 25 – p. 15, line 6, p. 19, line 21 – p. 20, line 6, p. 64, line 13 – p. 65, line 17; P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0066, para. 101; P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0306, para. 113, at 0313, para. 159; T-093, p. 26, line 3 – p. 27, line 4; T-093-ENG, p. 27, line 25 – p. 28, line 8; T-093-FRA, p. 27, lines 20-27; T-095, p. 12, lines 12-18.

⁴⁸²³ P-0888: T-122, p. 39, lines 16-22.

⁴⁸²⁴ *See* paragraph 1610 above.

Anti-Balaka elements was also related to the issue of organised disarming, neither of which in fact took place during the period relevant to the charges.

1864. The Chamber has before it two documents which appear to be project suggestions for billeting and aid projects for the Anti-Balaka, prepared around February 2014. The first document traces the origins of the Anti-Balaka to self-defence groups that set up due to the Seleka violence, progressing to and reaching Bangui with the attack on 5 December 2013, and eventually leading to the dismissal of Michel Djotodia and Nicolas Tiangaye.⁴⁸²⁵ Importantly, the document continues:

Aussi, la population, victime des exactions des S[eleka] à travers la Centrafrique depuis le 10 décembre 2012, a regagné les rangs des Antibalaka avec un esprit de vengeance envers les ex-Séléka est [sic] les sujets musulmans qui ont soutenu les Séléka durant leur occupation de la RCA. Avec la généralisation du mouvement « Anti-Balaka » à cette frange de population centrafricaine victime des Séléka, les dérapages sont constatés dans les rangs des Antibalaka en sachant que beaucoup de délinquants et de déviants ont grossi les rangs du Mouvement.

L'effectif global de ces Jeunes antibalaka est aujourd'hui évalué à environ 50.000 combattants, repartis sur les différents sites d'implantation du Mouvement à Bangui et dans l'arrière-pays.

Pour freiner et enrayer la propension aux dérapages des combattants Antibalaka « mélangés », le cantonnement, la prise en charge et l'alimentation des combattants Antibalaka constitue une urgente nécessité en vue de consolider le processus de pacification et de normalisation en cours en République Centrafricaine. Cette opération permettra de préserver les communautés centrafricaines.⁴⁸²⁶

1865. The document further outlines specific goals, expected results, timeline, beneficiaries, and gives a breakdown of number of elements with their commanders per specified sites in

⁴⁸²⁵ Project, CAR-OTP-2025-0362, at 0364.

⁴⁸²⁶ Project, CAR-OTP-2025-0362, at 0364-65. (Translation from French to English by the Registry) 'In addition, the population, victims of the Seleka's atrocities throughout the Central African Republic since 10 December 2012, have joined the ranks of the Anti-Balaka with the intention of exacting revenge on the ex-Seleka and the Muslim individuals who supported the Seleka during their occupation of the CAR. With the "Anti-Balaka" movement expanding to include this section of the Central African population that had been victimized by the Seleka, excesses are observed in the ranks of the Anti-Balaka, knowing that many delinquents and deviants have swelled the ranks of the Movement. The total headcount of these young Anti-Balaka is currently assessed at around 50,000 combatants, spread across the Movement's various strongholds in Bangui and the provinces. To slow down and halt the inclination towards excesses by the "mixed" Anti-Balaka combatants, it is urgently necessary to billet, support and feed the Anti-Balaka combatants with a view to consolidating the process of peace-keeping and normalization under way in the Central African Republic. This operation will help preserve the communities in the Central African Republic.'

Bangui, with *inter alia* groups led by Andilo Ngaibona, Benjamin Ouapoutou, Thierry Lebene, Guy Mazimbelet, Richard Bejouane, Dieudonné Houronti.⁴⁸²⁷

1866. The second document provides the same background, but specifies slightly different project steps and gives an estimated budget.⁴⁸²⁸

1867. The Chamber considers of particular note that this second document acknowledges and recognises that Anti-Balaka elements were driven, at least in part, by the thought of revenge against Muslims in general that they considered to have been supportive of the Seleka, and that it does not, in this, try to suggest that any crimes committed by Anti-Balaka elements in this specific setting would have been committed exclusively by individuals who were ‘fake’ or not in fact Anti-Balaka elements. Rather, it includes elements driven by revenge and having committed ‘*dérapages*’ in its overall force.

1868. Moreover, Alfred Legrand Ngaya testified that he drafted the projects on instructions of Mr Ngaïssona,⁴⁸²⁹ explaining that the figure of 50,000 elements was an approximation on the basis of what the ComZones were telling them.⁴⁸³⁰ Alfred Legrand Ngaya said that there were two similar projects with different themes, concerning emergency assistance and return to villages, as well as billeting.⁴⁸³¹ The witness testified that the projects were sent to the transition government and international forces and organisations, but there was never any reaction.⁴⁸³² The witness agreed with the suggestion that billeting was necessary because of the lack of structure and combatants being left to their own devices, while FACA members did not want to disarm because of the lack of security forces.⁴⁸³³ Alfred Legrand Ngaya also stated that the government did not pay for the return of combatants, most returned on their own and Mr Ngaïssona helped pay for some to return.⁴⁸³⁴ The witness thought it was bad

⁴⁸²⁷ Project, CAR-OTP-2025-0362, at 0365-69.

⁴⁸²⁸ Project, CAR-OTP-2025-0372, at 0378-79.

⁴⁸²⁹ P-0808: T-070, p. 62, line 11 – p. 63, line 7.

⁴⁸³⁰ P-0808: T-070, p. 63, lines 8-14, p. 65, line 22 – p. 66, line 6; T-072, p. 34, line 24 – p. 35, line 15.

⁴⁸³¹ P-0808: T-070, p. 65, lines 4-21.

⁴⁸³² P-0808: T-070, p. 61, line 14 – p. 62, line 10, p. 66, line 24 – p. 67, line 8. *See also* P-2251 Statement, CAR-OTP-2093-0045-R01, at 0067, paras 141-143; P-2251: T-044, p. 37, lines 13-23, p. 39, line 9 – p. 40, line 9; P-1521: T-083, p. 56, line 8 – p. 57, line 24.

⁴⁸³³ P-0808: T-070, p. 68, line 21 – p. 69, line 19; T-072, p. 18, line 13 – p. 19, line 8. *See also* Press article, CAR-D30-0008-0040; P-1521: T-083, p. 51, lines 7-16.

⁴⁸³⁴ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0340, para. 107. *See also* P-0888: T-123, p. 51, lines 2-9.

faith of Tiangaye and others to say that the CAR did not have the resources to billet the Anti-Balaka, the problem was how to carry out advocacy to raise the necessary resources, the political will was lacking.⁴⁸³⁵

1869. Catherine Samba-Panza explained when testifying about the disarmament and reconciliation efforts of the CAR transitional government that they intended to engage in organised disarmament, and that the grouping and billeting of armed groups had to correspond to certain criteria within an organised overall framework, which was difficult to do the same way for the Anti-Balaka as the Seleka as it had to be done with the support of the international community, since this required resources which the CAR did not have.⁴⁸³⁶ To Catherine Samba-Panza, Mr Ngaïssona's statement of being ready to put down weapons was a 'political spin' (*'effets d'annonce'*): it was something that he said, but did not do.⁴⁸³⁷ The witness testified that she received a lot of Anti-Balaka suggestions on peace and reconciliation, about billeting or housing, but that this needed to be in a set strategy and the government did not have the resources.⁴⁸³⁸ Moreover, Catherine Samba-Panza testified that when André Nzapayéké visited the 4th arrondissement, where most of the Anti-Balaka lived, in June 2014, people were not really prepared to disarm because they felt like giving up their weapons left them at the mercy of attacks.⁴⁸³⁹ The witness agreed with the suggestion that the fact of not housing elements combined with the failure of disarmament led to a situation where armed elements mixed and mingled with the population.⁴⁸⁴⁰

1870. Overall, it is clear from the evidence before the Chamber that while there may have been wishes and requests from the side of the Anti-Balaka in this regard, no billeting of groups took place, and a DDR programme was not set up until some years after.

⁴⁸³⁵ P-0808: T-070, p. 67, line 9 – p. 68, line 20.

⁴⁸³⁶ P-0952: T-250, p. 17, line 12 – p. 21, line 2, p. 28, lines 8-21; T-251, p. 52, line 25 – p. 53, line 23, p. 56, lines 20-25. *See* Video, CAR-OTP-2014-0755, at 00:07:12-00:11:09; Transcript, CAR-OTP-2122-7370, at 7374, lines 71-113. *See also* P-0291: T-053, p. 12, line 15 – p. 13, line 2.

⁴⁸³⁷ P-0952: T-250, p. 30, lines 13-18. *See* Press article, CAR-OTP-2117-0681, at 0682.

⁴⁸³⁸ P-0952: T-250, p. 30, line 19 – p. 31, line 11; T-251, p. 50, line 22 – p. 51, line 23.

⁴⁸³⁹ P-0952: T-250, p. 44, line 7 – p. 48, line 16. *See* Video, CAR-OTP-2023-2114, at 00:02:06-00:06:10; Transcript, CAR-OTP-2107-1508, at 1509-10, lines 34-78.

⁴⁸⁴⁰ P-0952: T-251, p. 57, line 22 – p. 58, line 1.

1871. Several witnesses spoke to the request from the side of the Anti-Balaka and Mr Ngaïssona more specifically that Anti-Balaka elements be billeted, and the idea of combatants returning to their villages in the provinces.⁴⁸⁴¹ The Chamber considers of note in this regard that Jo-Brice Ouabiro Dana testified that Mr Ngaïssona was taking care of the Anti-Balaka at the time and said during a meeting that this should not only be the responsibility of Mr Ngaïssona, but that they should start a process with the government to take care of them.⁴⁸⁴²

1872. Other witnesses spoke of the participation of Anti-Balaka elements in a DDR programme which was set up at a later stage.⁴⁸⁴³

1873. Some witnesses mentioned Mr Ngaïssona being involved in ensuring the return of vehicles stolen by Anti-Balaka elements.⁴⁸⁴⁴

1874. The evidence before the Chamber further shows that one of the initiatives implemented with a view to control the actions of Anti-Balaka elements was a ‘military police’, set up in February 2014 by the general coordination under Mr Ngaïssona’s lead, which was to track down and hand over to the gendarmerie ‘fake’ Anti-Balaka, meaning those that said they were Anti-Balaka and committed acts against the population, but clearly was also understood to track down those considered to be Anti-Balaka elements, but acting out of bounds, specifically in the context of theft and looting.⁴⁸⁴⁵

⁴⁸⁴¹ See P-1193: T-124, p. 36, lines 10-23, p. 37, lines 12-17 *referring to* List, CAR-OTP-2039-0050; T-126, p. 37, line 17 – p. 38, line 16; T-125, p. 24, lines 15-21, p. 32, line 12 – p. 33, line 11, p. 34, line 8 – p. 37, line 6; T-127, p. 18, lines 8-18; P-0974: T-244, p. 41, line 16 – p. 42, line 16, p. 44, lines 14-18; P-0966: T-118, p. 31, lines 12-22, p. 35, line 2 – p. 36, line 6; P-1962: T-140, p. 18, line 11 – p. 20, line 23; P-1042: T-164, p. 39, line 7 – p. 40, line 13; P-0954: T-169-ENG, p. 41, line 13 – p. 42, line 9; T-169-FRA, p. 44, lines 13-25; P-0965: T-062, p. 33, line 15 – p. 34, line 10; P-0446: T-098-ENG, p. 47, line 13 – p. 48, line 13; T-098-FRA, p. 52, line 19 – p. 53, line 23; T-098, p. 48, line 22 – p. 52, line 7. *See also* Video, CAR-OTP-2042-4677, at 00:28:53-00:30:48; Transcript, CAR-OTP-2122-8957; Translation, CAR-OTP-2122-8916, at 8926-27, lines 317-337.

⁴⁸⁴² P-0966: T-118, p. 34, line 23 – p. 36, line 2.

⁴⁸⁴³ See P-0888 First Statement, CAR-OTP-2031-0217-R03, at 0226, para. 59; P-0888: T-121, p. 23, line 23 – p. 25, line 6; T-122, p. 15, lines 9-13; T-123, p. 33, lines 8-19, p. 49, line 16 – p. 51, line 2, p. 54, line 1 – p. 55, line 9; P-0954: T-168, p. 9, lines 8-13, p. 16, line 21 – p. 18, line 7; P-1962: T-140, p. 18, line 11 – p. 20, line 23; P-0965: T-062, p. 33, lines 10-14; P-0446: T-096, p. 61, line 25 – p. 63, line 7.

⁴⁸⁴⁴ P-0808: T-070, p. 29, lines 19-25; T-071, p. 56, line 2 – p. 57, line 8; P-0966: T-118, p. 26, line 7 – p. 27, line 3; P-2269 Statement, CAR-OTP-2111-0336-R01, at 0350, para. 107, at 0351, para. 114. *See also* Video, CAR-OTP-2023-1597; Transcript, CAR-OTP-2107-1499; P-0808: T-071, p. 53, line 17 – p. 55, line 20; P-1521: T-083, p. 82, line 4 – p. 84, line 20; P-0889: T-110, p. 24, line 20 – p. 25, line 8.

⁴⁸⁴⁵ P-0446 Interview Transcripts, CAR-OTP-2059-1586-R01, at 1597, lines 444-451, at 1599-1600, lines 523-549, at 1599-1600, lines 523-549, at 1601, lines 590-608; CAR-OTP-2059-1602-R01, at 1603, lines 15-37, at 1604,

1875. The Chamber has before it a compilation of four mission orders and one mandate which includes orders to conduct military police operations in various locations, to be done by different groups of individuals per set of locations, including *inter alia* Namsio Emotion Brice, Golokette Guy and Ngaïbona Andilo.⁴⁸⁴⁶ The Chamber considers the evidence inconclusive as to whether Andjilo did in fact play any role in the Anti-Balaka ‘military police’.⁴⁸⁴⁷

1876. Overall, the effectiveness of this measure is unclear.⁴⁸⁴⁸ The Chamber considers of further import in this context the evidence of Catherine Samba-Panza, who testified that there were actions by the Anti-Balaka, but they could not replace the enforcement bodies, they were not controlled either, and it was not their job to do so.⁴⁸⁴⁹

1877. The setting up of a ‘military police’ is also linked to the question of interaction of Anti-Balaka groups with national and international forces.

1878. Specifically, Vivien Beina suggested that the unit was done in common agreement with the international organisations and its actions were followed by the international community to make sure that the correct measures of confidence were followed.⁴⁸⁵⁰ In contrast, P-1193

lines 64-72, at 1611-12, lines 337-395, at 1615, lines 477-491, at 1618, lines 599-608; P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0338, para. 95, at 0345, para. 150; P-0808: T-070-ENG, p. 71, line 18 – p. 72, line 18; T-070-FRA, p. 79, lines 3-16; T-070, p. 58, lines 3-22, p. 70, line 25 – p. 71, line 17, p. 73, lines 14-18, p. 73, lines 5-18; P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0309, para. 130; P-0992: T-093, p. 41, lines 5-13, p. 46, lines 14-22; P-0966 Statement, CAR-OTP-2031-0241-R03, at 0256, paras 86-87; P-2232: T-076, p. 57, line 15 – p. 58, line 15; P-1193 Statement, CAR-OTP-2045-0048-R03, at 0060, para. 78; P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0064, para. 89; P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0315-16, paras 176-177; P-0992: T-093, p. 48, lines 3-13, p. 48, line 15 – p. 49, line 7, p. 49, lines 9-22; P-0888 First Statement, CAR-OTP-2031-0217-R03, at 0226, paras 56, 58; P-0888: T-123, p. 57, line 23 – p. 58, line 8, p. 58, lines 9-17; P-2602 Interview Transcript, CAR-OTP-2118-9764-R01, at 9765-67, lines 12-91. *See also* P-1521: T-083, p. 41, line 21 – p. 42, line 15, p. 59, line 5 – p. 60, line 20, p. 61, lines 4-6, p. 62, lines 13-18; P-2251 Statement, CAR-OTP-2093-0045-R01, at 0065, para. 128, at 0066, para. 130, at 0070, paras 159, 161; P-2251: T-043, p. 53, lines 20-24; T-044, p. 51, line 12 – p. 52, line 4, p. 54, line 25 – p. 55, line 19; Annex 5.2 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0881.

⁴⁸⁴⁶ Orders, CAR-OTP-2025-0356, at 0356-59. *See also* P-2269 Statement, CAR-OTP-2111-0336-R01, at 0355, paras 144-145, at 0356, para. 147.

⁴⁸⁴⁷ *See* P-0446 Interview Transcripts, CAR-OTP-2059-1602-R01, at 1605, lines 92-102; CAR-OTP-2059-1626-R01, at 1636-37, lines 388-405; P-0446: T-098, p. 42, line 16 – p. 43, line 6, p. 44, lines 5-17; P-0306: T-068, p. 54, line 16 – p. 55, line 18. *See also* P-1193: T-125, p. 20, line 25 – p. 21, line 4; P-0888: T-123, p. 58, lines 18-21.

⁴⁸⁴⁸ *See* P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0347, paras 141-142; P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0024-25, para. 78; P-0808: T-070, p. 73, line 20 – p. 75, line 7; T-071, p. 51, line 20 – p. 53, line 16; P-1193 Statement, CAR-OTP-2045-0048-R03, at 0060, para. 79.

⁴⁸⁴⁹ P-0952: T-251-ENG, p. 66, lines 2-7; T-251-FRA, p. 67, lines 9-14.

⁴⁸⁵⁰ P-0888: T-123, p. 57, lines 8-22.

testified that the national coordination did not do anything and the military police was set up after the June coordination was agreed because the prime minister's office wanted 'Rombhot's' group to set up a police to track down bandits.⁴⁸⁵¹

1879. More generally, Alfred Legrand Ngaya testified that state security forces existed in name only in 2014, and agreed with the suggestion that international forces did not travel outside of Bangui, with generally less presence of international forces in the provinces, which was why Mr Yekatom and his people wanted to collaborate and reinforce or support the gendarmerie.⁴⁸⁵² The witness agreed with the suggestion that Mr Yekatom intervened when people had looted vehicles around PK45 on the Boali road, handing them over to Emotion Namsio and his military police.⁴⁸⁵³

1880. Catherine Samba-Panza agreed with the suggestion that there was a lack of security in the interior of the country, international troops were mostly deployed in Bangui and surrounding towns, the need to protect themselves led to people not wanting to disarm voluntarily, in addition to a lack of trust in international forces and national forces not being able to fully play their role.⁴⁸⁵⁴ The witness testified that violence and abuses continued for several years in the presence of international forces, but those did what they could to try and stop it.⁴⁸⁵⁵ She further stated that the international forces refused to work with the Anti-Balaka as they could not work with an informal group, but they did carry out certain joint initiatives with them.⁴⁸⁵⁶

1881. Several witnesses talked about Mr Yekatom's group in particular assisting and cooperating with national and international forces, specifically in the Lobaye prefecture.⁴⁸⁵⁷ In this context, Brice Emotion Namsio agreed with the suggestion that the cooperation started 'from

⁴⁸⁵¹ P-1193: T-125-ENG, p. 18, lines 2-23; T-125-FRA, p. 17, line 15 – p. 18, line 3; T-126, p. 6, lines 7-16, p. 38, line 19 – p. 39, line 3.

⁴⁸⁵² P-0808: T-072, p. 24, line 19 – p. 30, line 1.

⁴⁸⁵³ P-0808: T-072, p. 30, line 20 – p. 31, line 8.

⁴⁸⁵⁴ P-0952: T-252, p. 69, line 8 – p. 75, line 2.

⁴⁸⁵⁵ P-0952: T-251, p. 17, line 13 – p. 19, line 5.

⁴⁸⁵⁶ P-0952: T-251, p. 66, line 8 – p. 68, line 6.

⁴⁸⁵⁷ P-0446: T-099, p. 35, lines 12-22, p. 59, line 20 – p. 60, line 10, p. 67, lines 3-10, p. 61, line 12 – p. 62, line 7 *referring to* Video, CAR-OTP-2055-2610; Transcript, CAR-OTP-2107-6906; Translation, CAR-OTP-2122-2271; P-0888: T-121, p. 50, line 24 – p. 51, line 8; T-123, p. 37, line 16 – p. 38, line 10; P-2084 Statement, CAR-OTP-2094-0968-R02, at 0984, para. 81, at 0985, para. 86; P-2084: T-234, p. 75, line 8 – p. 76, line 7; P-1193: T-126, p. 63, line 7 – p. 65, line 22, p. 66, lines 4-13 *referring to* Video, CAR-OTP-2023-1990; Transcript, CAR-OTP-2122-9420.

the outset’ of the Samba-Panza government,⁴⁸⁵⁸ while P-1858 confirmed the suggestion that collaboration to stop people who were thieves and wanted to destroy the CAR started as soon as the Seleka left the PK9 position.⁴⁸⁵⁹

1882. The Chamber refers in this regard to its discussion of the interactions of Mr Yekatom’s group with national and international forces in the Lobaye and specifically on the PK9-Mbaïki axis, in which it concludes that such activities took place at a time when the Muslim civilian population had been removed from the area.⁴⁸⁶⁰

1883. The Chamber further considers instructive in this regard that the CAR Panel, when meeting with Mr Yekatom at the end of April 2014, observed elements under Mr Yekatom’s control in Sekia and Pissa operating alongside regular forestry, police and road maintenance agents.⁴⁸⁶¹ Importantly, the panel also confirmed the presence of Anti-Balaka forces under Mr Yekatom’s command, alongside the gendarmerie, in Pissa, Mbaïki and Boda, where trucks to practically all forestry concessions passed and the elements levied taxes,⁴⁸⁶² and concluded that Mr Yekatom’s forces exercised a significant degree of control over road transport into Bangui from the southern transport axis linking to Cameroon.⁴⁸⁶³

1884. Moreover, the Chamber cannot conclude, on the evidence before it, that Mr Yekatom’s group would have entertained any special relations with the Sangaris with a view to re-establishing peace and security.⁴⁸⁶⁴

1885. The Chamber received evidence on a number of reconciliation activities engaged in by various actors, including the Anti-Balaka with Mr Ngaïssona and Mr Yekatom, after the end of February 2014. In light of its findings regarding the duration of the armed conflict as set

⁴⁸⁵⁸ P-0446: T-099, p. 61, line 24 – p. 62, line 7.

⁴⁸⁵⁹ P-1858: T-186, p. 8, line 1 – p. 11, line 1, p. 12, line 16 – p. 13, line 15.

⁴⁸⁶⁰ See paragraphs 3386-3395 below.

⁴⁸⁶¹ Annex 5.4 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0884, para. 1. See P-0287: T-021, p. 47, line 21 – p. 49, line 21.

⁴⁸⁶² Annex 5.4 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0884, para. 1; Annex 13 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0909, para. 4.

⁴⁸⁶³ Annex 5.4 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0884, para. 1. See P-0287: T-021, p. 47, line 21 – p. 49, line 21.

⁴⁸⁶⁴ See Press article, CAR-OTP-2001-3811; Video, CAR-OTP-2065-4898; Transcript, CAR-D29-0006-1177; P-0876: T-086, p. 84, lines 1-24; T-087, p. 14, line 22 – p. 15, line 5; P-0888: T-121, p. 33, line 3 – p. 40, line 5, p. 50, lines 12-23; P-1193: T-127, p. 4, line 10 – p. 6, line 18, p. 7, line 23 – p. 8, line 16.

out below,⁴⁸⁶⁵ the Chamber notes this evidence to provide further context, without going into detail.

1886. The evidence before the Chamber shows that one of the activities organised by the government was a ceremony at the Omnisport arena on 29 March 2014, attended, *inter alia*, by Mr Yekatom.⁴⁸⁶⁶

1887. The Chamber also received evidence on the efforts undertaken with a view to reconcile communities in Boda.⁴⁸⁶⁷

1888. The evidence before the Chamber further shows that in particular in the context of the Brazzaville negotiations in mid-2014, the Anti-Balaka, including Mr Ngaïssona and Maxime Mokom, organised missions to the provinces to give information to the Anti-Balaka regarding the peace process and discussions with the government and international organisations.⁴⁸⁶⁸ In this context, the Chamber notes the evidence of Alfred Legrand Ngaya, who stated that the missions were to get the Anti-Balaka to understand that they needed to join the process to return to normalcy, that things had changed and ‘we were now in the mindset of peace’, implying that this was indeed a change in attitude to preceding behaviour.⁴⁸⁶⁹

1889. The evidence before the Chamber further shows that the Anti-Balaka issued press statements or communiqués which asked the Anti-Balaka to observe a peaceful attitude and not to do

⁴⁸⁶⁵ See section IV.A.8.i below.

⁴⁸⁶⁶ Video, CAR-OTP-2023-1831; Transcript, CAR-OTP-2127-6561; P-0952: T-252, p. 40, line 17 – p. 42, line 11; P-0808: T-072, p. 48, line 12 – p. 49, line 10, p. 51, line 18 – p. 52, line 4; P-0475: T-091, p. 23, line 8 – p. 25, line 3.

⁴⁸⁶⁷ See paragraph 2114 below.

⁴⁸⁶⁸ P-0446 Interview Transcripts, CAR-OTP-2059-1468-R01, at 1474, lines 201-213; CAR-OTP-2059-1567-R01, at 1579-81, lines 453-543; CAR-OTP-2059-1586-R01, at 1588, lines 52-59, at 1589-93, lines 80-271, at 1597, lines 443-444; P-0446: T-097, p. 84, line 9 – p. 85, line 21; T-098, p. 3, line 17 – p. 4, line 15, p. 9, line 21 – p. 10, line 13; T-099, p. 79, line 14 – p. 80, line 23; P-0475 Statement, CAR-OTP-2104-0116-R04, at 0133, paras 133-134, 136-137, at 0133-34, para. 138, at 0134, paras 143-144, at 0136, para. 154; P-0475: T-091, p. 19, line 8 – p. 20, line 4, p. 59, lines 5-14, p. 70, lines 21-25; P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0025, paras 87-88. See Mission orders, CAR-OTP-2029-0169; CAR-OTP-2029-0171; CAR-OTP-2029-0175. See also P-0446: T-098, p. 5, line 18 – p. 6, line 19, p. 15, line 12 – p. 16, line 4; P-2232: T-077, p. 39, lines 4-24 referring to Title, CAR-OTP-2108-0049; P-2328: T-049, p. 16, lines 2-23.

⁴⁸⁶⁹ P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0025, paras 90-91; P-0808: T-070, p. 75, line 15 – p. 76, line 3.

anything to disturb the ‘Muslim brothers’ during Ramadan,⁴⁸⁷⁰ as well as to allow free circulation of humanitarian, international forces and other vehicles.⁴⁸⁷¹ In relation to the latter, the Chamber notes that this seems to have taken place right after the Anti-Balaka engaged in a ‘*ville morte*’-activity in October 2014.⁴⁸⁷²

1890. The evidence before the Chamber shows that commitments to peace were expressed by Mr Ngaïssona in the context of the Brazzaville negotiations.⁴⁸⁷³

1891. The evidence before the Chamber further indicates that following the Brazzaville agreement, the Anti-Balaka under Mr Ngaïssona, and involving Mr Yekatom, engaged in removing roadblocks.⁴⁸⁷⁴

1892. In addition, the evidence before the Chamber shows that towards the end of 2014, Mr Ngaïssona decided to transform the Anti-Balaka movement into a political party, with which not all Anti-Balaka elements agreed.⁴⁸⁷⁵

⁴⁸⁷⁰ Communiqué, CAR-OTP-2084-0157, at 0157; P-0808: T-071, p. 38, line 25 – p. 40, line 23; P-0475: T-091, p. 68, line 14 – p. 69, line 18. *See also* P-0888: T-123, p. 61, lines 2-12; P-1521: T-083, p. 73, line 14 – p. 74, line 17.

⁴⁸⁷¹ Press statements, CAR-OTP-2093-0156; CAR-OTP-2093-0157; CAR-OTP-2093-0158; P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0029, para. 107, at 0031-32, para. 122, at 0032, para. 126; P-2269 Statement, CAR-OTP-2111-0336-R01, at 0355, paras 140-142; P-0888: T-123, p. 65, line 17 – p. 67, line 5. *See also* Press statement, CAR-OTP-2030-0245, at 0245-47; P-1521: T-083, p. 75, line 21 – p. 76, line 18, p. 77, line 10 – p. 78, line 6.

⁴⁸⁷² *See also* Press statement, CAR-OTP-2093-0159.

⁴⁸⁷³ *See* Video, CAR-OTP-2099-1360; Transcript, CAR-OTP-2101-1600, at 1601-02; Speech, CAR-D30-0003-0001. *See also* P-0888: T-123, p. 62, lines 3-9, p. 71, line 13 – p. 72, line 16, p. 80, line 22 – p. 82, line 23; P-1962: T-140, p. 25, line 19 – p. 26, line 14; P-1521: T-083, p. 74, line 18 – p. 75, line 19, p. 79, line 19 – p. 80, line 2, p. 81, line 15 – p. 82, line 3.

⁴⁸⁷⁴ P-0952: T-251, p. 76, line 22 – p. 77, line 18; P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0025, para. 89, at 0032, para. 125, at 0033, para. 128; P-0808: T-071, p. 42, line 1 – p. 43, line 24; P-0888: T-123, p. 67, line 6 – p. 68, line 2; P-0889 Statement, CAR-OTP-2027-2290-R02, at 2308, para. 110; P-0446: T-096, p. 71, line 22 – p. 72, line 8; P-0446 Interview Transcript, CAR-OTP-2105-0611-R01, at 0642-45, lines 1080-1181; P-1193: T-124, p. 31, line 25 – p. 32, line 9; T-125, p. 21, line 11 – p. 22, line 18. *See* Communiqué, CAR-OTP-2030-0243. *See also* P-0954: T-166, p. 82, line 7 – p. 83, line 3; T-169, p. 53, line 3 – p. 54, line 23, p. 59, lines 11-25; P-1042: T-164, p. 25, line 8 – p. 26, line 4; P-1521: T-083, p. 37, line 14 – p. 38, line 8, p. 50, line 21 – p. 51, line 6, p. 53, lines 9-22, p. 54, line 12 – p. 55, line 16, p. 61, line 7 – p. 62, line 2, p. 63, line 21 – p. 64, line 6.

⁴⁸⁷⁵ Video, CAR-OTP-2023-2935; Transcript, CAR-OTP-2107-1521; Transcript, CAR-D30-0002-0004; Video, CAR-OTP-2023-2920; Transcript, CAR-OTP-2107-1519; Video, CAR-OTP-2023-2936; Transcript, CAR-OTP-2107-1524; P-0888: T-123, p. 10, line 5 – p. 11, line 17; P-1193: T-125, p. 50, line 5 – p. 52, line 12; P-0992: T-092, p. 77, line 20 – p. 78, line 13; T-095, p. 31, line 16 – p. 33, line 7; Speech, CAR-OTP-2087-9110; P-0952: T-250, p. 62, line 2 – p. 63, line 4; T-251, p. 80, line 12 – p. 82, line 21. *See also* paragraphs 1732-1737 above; Minutes, CAR-D30-0001-0082; P-0992: T-092, p. 74, line 22 – p. 76, line 3; List, CAR-OTP-2110-0164.

1893. As stated, the Chamber has considered the evidence in the overall context of the information before it. In particular, the Chamber considers that while the Anti-Balaka, and specifically Mr Ngaïssona and Mr Yekatom, did engage in activities also aimed at peace and reconciliation, these were set in the context of broader peace negotiations with the CAR government and international authorities as well as at a time when no more large-scale active hostilities took place, when the Seleka had mostly retreated to the north or was billeted, and when Muslim civilians especially in the west of the CAR had been forced to leave their localities.⁴⁸⁷⁶

8. The continuation of hostilities

i. Continued hostilities and peace negotiations

Notwithstanding the retreat of the Seleka following the resignation of Michel Djotodia and the setting up of a new transition government in January 2014, the main hostilities between the Anti-Balaka and the Seleka which had started in earnest in September 2013 continued largely unabated until the end of February 2014. Hostilities thereafter did continue, but subsided considerably.

The UN Security Council recurrently dedicated attention to the security situation in the CAR in 2013 and 2014. Several attempts to bring about the cessation of hostilities failed, including the 16 June 2014 PARETO mediation agreement, the 23 July 2014 peace agreement signed by the Seleka and the Anti-Balaka in Brazzaville, Republic of the Congo, and the agreement signed in Nairobi in April 2015. The number of internally displaced persons and refugees outside of the CAR decreased in the course of 2014, but overall remained in the hundreds of thousands throughout the year.

a. Continued hostilities

1894. The evidence before the Chamber as further outlined below shows that between September 2013 and the end of February 2014, and despite the resignation of Michel Djotodia, the subsequent withdrawal of the majority of the Seleka troops from the CAR, and the election of a new transition president in January 2014,⁴⁸⁷⁷ the hostilities in the CAR involving the Anti-Balaka and the Seleka continued. The continuing hostilities led to significant numbers of CAR civilians being forced to leave from their homes. As the evidence outlined below

⁴⁸⁷⁶ See section IV.A.6 below.

⁴⁸⁷⁷ See section IV.A.7.ii above.

demonstrates, hostilities between the Anti-Balaka and the Seleka from March 2014 onwards amounted mainly to skirmishes and low-intensity tactical struggles.

1895. At the outset, the Chamber notes in this regard its discussion of hostilities between Anti-Balaka groups and the Seleka starting in September 2013, in the context of the advance of Anti-Balaka groups through the provinces.⁴⁸⁷⁸ In addition, the Chamber refers to its discussion of continued hostilities in localities in western CAR in January and early February 2014.⁴⁸⁷⁹ The Chamber also notes its discussion of the hostilities in the context of the coordinated attacks in Bangui and Bossangoa on 5 December 2013.⁴⁸⁸⁰

1896. Further, the CAR Panel concluded in its 2014 interim report with reference to the political demise of former president Michel Djotodia and the subsequent election of Catherine Samba-Panza as new transition president,⁴⁸⁸¹ that:

[i]nitial hopes of a new beginning did not increase security for the population. On the contrary, fighting between the former Seleka and the anti-Balaka continued in several parts of the country as did targeted inter-communal killings [...]. The deployment of MISCA troops alongside the French forces (under operation SANGARIS) prevented worse from happening but did not stop the killing of civilians.⁴⁸⁸²

1897. More specifically, the panel, which strove to maintain a permanent presence in the CAR through missions,⁴⁸⁸³ documented 444 incidents between 5 December 2013 and 30 April 2014, resulting in the killing of 2,424 civilians by the parties to the conflict,⁴⁸⁸⁴ with

⁴⁸⁷⁸ See section IV.A.6 above.

⁴⁸⁷⁹ See section IV.A.8.ii below.

⁴⁸⁸⁰ See sections IV.B and IV.C below.

⁴⁸⁸¹ Annex 2 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0866, para. 17.

⁴⁸⁸² Annex 2 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0866, para. 18; P-0287: T-021, p. 80, line 24 – p. 81, line 24. See also P-0287: T-021, p. 66, lines 19-24.

⁴⁸⁸³ CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0841, para. 3; CAR Panel Final Report 2014, CAR-OTP-2001-5386, at 5389, para. 3; CAR Panel Final Report 2015, CAR-OTP-2023-0032, at 0036, paras 1-2; P-0287: T-020, p. 8, line 21 – p. 9, line 15; T-021, p. 20, lines 9-16; P-0287 Statement, CAR-OTP-2115-0239-R01, at 0243, para. 21, at 0245, para. 29.

⁴⁸⁸⁴ CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0836, at 0859, para. 104; Annex 26 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0974. For the period between May and August 2014, the panel documented a further 436 civilians killed (see CAR Panel Final Report 2014, CAR-OTP-2001-5386, at 5435-36, para. 203), while for the period between 5 December 2013 and mid-August 2014, a total of 3,003 civilian deaths by various perpetrators were reported (see CAR Panel Final Report 2014, CAR-OTP-2001-5386, at 5388, at 5435-36, para. 203). According to the panel, from 5 December 2013 to 14 August 2014, 1,392 civilians were killed in Bangui, out of which 251 were attributed to the Anti-Balaka (see Annex 67 to CAR Panel Final Report 2014, CAR-OTP-2001-5386, at 5574).

approximately 11% reportedly attributable to the Seleka and 16% to the Anti-Balaka.⁴⁸⁸⁵ The Chamber considers this unaffected by the CAR Panel attributing a greater number of civilians killed to ‘unknown’, ‘other’, ‘various’ or unattributable perpetrators,⁴⁸⁸⁶ as this does not contradict the conclusion that the Anti-Balaka and the Seleka continued to engage in such violence in the same period.

1898. The panel concluded that whereas civilians continued to be targeted by both the Anti-Balaka and the Seleka, direct hostilities between the two armed groups did subside, observing that there was a clear reduction in the number of civilians killed across the country throughout 2014.⁴⁸⁸⁷ According to the panel, ‘[t]here have been few direct confrontations between former Séléka and anti-balaka forces since 5 December 2013, but both armed groups, in particular the anti-balaka, have constantly targeted civilians’.⁴⁸⁸⁸

1899. For the period between 5 December 2013 and 15 November 2015, the panel reported a total of 4,278 civilian deaths, with the majority of more than 1,200 civilians reportedly killed during the peak of violence in Bangui in December 2013.⁴⁸⁸⁹ In particular for the period as of August 2014, the panel observed that the Anti-Balaka and Seleka groups were engaged in a tactical struggle over the control of territory in the central region, characterised by low-intensity skirmishes and ambushes.⁴⁸⁹⁰

1900. The insecure situation in the CAR is illustrated by the attention it consequently received from the international community. Indeed, the UN Security Council adopted a series of resolutions on the security situation in the CAR in January, October and December 2013 and

⁴⁸⁸⁵ Annex 27 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0975.

⁴⁸⁸⁶ See P-0287: T-021, p. 54, line 9 – p. 56, line 17 *referring to* Annex 26 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0974.

⁴⁸⁸⁷ CAR Panel Final Report 2014, CAR-OTP-2001-5386, at 5435-36, para. 203. *See also* CAR Panel Final Report 2014, CAR-OTP-2001-5386, at 5436, para. 204.

⁴⁸⁸⁸ CAR Panel Final Report 2014, CAR-OTP-2001-5386, at 5387. *See also* P-0287 Statement, CAR-OTP-2115-0239-R01, at 0245, para. 31, at 0248, para. 42.

⁴⁸⁸⁹ Annex 7 to CAR Panel Final Report 2015, CAR-OTP-2023-0032, at 0340-41, para. 12.

⁴⁸⁹⁰ CAR Panel Final Report 2015, CAR-OTP-2023-0032, at 0045, para. 52.

January, April and October 2014, which included the adoption of measures under Chapter VII of the UN Charter.⁴⁸⁹¹

1901. The evidence before the Chamber, as outlined below, shows that the hostilities led to people having to flee to localities within the CAR as well as surrounding countries.

1902. Specifically, the UN International Commission of Inquiry on the CAR reported that the number of internally displaced persons ‘rose very rapidly between December 2013 and January 2014, from 602,000 to 825,000 (and then decreasing to 430,000 by November 2014)’.⁴⁸⁹²

1903. The CAR Panel reported that members of the Muslim population relocated to other parts of the CAR from Bossembélé, Bossangoa and PK12 in the first quarter of 2014,⁴⁸⁹³ stating that there were 460,050 internally displaced persons throughout the country as of 14 May 2014, and 509,000 as of 13 August 2014.⁴⁸⁹⁴ The panel reported that whilst Bangui saw a return of internally displaced persons between May and August 2014 due to an improved security situation in and around the capital, the rest of the CAR saw ‘no significant reduction in the number of internally displaced persons’.⁴⁸⁹⁵

1904. Witnesses also testified to these events. P-0475, involved with the Islamic community, testified that the IOM displaced some Muslims to the north of the CAR.⁴⁸⁹⁶ Nicolas Tiangaye stated that within the CAR, Muslims sought refuge in the areas of the country occupied by the Seleka.⁴⁸⁹⁷ The Chamber also refers to its discussion of the dislocation of Muslims from Bangui,⁴⁸⁹⁸ Bossangoa,⁴⁸⁹⁹ and locations along the PK9-Mbaïki axis.⁴⁹⁰⁰

⁴⁸⁹¹ Resolution S/RES/2088 (2013), CAR-OTP-2001-0294; Resolution S/RES/2121 (2013), CAR-OTP-2001-0256; Resolution S/RES/2127 (2013), CAR-OTP-2001-0275; Resolution S/RES/2134 (2014), CAR-OTP-2001-0263; Resolution S/RES/2149 (2014), CAR-OTP-2001-1043; Resolution S/RES/2181 (2014), CAR-OTP-2091-0488.

⁴⁸⁹² Commission of Inquiry Report, CAR-OTP-2001-7017, at 7108, para. 438.

⁴⁸⁹³ CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0866, para 107.

⁴⁸⁹⁴ CAR Panel Final Report 2014, CAR-OTP-2001-5386, at 5432, para. 189.

⁴⁸⁹⁵ CAR Panel Final Report 2014, CAR-OTP-2001-5386, at 5432, para. 189. *See also* Annex 57 to CAR Panel Final Report 2014, CAR-OTP-2001-5386, at 5534.

⁴⁸⁹⁶ P-0475: T-090, p. 46, line 10 – p. 47, line 3.

⁴⁸⁹⁷ P-0291: T-051, p. 67, line 16 – p. 68, line 12.

⁴⁸⁹⁸ *See* section IV.B.5 below.

⁴⁸⁹⁹ *See* section IV.C.2.iii below.

⁴⁹⁰⁰ *See* section IV.E.6 below.

1905. In relation to individuals from the CAR leaving to neighbouring countries, the UN International Commission of Inquiry on the CAR reported a ‘massive outflow’ of refugees from the CAR to neighbouring countries, particularly Cameroon and Chad, but also the Republic of the Congo and the DRC.⁴⁹⁰¹ The commission reported that the ‘scale of the exodus’ increased from 235,067 refugees in December 2013 to 423,296 refugees in November 2014.⁴⁹⁰² The commission stated that four of the five refugee camps that it visited were predominately occupied by Muslims, who explained that they were forced to leave due to the Anti-Balaka.⁴⁹⁰³

1906. The CAR Panel reported that by 15 August 2014, the countries neighbouring the CAR were hosting 406,786 refugees, with the highest number of refugees from the CAR in Cameroon, and others fleeing to Chad, the Congo and the DRC.⁴⁹⁰⁴ The panel reported an overall increase in refugees between May and August 2014, stating that the number of 191,265 CAR refugees in Cameroon as of May 2014 increased to 231,037 by August 2014.⁴⁹⁰⁵ For the same period, it concluded that the number of 100,520 CAR refugees in Chad decreased to 93,305, the number of 16,062 CAR refugees in the Congo increased to 18,232, and the number of 57,608 CAR refugees in the DRC increased to 64,212.⁴⁹⁰⁶ The panel stated that the flight of a portion of the population from western CAR to Cameroon contributed to ‘the emptying’ of western CAR of its Muslim communities ‘as a consequence of sectarian and religious violence’.⁴⁹⁰⁷

1907. Indeed, also the UN Secretary-General reported a radical change in the ethnic and religious demography of the CAR following the flight of many Muslims mostly to Cameroon and

⁴⁹⁰¹ Commission of Inquiry Report, CAR-OTP-2001-7017, at 7108, paras 437-438.

⁴⁹⁰² Commission of Inquiry Report, CAR-OTP-2001-7017, at 7108, para. 438, at 7143.

⁴⁹⁰³ Commission of Inquiry Report, CAR-OTP-2001-7017, at 7108, para. 438.

⁴⁹⁰⁴ CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0858, para. 96; Annex 3 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0868, para. 2; CAR Panel Final Report 2014, CAR-OTP-2001-5386, at 5432, para. 190. *See also* Annex 58 to CAR Panel Final Report 2014, CAR-OTP-2001-5386, at 5535.

⁴⁹⁰⁵ CAR Panel Final Report 2014, CAR-OTP-2001-5386, at 5432, para. 190.

⁴⁹⁰⁶ CAR Panel Final Report 2014, CAR-OTP-2001-5386, at 5432, para. 190.

⁴⁹⁰⁷ CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0866, para 106.

Chad, referring to towns which once had been multi-confessional as having been emptied of their Muslim communities (such as Yaloké, Bossempaté, Bozoum and Mbaïki).⁴⁹⁰⁸

1908. Witnesses also testified to the Muslim population fleeing the CAR. Specifically, Nicolas Tiangaye, former prime minister of the CAR, spoke of convoys of Muslims leaving the CAR to escape the acts of violence committed against them, mostly to the east of Cameroon and south of Chad, with some going as far as N'Djamena.⁴⁹⁰⁹ Jean-Jacques Demafouth testified that those who had resources took flights, while there were also many convoys to the border with Chad, Cameroon and sometimes Congo.⁴⁹¹⁰

1909. P-0475, involved with the CAR Islamic community, stated that displacement started in 2013 and 2014 and went via various means, including by river, IOM vehicles escorted by MINUSCA, air, as well as trucks and buses sent by Idriss Deby to repatriate 'the Chadians' in Bangui.⁴⁹¹¹ P-0475 stated that people left to Chad, Cameroon, Mali, Senegal and the DRC, and that those originally from Mali preferred to 'return' to Mali, the Senegalese preferred to 'return' to Senegal, the Sudanese to Sudan and so on.⁴⁹¹² P-0475 estimated that about three quarters of the CAR Muslim population in total left the country.⁴⁹¹³ He also stated that the Muslims who left were a mixed group; composed of men, women and children, and sometimes whole families.⁴⁹¹⁴ He stated that the families which had been displaced to other countries from the CAR were often not living altogether and were separated.⁴⁹¹⁵ P-0475 maintained that although the Muslims left Bangui, in their minds they hoped to one day return, but when the tensions subsided some, although not all, the Muslims returned to Bangui.⁴⁹¹⁶

⁴⁹⁰⁸ UNSG Report, CAR-OTP-2001-0409, at 0411, para. 11. The Chamber refers to its considerations of this report above (see footnote 4111 above).

⁴⁹⁰⁹ P-0291: T-051, p. 67, line 16 – p. 68, line 12; T-052, p. 39, lines 15-19.

⁴⁹¹⁰ P-2328: T-048, p. 5, lines 11-16.

⁴⁹¹¹ P-0475 Statement, CAR-OTP-2104-0116-R04, at 0139, paras 183, 185, at 0141, para. 198, at 0141-42, paras 200-203. See also P-0475: T-090, p. 43, line 23 – p. 45, line 6 referring to Video, CAR-OTP-2083-0345; Translation, CAR-OTP-2127-6355.

⁴⁹¹² P-0475: T-090, p. 53, line 20 – p. 54, line 7 referring to Video, CAR-OTP-2023-0376, at 00:03:30-00:03:42, 00:09:40-00:10:12; Translation, CAR-OTP-2122-9377, at 9382, lines 137-141, at 9387, lines 306-311.

⁴⁹¹³ P-0475 Statement, CAR-OTP-2104-0116-R04, at 0142, para. 202.

⁴⁹¹⁴ P-0475 Statement, CAR-OTP-2104-0116-R04, at 0141, para. 199.

⁴⁹¹⁵ P-0475 Statement, CAR-OTP-2104-0116-R04, at 0141, para. 197; P-0475: T-090, p. 72, lines 9-19.

⁴⁹¹⁶ P-0475 Statement, CAR-OTP-2104-0116-R04, at 0141, para. 196.

1910. Contemporaneous media, NGO and state reporting also mentioned the outflux of people from the CAR to neighbouring countries, as well as the situation of internally displaced people within the CAR.⁴⁹¹⁷

b. Peace negotiations

1911. The evidence before the Chamber as further outlined below shows that several summits were held and agreements signed with a view to creating dialogue, achieving peace and ceasing the hostilities in the CAR between the Anti-Balaka and the Seleka, as well as other warring factions concerned. It appears that those attempts were met with limited, if any, success.

1912. First, in June 2014 a mediation agreement was facilitated by the national NGO '*Paix Réconciliation et Tolérance*' (PARETO), and signed by Mr Ngaïssona as representative of the Anti-Balaka and its 'national political coordinator'.⁴⁹¹⁸ The CAR Panel remarked on the 'major successes' achieved by PARETO 'in bringing former Séléka and anti-balaka forces to the negotiating table', but also noted the lack of support that PARETO apparently received from the CAR transition government.⁴⁹¹⁹

1913. The Chamber recalls in this context its discussion of the leadership tussles within the Anti-Balaka involving Mr Ngaïssona and Sébastien Wenezoui, leading around this same time to a new coordination with Mr Ngaïssona continuing at the lead and Sébastien Wenezoui as his deputy.⁴⁹²⁰

1914. Second, a forum on national reconciliation in the CAR was held in Brazzaville, Republic of the Congo, in July 2014, mediated by President Denis Sassou Nguesso.⁴⁹²¹ Mr Ngaïssona signed the resulting cessation-of-hostilities agreement for the Anti-Balaka on 23 July

⁴⁹¹⁷ Video, CAR-OTP-2083-0345; Transcript, CAR-OTP-2127-6355; Translation, CAR-OTP-2127-6240, at 6357; Video, CAR-OTP-2107-1185; Translation, CAR-OTP-2127-4638; Video, CAR-OTP-2002-0511; Translation, CAR-OTP-2127-7032; Report, CAR-OTP-2002-0726, at 0728; Video, CAR-OTP-2023-0376; Transcript, CAR-OTP-2122-9377, at 9383, lines 147-150, at 9390, lines 418-441.

⁴⁹¹⁸ See Annex 2 to CAR Panel Final Report 2014, CAR-OTP-2001-5386, at 5445-46. See also CAR Panel 2014 Final Report, CAR-OTP-2001-5386, at 5392, para. 20; Joint statement, CAR-OTP-2025-0428; P-0801: T-035, p. 55, line 24 – p. 58, line 9.

⁴⁹¹⁹ CAR Panel Final Report 2014, CAR-OTP-2001-5386, at 5392, para. 20.

⁴⁹²⁰ See paragraphs 1719-1730 above.

⁴⁹²¹ See CAR Panel Final Report 2014, CAR-OTP-2001-5386, at 5393-94, para. 25; UNSG Report, CAR-OTP-2001-1057, at 1063, para. 32. See also P-0801: T-036, p. 55, line 15 – p. 57, line 1; P-1193: T-124, p. 77, line 20 – p. 78, line 10.

2014.⁴⁹²² Catherine Samba-Panza testified in this regard that many meetings with the Anti-Balaka, the Seleka and the civilian forces were held to prepare for the forum, with her convincing all the stakeholders to go there because the transition authorities were convinced that this meeting was really necessary.⁴⁹²³ The Anti-Balaka eventually did participate, with a strong delegation of about 15 or 20 members,⁴⁹²⁴ which included Mr Ngaïssona, Mr Yekatom, Vivien Beina, Thierry Lebene aka ‘12 Puissances’, and Maxime Mokom.⁴⁹²⁵

1915. However, the CAR Panel observed that whilst the agreement reportedly created ‘positive momentum’, the mediation was shrouded in disagreement on issues such as the perceived marginalisation of actors in the resolution of the crisis, differing interpretations of the terms of the agreement, confusion over the legal basis of aspects of the governmental transition, and subsequent violations of the agreement.⁴⁹²⁶

1916. This is echoed by Catherine Samba-Panza, who testified that there was ‘a lot of political tension’ surrounding the Brazzaville forum due to the possibility of the country being divided into a Muslim and non-Muslim part and problems regarding disarmament.⁴⁹²⁷ The witness further indicated that the violence did not stop after the signature of the agreement at Brazzaville, and that the terms of the agreement could not be materialised due to a lack of ability to follow up within the community.⁴⁹²⁸ At the same time, Catherine Samba-Panza indicated that the forum helped a lot to sign the agreement, and in billeting, demobilising and disarming of groups.⁴⁹²⁹

1917. Thus, the precarious security situation in the CAR persisted, with the CAR Panel noting in October 2014 that despite the agreement signed in Brazzaville, ‘armed groups remain in control of or still exert influence over almost all inhabited areas’ of the CAR, and about 2,000 Seleka elements and 1,500 ‘militiamen associated with’ the Anti-Balaka ‘continue to

⁴⁹²² Brazzaville Agreement, CAR-OTP-2001-3405. *See also* Annex 4 to CAR Panel Final Report 2014, CAR-OTP-2001-5386, at 5449-57; P-1193: T-124, p. 77, line 21 – p. 78, line 10.

⁴⁹²³ P-0952: T-249, p. 29, line 12 – p. 31, line 5.

⁴⁹²⁴ P-0952: T-249, p. 31, lines 6-10. *See* List, CAR-OTP-2001-6924, at 6926. *See also* List, CAR-OTP-2030-0267.

⁴⁹²⁵ P-0954: T-166, p. 80, line 17 – p. 81, line 20 *referring to* Photograph, CAR-OTP-00000412. *See also* P-1193: T-124, p. 11, line 24 – p. 12, line 7.

⁴⁹²⁶ CAR Panel Final Report 2014, CAR-OTP-2001-5386, at 5394, para. 26, at 5394-96, paras 28-35.

⁴⁹²⁷ P-0952: T-249, p. 31, line 24 – p. 32 line 7.

⁴⁹²⁸ P-0952: T-249, p. 32, lines 8-19, p. 33, lines 5-10.

⁴⁹²⁹ P-0952: T-249, p. 31, line 24 – p. 32, line 7.

post a permanent threat to the peace, security and stability of the country, which remains de facto partitioned'.⁴⁹³⁰

1918. The Chamber recalls in the above context its discussion of the Brazzaville agreement leading to the removal of some roadblocks,⁴⁹³¹ while at the same time there continued to be disagreements between the Anti-Balaka and the transition government.⁴⁹³²

1919. Third, further peace discussions between the armed groups involved in the conflict in the CAR took place between December 2014 and April 2015, leading to another cessation of hostilities agreement signed in Nairobi, Republic of Kenya, in April 2015.⁴⁹³³ The representatives signing on behalf of the Anti-Balaka were Joachim Kokaté, Maxime Mokom and Côme Hippolyte Azounou.⁴⁹³⁴ The Chamber recalls in this regard its discussion of related leadership tussles between Mr Ngaïssona and Maxime Mokom.⁴⁹³⁵

1920. This agreement too had limited effect on the security situation in the CAR, with the CAR Panel reporting in late 2015 that prospects for peace and security in the CAR 'remain[ed] remote', and observing that the Nairobi talks had been organised without the endorsement of the CAR transition authorities and also 'proposed no inclusive solutions'.⁴⁹³⁶ In this context, the panel observed that the appointment of leaders of armed groups as members of the transition government both reinforced their sense of impunity and had no significant impact in reducing the level of violence.⁴⁹³⁷

1921. Witnesses testified that the violence in the CAR continued despite the change in government and the peace talks. Catherine Samba-Panza testified that the violence and reprisals continued throughout the CAR even after she was appointed as transition president and in fact until the end of 2015, in the presence of international forces, Sangaris, African Union

⁴⁹³⁰ CAR Panel Final Report 2014, CAR-OTP-2001-5386, at 5387.

⁴⁹³¹ See paragraph 1891 above.

⁴⁹³² See paragraphs 1858, 1869 above.

⁴⁹³³ Nairobi Agreement 2015, CAR-OTP-2008-0606 (English); CAR-OTP-2008-0615 (French); CAR Panel Final Report 2015, CAR-OTP-2023-0032, at 0033, p. 2.

⁴⁹³⁴ Nairobi Agreement 2015, CAR-OTP-2008-0606, at 0613.

⁴⁹³⁵ See paragraphs 1732-1737 above.

⁴⁹³⁶ CAR Panel Final Report 2015, CAR-OTP-2023-0032, at 0033, p. 2.

⁴⁹³⁷ CAR Panel Final Report 2015, CAR-OTP-2023-0032, at 0039, para. 23.

forces,⁴⁹³⁸ describing the CAR as being ‘in a situation of total chaos’.⁴⁹³⁹ Specifically in relation to Boy-Rabe, the witness testified that even though the Seleka was no longer present, tensions still existed and people sought to protect themselves with weapons, re-confirming that the crisis lasted until the end of 2015.⁴⁹⁴⁰ P-0876 also testified that after the resignation of Djotodia and the departure of the Seleka from power, the violence continued,⁴⁹⁴¹ and the CAR continued to face disorder and remained in a state of chaos beyond the control of the transition government.⁴⁹⁴² He asserted that from the time that the CAR fell into a state of chaos on 10 December 2012, the violence was in fact still ongoing at the time of his testimony in December 2021.⁴⁹⁴³

ii. Hostilities in western CAR in January and February 2014

As part of the Anti-Balaka’s pursuit of its core objective, in the context of which its elements targeted the Muslim civilian population, specifically in the west of the CAR, due to the Anti-Balaka perceiving the Muslims in the CAR as collectively responsible for, complicit in, or supportive of the violence and abuses committed by the Seleka, the Anti-Balaka continued to target the Muslim civilian population in 2014 across the western CAR prefectures, including in the second half of January and early February 2014 in Ombella-M’Poko (Gaga, Zawa, Yaloké), Ouham-Pendé (Bossemptélé), Nana-Mambéré (Baoro), Mambéré-Kadéï (Guen, Carnot, Berbérati) and Lobaye (Boda). The attacks followed a pattern with Anti-Balaka groups killing and injuring Muslim civilians, looting and destroying their belongings, and often placing them in enclaved positions under difficult circumstances, eventually leading to many Muslims having to leave the respective areas.

1922. The evidence before the Chamber as outlined below shows that in the context of continued hostilities between the Anti-Balaka and the Seleka, the Anti-Balaka also continued to target the Muslim civilian population, leading to killings and dislocation of Muslim civilians, specifically in localities in the western CAR in January and February 2014.

⁴⁹³⁸ P-0952: T-249, p. 28, line 14 – p. 29, line 1 (stating that the killings and retaliation continued after she took the oath of office in January 2014); T-250, p. 63, lines 14-20 (agreeing that the Anti-Balaka were still committing crimes in November 2014 in the interior of the CAR); T-251, p. 7, line 22 – p. 8, line 16 (agreeing that the Seleka continued committing crimes of murder, torture, looting and the destruction of property after she became president), p. 18, line 16 – p. 19, line 5 (stating that the violence continued over several years, 2014-2015, and in the presence not only of the Sangaris forces, but also in the presence of the forces of the UN, the AU, CEEAC etc, who were insufficient in number to be everywhere), p. 50, lines 13-20 (stating that the violence and abuses continued until 2015 in non-compliance with orders given by Mr Ngaïssona).

⁴⁹³⁹ P-0952: T-251, p. 18, line 16 – p. 19, line 5.

⁴⁹⁴⁰ P-0952: T-250, p. 48, lines 1-8.

⁴⁹⁴¹ P-0876: T-085, p. 84, lines 5-9.

⁴⁹⁴² P-0876: T-088, p. 62, line 7 – p. 63, line 1.

⁴⁹⁴³ P-0876: T-085, p. 83, lines 15-21.

1923. The evidence as outlined shows that these attacks followed a pattern: when attacking localities in the western CAR, Anti-Balaka groups killed and injured Muslim civilians, looted and destroyed their belongings, and often placed them in enclaved positions under difficult circumstances, eventually leading to Muslims having to leave these areas.

a. Ombella-M'Poko/Ouham-Pendé

i. *Gaga/Zawa/Yaloké – 17 January 2014*

Attacks in Gaga, Zawa and Yaloké

1924. The Chamber recalls that an Anti-Balaka group attacked Gaga in October 2013 in the context of the Anti-Balaka's advance through the provinces towards Bangui.⁴⁹⁴⁴

1925. The evidence as outlined below shows that Anti-Balaka groups attacked Gaga again in mid-January 2014, before also attacking Zawa and Yaloké. The evidence shows that following the attack in Yaloké, various groups of Muslims remained confined inside and outside of Yaloké for weeks, followed by hundreds of Muslims being removed from Yaloké.

1926. P-1779 described a second Anti-Balaka attack on Gaga during which he saw many people running, heard gunshots, loud detonations, saw smoke and realised the Anti-Balaka had set fire to houses, and heard doors being broken down.⁴⁹⁴⁵ P-1779 stated he heard the Anti-Balaka breaking down doors and said that they looted the property of Muslims, they knew which houses belonged to Muslims.⁴⁹⁴⁶ P-1779 stated he fled with his family towards Zawa where they arrived in the evening.⁴⁹⁴⁷

1927. P-1779 listed the names of Muslims killed by the Anti-Balaka during the attack.⁴⁹⁴⁸ Zenaba Oumar overheard the Anti-Balaka in Yaloké discussing the death of a trader and his brother when escaping Gaga by Anti-Balaka of Bossangoa who had joined the local Anti-Balaka for the attack.⁴⁹⁴⁹ P-2416 [REDACTED] stated that he heard that a merchant with a transport

⁴⁹⁴⁴ See section IV.A.6.iii.c above.

⁴⁹⁴⁵ P-1779 Statement, CAR-OTP-2087-9894-R02, at 9906, paras 69-71.

⁴⁹⁴⁶ P-1779 Statement, CAR-OTP-2087-9894-R02, at 9906, para. 69.

⁴⁹⁴⁷ P-1779 Statement, CAR-OTP-2087-9894-R02, at 9906, para. 72.

⁴⁹⁴⁸ P-1779 Statement, CAR-OTP-2087-9894-R02, at 9906-07, para. 73, at 9907, paras 75-76.

⁴⁹⁴⁹ P-2422 Statement, CAR-OTP-2110-0801-R02, at 0829-30, paras 90-91.

vehicle was killed by the Anti-Balaka when trying to escape Gaga, but he did not know when this occurred or if it was associated with an attack.⁴⁹⁵⁰

1928. Zenaba Oumar stated that a short time after Michel Djotodia resigned, she was in Yaloké and heard shooting in Gaga, and was told that some Muslims from Gaga fled to Zawa and Yaloké, also seeing some displaced people from Gaga arriving in Yaloké.⁴⁹⁵¹ The witness was told by one person that he had fled Gaga due to the attack by the Anti-Balaka.⁴⁹⁵² Zenaba Oumar stated that there was a lot of panic within the Muslim community in Yaloké, as they thought that Yaloké would be attacked next.⁴⁹⁵³

1929. P-1779 stated that the Muslims from Gaga and Zawa met and decided that there was no choice but to flee to Cameroon, and the next day more than 100 Muslims began walking, whilst others stayed, arriving in Carnot after approximately two weeks, having been attacked by Anti-Balaka along the way with some people being injured or killed by machete and gunshots.⁴⁹⁵⁴ P-1779 stated that in Carnot, they encountered more Anti-Balaka with black paint on their faces, head/hair-pieces and *gris-gris*, who searched them and took any money they found, and that the group paid approximately 300,000 CFA to cross the river, while those with cattle killed it before giving it to the Anti-Balaka.⁴⁹⁵⁵ P-1779 stated that he believed that had they not paid, blood would have been shed, and he thought many Muslims had already crossed the river as there was a lot of dead cattle.⁴⁹⁵⁶ P-1779 stated that they eventually arrived in Gbiti, Cameroon.⁴⁹⁵⁷

1930. P-1779 further stated that the Anti-Balaka operating in Gaga were from Gaga, with leaders Bedani, Le Bleu, Dominique Mboude and Befio; P-1779 stated that everyone talked about Le Bleu being an Anti-Balaka.⁴⁹⁵⁸

⁴⁹⁵⁰ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0501, para. 34.

⁴⁹⁵¹ P-2422 Statement, CAR-OTP-2110-0801-R02, at 0812-13, para. 41.

⁴⁹⁵² P-2422 Statement, CAR-OTP-2110-0801-R02, at 0812-13, para. 41.

⁴⁹⁵³ P-2422 Statement, CAR-OTP-2110-0801-R02, at 0813, para. 42.

⁴⁹⁵⁴ P-1779 Statement, CAR-OTP-2087-9894-R02, at 9908, paras 81-83, at 9909, paras 86-87, at 9910, paras 93-94, at 9911, paras 99-101.

⁴⁹⁵⁵ P-1779 Statement, CAR-OTP-2087-9894-R02, at 9911, paras 100-101.

⁴⁹⁵⁶ P-1779 Statement, CAR-OTP-2087-9894-R02, at 9911, paras 100-101.

⁴⁹⁵⁷ P-1779 Statement, CAR-OTP-2087-9894-R02, at 9911, para. 102.

⁴⁹⁵⁸ P-1779 Statement, CAR-OTP-2087-9894-R01, at 9900, paras 37-38, at 9901, para 41.

1931. Following the attack on Gaga, Zawa was also attacked by an Anti-Balaka group.

1932. P-2416 stated that he knew that the Anti-Balaka attacked Zawa, but he could not say when or what happened, he knew some merchants from Zawa who fled after the attack.⁴⁹⁵⁹

1933. Zenaba Oumar stated that one or two days after the attack on Gaga, Zawa was also attacked by the Anti-Balaka, she could hear the sound of gunshots in the distance and was told by others in the Yaloké Muslim community that there were shots during an attack on Zawa by the Anti-Balaka.⁴⁹⁶⁰ The witness stated that after the Anti-Balaka attacked Gaga, but prior to their attack on Zawa, the Seleka in the area had all fled to meet up with the fleeing Seleka of Gaga and Zawa.⁴⁹⁶¹

1934. P-1576 [REDACTED] stated that he went to Zawa on [REDACTED] January 2014 where he met Anti-Balaka committing exactions in the Yaloké area.⁴⁹⁶² P-1576 further stated that on [REDACTED] January 2014, between Zawa and Bossempaté, he encountered some Anti-Balaka who told him that they had just attacked a Peuhl village, but that they had no more ammunition.⁴⁹⁶³

1935. An HRW press release dated 7 March 2014 stated that not a single Muslim remained in Zawa and other towns that the HRW reporters visited.⁴⁹⁶⁴

1936. Following the attacks on Gaga and Zawa, Yaloké was also attacked, twice within a matter of a few days and despite the intermittent presence of Sangaris forces.

1937. P-2416 stated that he heard from Christians and Muslims that the majority of Christians moved from Yaloké centre to the '*Quartier mission*' because there were rumours that the Anti-Balaka were coming to attack the Muslims.⁴⁹⁶⁵ P-2416 stated further that the Seleka left Yaloké soon after the resignation of Michel Djotodia and the commencement of Sangaris

⁴⁹⁵⁹ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0502, para. 35.

⁴⁹⁶⁰ P-2422 Statement, CAR-OTP-2110-0801-R02, at 0814, para. 46.

⁴⁹⁶¹ P-2422 Statement, CAR-OTP-2110-0801-R02, at 0813-14, para. 44.

⁴⁹⁶² P-1576 Statement, CAR-OTP-2060-0280-R01, at 0284, para. 28. See e.g. Photographs, CAR-OTP-2061-4196; CAR-OTP-2061-4197; CAR-OTP-2061-4198; CAR-OTP-2061-4214. See also Photographs, CAR-OTP-2075-0074, at 0209-11, at 0227.

⁴⁹⁶³ P-1576 Statement, CAR-OTP-2060-0280-R01, at 0285, para. 30.

⁴⁹⁶⁴ HRW Report, CAR-OTP-2001-2308, at 2329-30.

⁴⁹⁶⁵ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0502, para. 36.

patrols in and around Yaloké; some Seleka who had married Muslim women in Yaloké remained and left the Seleka, returning to civilian society.⁴⁹⁶⁶

1938.P-2416 stated there were two major attacks on the Muslims in Yaloké by the Anti-Balaka, both approaching from the direction of Zawa, as well as a smaller attack in between the two major attacks which approached from the direction of Ladoumi and Bangui.⁴⁹⁶⁷ He also stated that there were a number of isolated Anti-Balaka killings of Muslim civilians in Yaloké unrelated to major attacks.⁴⁹⁶⁸ P-2416 heard that the Anti-Balaka who had attacked Bossembélé and Zawa were coming to join the Anti-Balaka in Yaloké.⁴⁹⁶⁹

1939.P-2416 stated that after the attacks on Bossembélé, Gaga and Zawa, the Sangaris arrived in Yaloké and based themselves in ‘*Quartier Mission*’ about two weeks after Michel Djotodia’s resignation, as depicted in a video shown to the witness.⁴⁹⁷⁰ P-2416 stated that the Sangaris met with the Muslim community and asked them to hand in their weapons, and some gathered their bows, arrows, machetes, but there were no guns because the only Muslims who had guns were the Seleka who had left.⁴⁹⁷¹

1940.P-2416 stated that the first major attack by the Anti-Balaka on Yaloké occurred within two days of this video footage,⁴⁹⁷² after the Sangaris left Yaloké.⁴⁹⁷³

1941.P-2416 stated that before this first major attack, about one or two days after the meeting of Sangaris with the Muslim community, there were rumours that the Anti-Balaka were coming from everywhere to attack and kill the Muslims in Yaloké, there was widespread fear in the Muslim community at this time and they knew they were coming for them, the Anti-Balaka would taunt them saying ‘get prepared we are coming to kill you’; it was as if these Anti-

⁴⁹⁶⁶ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0504, para. 45.

⁴⁹⁶⁷ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0507, para. 52.

⁴⁹⁶⁸ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0507, para. 52.

⁴⁹⁶⁹ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0508, para. 55.

⁴⁹⁷⁰ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0506, paras 50-51 *referring to* Video, CAR-OTP-2106-0139; Transcript, CAR-OTP-2107-4219.

⁴⁹⁷¹ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0507-08, paras 53-54. *See also* Video, CAR-OTP-2106-0139; Transcript, CAR-OTP-2107-4219.

⁴⁹⁷² P-2416 Statement, CAR-OTP-2106-0489-R02, at 0506, para. 51.

⁴⁹⁷³ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0508, para. 55.

Balaka were planning these main attacks in Yaloké with the assistance of Anti-Balaka from other areas.⁴⁹⁷⁴

1942. P-2416 stated that on the day of the first major attack, he was at home and heard gunfire from the direction of ‘*Quartier Sous-Manguier*’.⁴⁹⁷⁵ P-2416 stated that he later heard from the imam that the Anti-Balaka had killed the president of the Islamic community, and another person; P-2416 saw their bodies at the central mosque, with one appearing to have gunshot wounds to the stomach, back and chest.⁴⁹⁷⁶ P-2416 stated that he also saw people injured with gunshot wounds during this attack.⁴⁹⁷⁷ P-2416 stated that the only people who had guns in the area were Sangaris and Anti-Balaka, and the people he saw had not been shot by the Sangaris; all those injured said they had been shot by the Anti-Balaka.⁴⁹⁷⁸ P-2416 thought that over an hour after the attack commenced, the Sangaris arrived back in Yaloké.⁴⁹⁷⁹ Zenaba Oumar, a Muslim woman from Yaloké, stated that after the attacks on Gaga and Zawa, she was told by someone whose son was in the Anti-Balaka, that the Anti-Balaka were en route to Yaloké to launch an attack.⁴⁹⁸⁰ The witness stated that the community also received the same information and she knew that the Anti-Balaka had ‘surrounded’ Yaloké because she could hear gunfire in the air ‘coming from all directions’.⁴⁹⁸¹ Zenaba Oumar stated the Muslims gathered in the mosque and other compounds.⁴⁹⁸²

1943. P-2416 stated that within days, two major attacks occurred, including helicopter visits by a contingent from Bangui comprising a commander of the Sangaris and a sub-prefect.⁴⁹⁸³ P-2416 said that the helicopter visits took place on two separate occasions to negotiate peace between the Muslims and the Anti-Balaka.⁴⁹⁸⁴ P-2416 thought the first visit occurred around or after the time of Catherine Samba-Panza’s appointment as interim president, because a

⁴⁹⁷⁴ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0508, para. 55.

⁴⁹⁷⁵ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0508, para. 56.

⁴⁹⁷⁶ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0508-09, paras 56-57.

⁴⁹⁷⁷ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0509, paras 58-59.

⁴⁹⁷⁸ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0509, para. 59.

⁴⁹⁷⁹ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0509, para. 60.

⁴⁹⁸⁰ P-2422 Statement, CAR-OTP-2110-0801-R02, at 0814-15, para. 47.

⁴⁹⁸¹ P-2422 Statement, CAR-OTP-2110-0801-R02, at 0815, para. 48.

⁴⁹⁸² P-2422 Statement, CAR-OTP-2110-0801-R02, at 0815, para. 48.

⁴⁹⁸³ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0510, para. 62.

⁴⁹⁸⁴ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0510, para. 61.

new female sub-prefect was appointed after.⁴⁹⁸⁵ P-2416 heard that there was no solution at the meetings, the imam told him that an Anti-Balaka from Bossangoa told the imams, ‘you go and put the tyres under your house and take your house and go away’.⁴⁹⁸⁶ P-2416 was told this Anti-Balaka also hurled insults at the imams, to the effect ‘*dondo maman ti ala*’ (‘fuck you[r] mothers’).⁴⁹⁸⁷

1944. P-2416 stated that a few days after the first major attack the Anti-Balaka entered Yaloké from the direction of Bangui, he heard that some young Muslim men were ready to defend themselves and that the attack resulted in the death of an Anti-Balaka.⁴⁹⁸⁸

1945. P-2416 stated that at the second major attack a couple of days later he heard continuous gunfire from the direction of Bossangoa neighbourhood, and saw the body of one person being carried to the mosque by a young Muslim man who said he had been shot by the Anti-Balaka.⁴⁹⁸⁹ P-2416 stated that he heard that another Muslim was killed that day and his body taken to the mosque.⁴⁹⁹⁰ P-2416 said that he sought refuge at a relative’s house.⁴⁹⁹¹ P-2416 stated that the gunfire lasted for over an hour and a number of people were injured.⁴⁹⁹² P-2416 stated that the Muslims gathered together near the town centre with many moving inside the mosque for refuge and many in the compound of a group chief.⁴⁹⁹³

1946. P-2416 stated that from where he was, he could see down both directions of the road towards Zawa and the opposite direction towards Bangui.⁴⁹⁹⁴ P-2416 said that he saw the Anti-Balaka going from house to house breaking doors and windows, entering homes and taking property, he saw some Anti-Balaka carrying away the doors [REDACTED].⁴⁹⁹⁵ P-2416 stated that the Anti-Balaka looted the shops in the market and stole everything, but the Sangaris were not able to do anything but watch.⁴⁹⁹⁶ P-2416 stated that he saw black smoke rising from the

⁴⁹⁸⁵ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0511, para. 63.

⁴⁹⁸⁶ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0511, para. 64.

⁴⁹⁸⁷ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0511, para. 65.

⁴⁹⁸⁸ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0512, para. 67.

⁴⁹⁸⁹ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0512-13, paras 68-69.

⁴⁹⁹⁰ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0513, para. 70.

⁴⁹⁹¹ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0513, para. 70.

⁴⁹⁹² P-2416 Statement, CAR-OTP-2106-0489-R02, at 0513, para. 71.

⁴⁹⁹³ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0514, para. 73.

⁴⁹⁹⁴ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0517, para. 83.

⁴⁹⁹⁵ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0517, para. 83.

⁴⁹⁹⁶ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0518, para. 84.

Arab neighbourhood around this time, and while he did not see the destruction himself, he considered that it was obvious from the black smoke that it was coming from the burning of buildings.⁴⁹⁹⁷

1947. Zenaba Oumar, who had fled to a property outside of Yaloké at the time of the first major attack, stated that the Anti-Balaka would leave for Yaloké, followed by shooting from that direction, and on one occasion the witness also saw black smoke rising into the air.⁴⁹⁹⁸ The witness stated she saw the Anti-Balaka passing by the property from the direction of Yaloké with mattresses, pots, other items, they talked about what they had stolen and that they had burnt the houses of Muslims.⁴⁹⁹⁹ Zenaba Oumar stated she recognised some of the Anti-Balaka elements who were all from Yaloké.⁵⁰⁰⁰

1948. In an undated televised interview, an Anti-Balaka element nicknamed ‘Le Bleu’⁵⁰⁰¹ stated that they had suffered immensely in the country because of the actions of the Muslims and that he had decided to seek vengeance ‘*jusqu’à la fin du monde*’ (‘until the end of the world’).⁵⁰⁰² He explained that the Muslims had killed members of his family and he was obliged to abandon his job and belongings to join his brothers in arms, and stated that their intention was to free the country from the yoke of the Muslims and those who remained at home should join them so that such things could no longer happen as they would control and manage the country’s wealth.⁵⁰⁰³

1949. P-1577 [REDACTED] visited Yaloké in early February 2014,⁵⁰⁰⁴ where he saw burnt vehicles, burnt tablets with Arabic script at a Muslim school, looting and destruction in what he was told was a predominantly Muslim marketplace, and Muslims at the mosque who said

⁴⁹⁹⁷ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0518, para. 85.

⁴⁹⁹⁸ P-2422 Statement, CAR-OTP-2110-0801-R02, at 0823-24, paras 74-76.

⁴⁹⁹⁹ P-2422 Statement, CAR-OTP-2110-0801-R02, at 0824, para. 76.

⁵⁰⁰⁰ P-2422 Statement, CAR-OTP-2110-0801-R02, at 0818, para. 59, at 0819, para. 62.

⁵⁰⁰¹ See also P-2416 Statement, CAR-OTP-2106-0489-R02, at 0533-35, paras 117-120.

⁵⁰⁰² Video, CAR-OTP-2106-0684, at 00:02:15-00:04:45; Transcript, CAR-OTP-2118-0015; Translation, CAR-OTP-2125-0525, at 0528, lines 45-52.

⁵⁰⁰³ Video, CAR-OTP-2106-0684, at 00:02:15-00:04:45; Transcript, CAR-OTP-2118-0015; Translation, CAR-OTP-2125-0525, at 0529, lines 81-90, at 0530, lines 103-110.

⁵⁰⁰⁴ P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0793-94, para. 54.

that they had moved there for their own security.⁵⁰⁰⁵ P-1577 heard that a local Anti-Balaka group was ‘protecting Muslims’, but was attacked by Anti-Balaka coming from the outside.⁵⁰⁰⁶

1950. The International Commission of Inquiry also provided information on Anti-Balaka attacks in Gaga, Zawa and Yaloké at the end of January 2014, leading to deaths, looting and destruction.⁵⁰⁰⁷

Anti-Balaka in Yaloké

1951. The evidence before the Chamber as outlined below gives indication as to the Anti-Balaka present in Yaloké at the relevant time, namely, Richard and Le Bleu.

1952. P-2416 stated that he knew Richard as a gold merchant.⁵⁰⁰⁸ P-2416 stated that after Richard joined the Anti-Balaka, P-2416 heard that he was being referred to as ‘Colonel Richard’.⁵⁰⁰⁹ P-2416 stated that he believed Richard joined the Anti-Balaka around the same time that the Seleka came to Gaga and Yaloké.⁵⁰¹⁰ P-2416 heard from Muslims and the remaining Christians in Yaloké that Richard was in charge of the Anti-Balaka in Yaloké, and [REDACTED] he was in charge of these Anti-Balaka in Yaloké.⁵⁰¹¹

⁵⁰⁰⁵ P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0813-14; P-1577: T-027, p. 84, line 16 – p. 87, line 6. See e.g. Photograph, CAR-OTP-2085-7655; Metadata, CAR-OTP-2085-7656; CAR-OTP-2086-9269; CAR-OTP-2091-4822; Photograph, CAR-OTP-2085-7675; Metadata, CAR-OTP-2085-7676; CAR-OTP-2086-9275; CAR-OTP-2091-4828; Photograph, CAR-OTP-2085-7715; Metadata, CAR-OTP-2085-7716; CAR-OTP-2086-9287; CAR-OTP-2091-4840; Photograph, CAR-OTP-2085-7835; Metadata, CAR-OTP-2085-7836; CAR-OTP-2086-9323; CAR-OTP-2091-4876; Photograph, CAR-OTP-2085-7925; Metadata, CAR-OTP-2085-7926; CAR-OTP-2086-9352; CAR-OTP-2091-4905; Photograph, CAR-OTP-2085-7995; Metadata, CAR-OTP-2085-7996; CAR-OTP-2086-9373; CAR-OTP-2091-4926; Photograph, CAR-OTP-2085-8235; Metadata, CAR-OTP-2085-8236; CAR-OTP-2086-9447; CAR-OTP-2091-5000; Photograph, CAR-OTP-2085-8275; Metadata, CAR-OTP-2085-8276; CAR-OTP-2086-9459; CAR-OTP-2091-5012; Photograph, CAR-OTP-2085-8315; Metadata, CAR-OTP-2085-8316; CAR-OTP-2086-9471; CAR-OTP-2091-5024; Photograph, CAR-OTP-2085-8405; Metadata, CAR-OTP-2085-8406; CAR-OTP-2086-9498; CAR-OTP-2091-5051; Photograph, CAR-OTP-2085-8915; Metadata, CAR-OTP-2085-8916; CAR-OTP-2086-9653; CAR-OTP-2091-5206. See also P-1577 Second Statement, CAR-OTP-2088-0717-R01, at 0723; Satellite image (annotated by P-1577), CAR-OTP-2088-0735.

⁵⁰⁰⁶ P-1577: T-027, p. 84, line 16 – p. 87, line 6.

⁵⁰⁰⁷ Commission of Inquiry Report, CAR-OTP-2001-7017, at 7093, paras 322-325, at 7096, paras 346-348, at 7104, para. 404.

⁵⁰⁰⁸ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0502, para. 37.

⁵⁰⁰⁹ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0502, para. 37.

⁵⁰¹⁰ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0503, para. 38.

⁵⁰¹¹ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0509, para. 58.

1953.P-2416 further stated that sometimes [REDACTED].⁵⁰¹² P-2416 stated that he heard the name ‘Le Bleu’ in Yaloké from the time of the attacks in Gaga [REDACTED].⁵⁰¹³

1954.P-1847 stated in his prior recorded testimony⁵⁰¹⁴ that there was no doubt that all Anti-Balaka ‘north’ were dependent in the coordination on Mr Ngaïssona and Mokom, such as Le Bleu, ComZone of the Anti-Balaka in Yaloké, who reported to Bernard Mokom and Mr Ngaïssona because he was part of the Anti-Balaka ‘north’, and committed many exactions with his elements against Muslims, looting and destroying their property, attacking convoys in 2013 to 2014, which P-1847 heard from population there.⁵⁰¹⁵

1955.P-2546 heard that there were two Anti-Balaka ComZones in Yaloké: ‘General Richard’, in charge of Gaga and Zawa, and ‘Colonel Le Bleu’, first name Severin, in charge of Yaloké town.⁵⁰¹⁶ P-2546 also stated that the Anti-Balaka in Yaloké had a spokesperson, Raymond Mangala.⁵⁰¹⁷ P-2546 recognised the local Anti-Balaka elements because they were young people from Yaloké but stated that 90% of the elements came from different places in the CAR, such as Bangui and Bossangoa.⁵⁰¹⁸

1956.Adama Djigaou, a Mbororo woman, recalled having been informed [REDACTED] that the name of the Anti-Balaka commander in Gaga was Colonel ‘something similar to R[ichal]’.⁵⁰¹⁹ The witness also learnt from this person that the Anti-Balaka leader in Yaloké was ‘Colonel Maboulé’.⁵⁰²⁰

1957.Brice Emotion Namsio stated that ‘Bozando’ was a ComZone in Yaloké.⁵⁰²¹

1958.P-2232 testified, when asked whether he heard of attacks in villages such as Berbérati, Yaloké, Boda, Bossembélé, Bossemtélé, after the attack of 5 December 2013, that when the attacks in the provinces occurred, the leaders, including [REDACTED], called the

⁵⁰¹² P-2416 Statement, CAR-OTP-2106-0489-R02, at 0502, paras 39-40.

⁵⁰¹³ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0504, para. 42.

⁵⁰¹⁴ The Chamber recalls its discussion in relation to this witness’s credibility. See section III.B.2.ii.b.ix above.

⁵⁰¹⁵ P-1847 First Statement, CAR-OTP-2061-1534, at 1569, paras 222-223.

⁵⁰¹⁶ P-2546 Statement, CAR-OTP-2114-0402-R01, at 0424, para. 74.

⁵⁰¹⁷ P-2546 Statement, CAR-OTP-2114-0402-R01, at 0424, para. 75.

⁵⁰¹⁸ P-2546 Statement, CAR-OTP-2114-0402-R01, at 0424-25, para. 76.

⁵⁰¹⁹ P-2486 Statement, CAR-OTP-2116-0281-R01 at 0288-89, para. 27, at 0294, para. 56.

⁵⁰²⁰ P-2486 Statement, CAR-OTP-2116-0281-R01, at 0294, para. 56.

⁵⁰²¹ P-0446 Interview Transcript, CAR-OTP-2105-0376-R02, at 0393-94, lines 562-608.

coordination bureau to give a report, sometimes they phoned the ComZones or those responsible in the coordination.⁵⁰²² P-2232 testified that he had heard of Muslims in Boda and Yaloké gathering in ‘Muslim sectors’, in the same way as all Muslims in Bangui found themselves in Kilomètre 5.⁵⁰²³ P-2232 testified that in the provincial towns, Bossangoa axis, Yaloké, Bouar axis, there were no Muslims any more.⁵⁰²⁴

Situation in Yaloké and dislocation of Muslims

1959. The evidence as outlined below shows that the situation in Yaloké did not calm down following these two attacks. Rather, various groups of Muslims remained confined to specific properties in Yaloké and outside of Yaloké for weeks, under threat of violence by the Anti-Balaka. This was followed by hundreds of Muslims being removed from Yaloké.

1960. P-2416 stated that [REDACTED] the Anti-Balaka [REDACTED] he could not challenge them or report to Sangaris because they would have sought revenge on him or the other Muslims remaining in Yaloké.⁵⁰²⁵ P-2416 stated that [REDACTED] before they were ‘evacuated’, he stayed on the veranda [REDACTED], and even though the Sangaris were patrolling and maintaining a presence, they could not leave throughout this time for their own safety.⁵⁰²⁶

1961. Zenaba Oumar stated that in the context of the first major attack, she left Yaloké with her family for another place where they stayed for about a month, with her husband having to hide in the grass for the first two weeks as he would have been killed as a Muslim man.⁵⁰²⁷ The witness said that the Anti-Balaka would gather around the property.⁵⁰²⁸ The witness stated that the Anti-Balaka wore civilians clothes, had amulets, talked about the attacks they were involved in, half of them had guns and the other half machetes, some had their faces covered in charcoal.⁵⁰²⁹ Zenaba Oumar stated that one came there several times and the other

⁵⁰²² P-2232: T-077, p. 24, lines 6-20.

⁵⁰²³ P-2232: T-077, p. 63, lines 17-22.

⁵⁰²⁴ P-2232: T-077, p. 64, lines 2-11.

⁵⁰²⁵ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0518-19, paras 86-87.

⁵⁰²⁶ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0519, para. 88.

⁵⁰²⁷ P-2422 Statement, CAR-OTP-2110-0801-R02, at 0816, para. 51, at 0816-17, para. 54, at 0817, para. 57.

⁵⁰²⁸ P-2422 Statement, CAR-OTP-2110-0801-R02, at 0819, para. 61, at 0823, para. 74.

⁵⁰²⁹ P-2422 Statement, CAR-OTP-2110-0801-R02, at 0818, para. 59, at 0820, para. 64.

Anti-Balaka extended him a lot of respect; they also talked about Le Bleu, ComZone Richard, Simplicie and Lampety, all of whom she knew from Yaloké.⁵⁰³⁰

1962. Zenaba Oumar stated that her sister and sister's family, at whose house the Seleka had often eaten when they were in Yaloké, were killed during an Anti-Balaka attack in Yaloké.⁵⁰³¹ The witness said she heard that some Mbororo were killed on the same day as her sister.⁵⁰³² Zenaba Oumar stated that one day the Anti-Balaka celebrated killing a Muslim Mbororo man, and she felt unsafe.⁵⁰³³ Zenaba Oumar stated that a group of four Anti-Balaka, two of whom the witness recognised [REDACTED], within the first two weeks after their arrival [REDACTED].⁵⁰³⁴ Zenaba Oumar stated that the Anti-Balaka later found her husband hiding and he and others convinced them that he was not a Muslim, he had been born Christian and was able to speak to the Anti-Balaka in the Banda language of the Christian community.⁵⁰³⁵

1963. Zenaba Oumar stated that she and her family left the place where they were hiding about one week after [REDACTED] because she had heard that the Anti-Balaka had threatened to either kill her and her family or those that were helping them.⁵⁰³⁶ The witness and her family managed to walk to Bangui over three months with the help of some Christians and others along the way.⁵⁰³⁷

1964. P-2546 [REDACTED] stated that when he returned to Yaloké in February 2014, the situation was very tense and the Anti-Balaka were in control.⁵⁰³⁸ P-2546 stated that [REDACTED] told him that the non-Muslim community did not want the Muslims to stay in Yaloké and that the Anti-Balaka had announced that if the last group of Muslims did not leave, they would launch an assault to exterminate them.⁵⁰³⁹ P-2546 [REDACTED] to the Anti-Balaka [REDACTED], but Raymond Mangala, [REDACTED] spokesperson of the Anti-Balaka Yaloké group, said that all non-CAR Muslims had to leave Yaloké as soon as possible

⁵⁰³⁰ P-2422 Statement, CAR-OTP-2110-0801-R02, at 0820, para. 65, at 0821, paras 67-68.

⁵⁰³¹ P-2422 Statement, CAR-OTP-2110-0801-R02, at 0825-26, paras 79-81.

⁵⁰³² P-2422 Statement, CAR-OTP-2110-0801-R02, at 0826, para. 81.

⁵⁰³³ P-2422 Statement, CAR-OTP-2110-0801-R02, at 0828, para. 86.

⁵⁰³⁴ P-2422 Statement, CAR-OTP-2110-0801-R02, at 0831-32, paras 93-94, at 0832, paras 96-97.

⁵⁰³⁵ P-2422 Statement, CAR-OTP-2110-0801-R02, at 0833-34, para. 100.

⁵⁰³⁶ P-2422 Statement, CAR-OTP-2110-0801-R02, at 0833, para. 99, at 0834, para. 101.

⁵⁰³⁷ P-2422 Statement, CAR-OTP-2110-0801-R02, at 0834-35, paras 102-106.

⁵⁰³⁸ P-2546 Statement, CAR-OTP-2114-0402-R01, at 0419, para. 62.

⁵⁰³⁹ P-2546 Statement, CAR-OTP-2114-0402-R01, at 0420, para. 64.

because the Anti-Balaka were ready to kill them and only Muslim CAR natives could remain.⁵⁰⁴⁰

1965.P-2546 stated further that he learned [REDACTED] that many Muslims had already been ‘evacuated’ to Cameroon and that those that remained were gathered with their belongings in the area of the central mosque and central market, with safety parameters established by the Sangaris.⁵⁰⁴¹ P-2546 said the last group of Muslims was transported to Cameroon by the Sangaris before a meeting with the Anti-Balaka, and the Muslims who remained were from the Gbanu tribe, native to Yaloké.⁵⁰⁴²

1966.P-2546 stated that in a subsequent meeting, Le Bleu, whom he understood to be the ComZone of the Anti-Balaka, stated that many Muslims had left as the general population did not want them there and that he would organise a meeting with the young people to decide what to do with the mosques – destroy them or transform them into halls, churches, or something else.⁵⁰⁴³

1967.Indeed, the evidence as outlined below shows that the situation in Yaloké was such that the majority of Muslims were forced to leave.

1968.P-2416 stated that there were three ‘evacuations’ of Muslims from Yaloké: the first to Cameroon; the second, one or two days later, in the first week of February 2014, to Bangui involving the Chadian army; the third taking the remaining Muslims to Cameroon, involving the Burundian army and Sangaris on 22 February 2014.⁵⁰⁴⁴ P-2416 stated that the Chadian convoy also collected Muslims from Gbaoui, some of whom had been dislocated from Zawa, and Muslims fleeing Bossembélé.⁵⁰⁴⁵ P-2416 stated that as they were packing for their ‘evacuation’, the Anti-Balaka joined by some Christian civilians gathered and insulted them, shouting at them to leave and trying to steal their property.⁵⁰⁴⁶ P-2416 stated that on the way,

⁵⁰⁴⁰ P-2546 Statement, CAR-OTP-2114-0402-R01, at 0420-21, paras 65-67, at 0422, para. 69.

⁵⁰⁴¹ P-2546 Statement, CAR-OTP-2114-0402-R01, at 0421, para. 68.

⁵⁰⁴² P-2546 Statement, CAR-OTP-2114-0402-R01, at 0422, para. 69.

⁵⁰⁴³ P-2546 Statement, CAR-OTP-2114-0402-R01, at 0422, para. 70.

⁵⁰⁴⁴ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0514, para. 74, at 0521-22, paras 95-96. See Video, CAR-OTP-2106-0138; Transcript, CAR-OTP-2122-7417.

⁵⁰⁴⁵ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0515, para. 75.

⁵⁰⁴⁶ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0522-23, paras 100-102.

they also collected fleeing Muslims in Bossempaté, Baoro, Bouar and Baboua.⁵⁰⁴⁷ P-2416 explained that [REDACTED] he did not want to leave Yaloké, [REDACTED] as everything he had ever worked for was in that town.⁵⁰⁴⁸ P-2416 said that some Anti-Balaka told him, '[REDACTED]' and threatened him.⁵⁰⁴⁹

1969. Zenaba Oumar stated that about two days after the attack on Gaga, a number of trucks passed through Yaloké bound for Cameroon and were stopped in Zawa by fleeing Muslims who wanted transport out of the area.⁵⁰⁵⁰ The witness stated that the Anti-Balaka discussed the 'evacuations' of Muslims from Yaloké and were very happy that they had left.⁵⁰⁵¹ She recalled hearing them discussing that the Muslims had all gone, after the 'final evacuation' of the remaining Muslims from Yaloké and discussing an ambush attempt on a convoy of Muslims from Gbawi bound for Bangui.⁵⁰⁵²

1970. P-1577 stated that he heard from Muslims at the Yaloké mosque that the Anti-Balaka had issued an ultimatum calling for the Muslims to leave and was told that 'a significant number of Muslims subsequently fled en masse as a result of this threat'.⁵⁰⁵³

1971. The evidence as outlined below shows that in addition to the attacks within Yaloké, the Anti-Balaka also attacked a large group of Mbororo/Peuhl near Gaga and Yaloké, keeping them first in Gaga and then in Yaloké, where the group stayed for more than two years.

1972. Specifically, Adama Djigaou, a Mbororo woman,⁵⁰⁵⁴ described in detail how her large group of Mbororo was attacked by the Anti-Balaka in the bush when talking towards Yaloké, leading to people being injured and killed, including 12 members of their family.⁵⁰⁵⁵ The witness stated that when the group then walked further towards Gaga, they again encountered

⁵⁰⁴⁷ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0524, para. 105.

⁵⁰⁴⁸ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0515-16, paras 77-78. *See also* Video, CAR-OTP-2106-0138; Transcript, CAR-OTP-2122-7417.

⁵⁰⁴⁹ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0516, para. 79.

⁵⁰⁵⁰ P-2422 Statement, CAR-OTP-2110-0801-R02, at 0813, para. 43.

⁵⁰⁵¹ P-2422 Statement, CAR-OTP-2110-0801-R02, at 0828-29, para. 87.

⁵⁰⁵² P-2422 Statement, CAR-OTP-2110-0801-R02, at 0829, paras 88-89.

⁵⁰⁵³ P-1577 Statement, CAR-OTP-2081-0769-R01, at 0817, para. 61. *See also* [REDACTED].

⁵⁰⁵⁴ The Chamber notes that in this context the designations Peuhl and Mbororo seem to often be used interchangeably (*see* P-2546 Statement, CAR-OTP-2114-0402-R01, at 0408, para. 23; P-2416 Statement, CAR-OTP-2106-0489-R02, at 0493, para. 13).

⁵⁰⁵⁵ P-2486 Statement, CAR-OTP-2116-0281-R01, at 0285-87, paras 17-24, at 0287-88, paras 27-28.

the Anti-Balaka, whom she later learned were ‘Colonel Richal’s’ men, who looted their remaining cattle and walked them to Gaga, where ‘Colonel Richal’ said that he would protect the Mbororo from being killed by the Anti-Balaka as he had trained them, that he was sorry for what he had done in the towns, and therefore had instructed his Anti-Balaka not to hurt the Mbororo.⁵⁰⁵⁶ Adama Djigaou stated that the Mbororo group remained in Gaga for approximately one month and was then transferred to a big compound in Yaloké centre, where it was overcrowded and they spent approximately one month.⁵⁰⁵⁷ The witness stated that the Anti-Balaka guarding the compound was unarmed and they could pray in the open, but that the Anti-Balaka groups from other towns present in Yaloké would have harmed them because they wanted to kill the Muslims.⁵⁰⁵⁸ Adama Djigaou stated that the Mbororo were later moved by MISCA to the Yaloké town hall where they remained for two years, still receiving unsuitable food, which led to some deaths; she eventually decided to go to a refugee camp in Cameroon.⁵⁰⁵⁹ The witness heard that all the Muslims had fled from Yaloké and that none of the Muslims’ shops were open and saw that some of the shops had been destroyed.⁵⁰⁶⁰

1973.P-2325 stated that many Peuhls with their cattle were present around Yaloké and he heard the Anti-Balaka killed a lot of them in the bush to steal their cattle, while those who survived gathered in the sub-prefecture compound and were guarded by MISCA.⁵⁰⁶¹ P-2325 stated that [REDACTED] over a thousand displaced people living in terrible conditions who could not leave for fear of the Anti-Balaka who were still active in the town and bragged about killing the Peuhls.⁵⁰⁶²

⁵⁰⁵⁶ P-2486 Statement, CAR-OTP-2116-0281-R01, at 0288, paras 28, 30, at 0289, paras 33-34.

⁵⁰⁵⁷ P-2486 Statement, CAR-OTP-2116-0281-R01, at 0288, para. 32, at 0289, para. 35, at 0290, para. 38, at 0290, paras 40-41.

⁵⁰⁵⁸ P-2486 Statement, CAR-OTP-2116-0281-R01, at 0290-91, para. 42, at 0292, para. 46.

⁵⁰⁵⁹ P-2486 Statement, CAR-OTP-2116-0281-R01, at 0291-95, paras 44-59. *See also* P-1576 Statement, CAR-OTP-2060-0280-R01, at 0286, para. 40 (the witness visited Yaloké in December 2014 and found 500 displaced Peuhls who had arrived there seven months earlier because they had been attacked and their cattle looted by Anti-Balaka); Photographs, CAR-OTP-2061-4483; CAR-OTP-2061-4484; CAR-OTP-2061-4485; CAR-OTP-2061-4486; CAR-OTP-2061-4488; CAR-OTP-2061-4489; CAR-OTP-2061-4490; CAR-OTP-2061-4491; CAR-OTP-2061-4492; CAR-OTP-2061-4493; Metadata, CAR-OTP-2075-0074, at 0375-78, 0380-85.

⁵⁰⁶⁰ P-2486 Statement, CAR-OTP-2116-0281-R01, at 0293-94, para. 55.

⁵⁰⁶¹ P-2325 Statement, CAR-OTP-2100-2386-R02, at 2403, para. 69.

⁵⁰⁶² P-2325 Statement, CAR-OTP-2100-2386-R02, at 2403, para. 69.

1974.P-2416 stated that he heard about Peuhls being captured by the Anti-Balaka and placed in an enclave in Yaloké.⁵⁰⁶³ P-2416 said [REDACTED] that they were hostages and had buried 51 of their people, who had been killed or had since died of illness, over 100 of them were still at the enclave.⁵⁰⁶⁴

1975.P-2546 stated that [REDACTED] Yaloké hospital in March or April 2014, where 15 to 20 Peuhls fleeing the Anti-Balaka in Lobaye had been admitted for serious injuries seemingly caused by machetes, and they had been attacked by the Anti-Balaka as they approached the outskirts of Yaloké.⁵⁰⁶⁵ P-2546 said he had seen a lot of meat being sold at the Yaloké market and realised that these were the animals from the Peuhls.⁵⁰⁶⁶ P-2546 stated that when the Peuhls were moved to the administrative buildings, they were no longer of interest to the Anti-Balaka because they did not have their animals anymore.⁵⁰⁶⁷

1976.P-2546 stated that 20 Peuhls from the hospital were accommodated by Le Bleu at the compound opposite his compound, approximately 100 Peuhl men were in the bush in Djobeu surrounded by Anti-Balaka, and Peuhl women and children were in Gbawi.⁵⁰⁶⁸ P-2546 said that the Peuhl [REDACTED] had lost everything and were in terrible living conditions and lacked food.⁵⁰⁶⁹ P-2546 stated that [REDACTED] all Peuhls from the bush to the compound opposite Le Bleu's compound [REDACTED], with surveys giving numbers of 800 and then 918 Peuhl men, women and children there.⁵⁰⁷⁰ P-2546 stated that the compound was not large enough and the sanitary situation was appalling, and the Peuhls were moved to the administrative buildings, where their living conditions improved and MINUSCA were responsible for protecting them.⁵⁰⁷¹ P-2546 stated that initially there was tension between the Peuhls and local population, with the latter feeling victimised because they had not

⁵⁰⁶³ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0531, para. 109.

⁵⁰⁶⁴ P-2416 Statement, CAR-OTP-2106-0489-R02, at 0532, para. 113.

⁵⁰⁶⁵ P-2546 Statement, CAR-OTP-2114-0402-R01, at 0426, para. 82, at 0431, para. 100.

⁵⁰⁶⁶ P-2546 Statement, CAR-OTP-2114-0402-R01, at 0427, para. 84.

⁵⁰⁶⁷ P-2546 Statement, CAR-OTP-2114-0402-R01, at 0438, para. 124.

⁵⁰⁶⁸ P-2546 Statement, CAR-OTP-2114-0402-R01, at 0429-30, paras 92-98.

⁵⁰⁶⁹ P-2546 Statement, CAR-OTP-2114-0402-R01, at 0430, paras 96, 98, at 0431, para. 100.

⁵⁰⁷⁰ P-2546 Statement, CAR-OTP-2114-0402-R01, at 0433, para. 108, at 0434, para. 110.

⁵⁰⁷¹ P-2546 Statement, CAR-OTP-2114-0402-R01, at 0434, para. 109, at 0435, paras 113-114, at 0435-36, paras 116-118, at 0437, para. 121. *See also* Satellite image, CAR-OTP-2114-0445-R01; Report, CAR-OTP-2092-1998.

received any humanitarian aid, as opposed to the Peuhls.⁵⁰⁷² P-2546 stated the Peuhls were eventually moved to a camp in 2015 and most of them went to Cameroon.⁵⁰⁷³

1977.P-1577 visited Yaloké again in [REDACTED] 2015⁵⁰⁷⁴ where he encountered a group of Peuhl that had been trapped in a makeshift camp in an old school due to the town administration and the Peuhls telling him that they had initially fled there for their own protection.⁵⁰⁷⁵

ii. Bossemptélé – 18 January 2014

1978.The evidence as outlined below shows that in January 2014, an Anti-Balaka group attacked Bossemptélé, leading to Muslim civilians being killed while others dislocated and sought refuge at the local church.

1979.P-2041, [REDACTED] at the relevant time, stated that he heard through the Muslim community which kept in contact with their families in other towns and villages and were aware of what was happening in Bouca, Yaloké, Bossembélé, Bossemptélé, Bogangolo and Bangui that these towns were all attacked by the Anti-Balaka, people were killed and houses destroyed.⁵⁰⁷⁶ P-2041 stated that this was also being reported on the news and television.⁵⁰⁷⁷

1980.P-1576 [REDACTED] stated that on [REDACTED] January 2014, [REDACTED] pictures of the houses and shops of Muslims in Bossemptélé which had been looted.⁵⁰⁷⁸ P-1576 stated that on [REDACTED] January 2014, while he was on his way from Bozoum to Bossemptélé,

⁵⁰⁷² P-2546 Statement, CAR-OTP-2114-0402-R01, at 0436-37, para. 119.

⁵⁰⁷³ P-2546 Statement, CAR-OTP-2114-0402-R01, at 0438, paras 125-126.

⁵⁰⁷⁴ P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0822, para. 77.

⁵⁰⁷⁵ P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0823-24; P-1577: T-027, p. 97, line 18 – p. 99, line 12. *See e.g.* Photograph, CAR-OTP-2087-4252; Metadata, CAR-OTP-2087-4253; CAR-OTP-2087-4522-R01; Photograph, CAR-OTP-2087-4282; Metadata, CAR-OTP-2087-4283; CAR-OTP-2087-4537; Photograph, CAR-OTP-2087-4292; Metadata, CAR-OTP-2087-4293; CAR-OTP-2087-4540; Photograph, CAR-OTP-2087-4342; Metadata, CAR-OTP-2087-4343; CAR-OTP-2087-4567; Photograph, CAR-OTP-2087-4352; Metadata, CAR-OTP-2087-4353; CAR-OTP-2087-4573-R01.

⁵⁰⁷⁶ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0011, para. 49.

⁵⁰⁷⁷ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0011, para. 49.

⁵⁰⁷⁸ P-1576 Statement, CAR-OTP-2060-0280-R01, at 0285, para. 30. *See* Photographs, CAR-OTP-2061-4402; CAR-OTP-2061-4403; CAR-OTP-2061-4404; Metadata, CAR-OTP-2075-0074, at 0256-58.

he met Anti-Balaka elements between Zawa and Bossemptélé who told him that they had just attacked a Peuhl village.⁵⁰⁷⁹

1981.P-1577, [REDACTED] stated that he heard from individuals he met in a refugee camp in Cameroon in [REDACTED] 2014 that they had been attacked in Bossemptélé by the Anti-Balaka.⁵⁰⁸⁰ P-1577 stated that when he visited Bossemptélé [REDACTED], he found about 20 Muslims who had fled violence in the surrounding region, but no other Muslims living in Bossemptélé by this time.⁵⁰⁸¹

1982.A priest from Bossemptélé, Bernard Kinvi, stated in an interview later in 2014 that when the Seleka had left the town, the Anti-Balaka set up there, leading to tension with certain Muslims who wanted to resist, and that this led to violence claiming several victims.⁵⁰⁸² The priest continued that when he walked through the town after the fighting had ended, he found numerous Muslims dead or injured, including women and children.⁵⁰⁸³

1983.In another interview, the priest described how, when the Anti-Balaka arrived to town, they wanted to negotiate to see if the Anti-Balaka would stop any armed confrontation, but they would not listen and there was confrontation, with some Muslims managing to flee, while many went into the bush, were not able to flee, and were killed, and him managing to save some, including a 13-year old boy whom the Anti-Balaka wanted to kill because they said he would grow up to be a man and should be killed.⁵⁰⁸⁴ He further stated that several months after the attack, the situation was precariously calm, in that the Anti-Balaka were still there, and still armed.⁵⁰⁸⁵

⁵⁰⁷⁹ P-1576 Statement, CAR-OTP-2060-0280-R01, at 0285, para. 30.

⁵⁰⁸⁰ P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0818, para. 65, at 0819-20; P-1577: T-027, p. 93, line 13 – p. 95, line 25. *See e.g.* Photograph, CAR-OTP-2087-3071; Metadata, CAR-OTP-2087-3072; CAR-OTP-2087-3670.

⁵⁰⁸¹ P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0822, para. 77, at 0824-25. *See e.g.* Photograph, CAR-OTP-2087-4322; Metadata, CAR-OTP-2087-4323; CAR-OTP-2087-4558; Photograph, CAR-OTP-2087-4332; Metadata, CAR-OTP-2087-4333; CAR-OTP-2087-4564-R01.

⁵⁰⁸² Audio, CAR-OTP-2088-0663, at 00:06:45-00:07:29; Transcript, CAR-OTP-2127-6276, at 6279, lines 86-92; Translation, CAR-OTP-2127-6401, at 6405, lines 98-105.

⁵⁰⁸³ Audio, CAR-OTP-2088-0663, at 00:07:29-00:07:55; Transcript, CAR-OTP-2127-6276, at 6279, lines 93-98; Translation, CAR-OTP-2127-6401, at 6405, lines 106-111.

⁵⁰⁸⁴ Video, CAR-OTP-2082-0646, at 00:02:43-00:04:52; Transcript, CAR-OTP-2127-4519, at 4521, lines 41-61; Translation, CAR-OTP-2127-4611, at 4614, lines 46-69.

⁵⁰⁸⁵ Video, CAR-OTP-2082-0646, at 00:01:10-00:01:43; Transcript, CAR-OTP-2127-4519, at 4520, lines 24-29; Translation, CAR-OTP-2127-4611, at 4613, lines 28-33. *See also* Press article, CAR-OTP-2001-5305, at 5337.

1984. In a video showing various individuals with weapons and in civilian clothing, seemingly bearing *gris-gris*,⁵⁰⁸⁶ an individual identified as ‘Président’ is shown stating that after walking through the bushes and having fought in Bouar up to Bozoum, they were now walking onto Bossemptélé.⁵⁰⁸⁷ He stated that he would go to Bossemptélé ‘today’ and that he wanted the Seleka to be disarmed.⁵⁰⁸⁸ A person identified as the first’s ‘deputy’ stated further that every Muslim was in connivance with the Seleka, they were in fact all Seleka, military, rebels that Djotodia brought in.⁵⁰⁸⁹ Another individual identified as ‘secretary’ stated that they no longer wanted to see any Mbororo or Muslims in Boyaram, they had to leave, and if they did not want them to attack Bossemptélé, the ‘colonel’ had to send 50 million CFA.⁵⁰⁹⁰

1985. The Chamber refers in this context to the evidence of Barthélémy Namsenmo, further discussed below, who explained that Anti-Balaka groups that had started out in Bossangoa, Gobere, split up for each village, with those en route to Bangui going to Bozoum and then Baoro and others taking the route to Bossemptélé and Bouar.⁵⁰⁹¹

1986. The UN Commission of Inquiry concluded that the day following the Seleka’s departure from Bossemptélé on 17 January 2014, a meeting was held between Anti-Balaka and representatives of the Muslim community which resulted in clashes and the Anti-Balaka killing Muslims, allegedly dozens of civilians, with the local leader of the Anti-Balaka being identified by different witnesses.⁵⁰⁹²

⁵⁰⁸⁶ Video, CAR-OTP-2088-0977; Transcript, CAR-OTP-2087-0317; Translation, CAR-OTP-2089-0323.

⁵⁰⁸⁷ Translation, CAR-OTP-2089-0323, at 0327, lines 64-77.

⁵⁰⁸⁸ Translation, CAR-OTP-2089-0323, at 0328, lines 80-89.

⁵⁰⁸⁹ Translation, CAR-OTP-2089-0323, at 0328, lines 97-99.

⁵⁰⁹⁰ Translation, CAR-OTP-2089-0323, at 0331, lines 202-243.

⁵⁰⁹¹ P-1042 Interview Transcripts, CAR-OTP-2107-0202-R02, at 0216-20, lines 460-599; CAR-OTP-2107-0402-R03, at 0425-26, lines 779-810; P-1042: T-163, p. 6, line 22 – p. 7, line 14, p. 8, line 22 – p. 9, line 22, p. 70, line 10 – p. 71, line 17. See also section IV.B.1.ii below.

⁵⁰⁹² Commission of Inquiry Report, CAR-OTP-2001-7017, at 7092, paras 316-321.

1987. The Chamber notes that the events in Bossemptélé were also reported in the news⁵⁰⁹³ and by Amnesty International.⁵⁰⁹⁴

1988. P-0889 stated that after the Seleka had left, the Anti-Balaka were in control of Bossemptélé.⁵⁰⁹⁵ Jo-Brice Ouabiro Dana confirmed that Gervais Yapende was at some point the ComZone in Bossemptélé.⁵⁰⁹⁶ Jacob Mokpem-Bionli stated that the name of the ComZone for Bossemptélé was ‘Le Bleu’, who was also the ComZone for Yaloké.⁵⁰⁹⁷

b. Nana-Mambéré/Mambéré-Kadéï

1989. The evidence before the Chamber indicates that Anti-Balaka groups initially gathered towards the border area next to Cameroon also participated in attacks in localities in the west of the CAR. The Chamber has in this context considered the evidence of P-1719 specifically, which suggests that a first attack against Seleka elements was carried out in Beloko, on the CAR side of the border with Garam-Boulai on the Cameroon side, in the second half of January 2014, following which other locations in the western provinces were attacked that also affected the Muslim civilian population.

1990. The Ngaïssona Defence argues in this context that D30-4914 was unequivocal in stating that no instructions were given by Mr Ngaïssona, Bernard Mokom, Bozizé or anyone from Yaoundé concerning the attack in Beloko, and that Mr Ngaïssona never sent reinforcement

⁵⁰⁹³ Press article, CAR-OTP-2001-5305, at 5318-21, at 5326-27. The Chamber notes the Ngaïssona Defence’s objections to this article on the basis of it lacking probative value and relevance (see Annex 1 to Defence Response to the “Prosecution’s Eleventh Application for the Submission of Open-source Evidence from the Bar Table”, ICC-01/14-01/18-2114-Conf-Anx1, pp. 12-14). The Chamber notes in this regard that it has not relied on any details provided in this article, but merely considered it in the context of its overall determinations. It therefore does not consider necessary to engage with the objections further.

⁵⁰⁹⁴ Report, CAR-OTP-2001-2203, at 2206, at 2211-13. The Chamber notes that the Defence objects to this item on the basis of it lacking probative value and relevance (see Annex A to Yekatom Defence Response to ‘Prosecution’s Eleventh Application for the Submission of Open-source Evidence from the Bar Table’, ICC-01/14-01/18-2037-Conf-AnxA, p. 4; Annex 1 to Defence Response to the “Prosecution’s Eleventh Application for the Submission of Open-source Evidence from the Bar Table”, ICC-01/14-01/18-2114-Conf-Anx1, pp. 3-4). The Chamber notes in this regard that it has not relied on any details provided in this report, but merely considered it in the context of its overall determinations. It therefore does not consider necessary to engage with the objections further.

⁵⁰⁹⁵ P-0889 Statement, CAR-OTP-2027-2290-R02, at 2303, paras 81-82.

⁵⁰⁹⁶ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0261, para. 114. See also P-0889 Statement, CAR-OTP-2027-2290-R02, at 2306, para. 100 referring to List, CAR-OTP-2030-0232 (where Gervais Yapende appears at 0237).

⁵⁰⁹⁷ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0072, para. 144.

from Cameroon or took action [REDACTED] in Beloko.⁵⁰⁹⁸ It also submits that P-1719's testimony regarding Beloko is largely based on assumptions and speculation.⁵⁰⁹⁹

1991. P-1719 testified that [REDACTED] never received any instructions from Mr Ngaïssona [REDACTED], the person receiving instructions was Elisée Sabé, and he shared those instructions; sometimes he received instructions directly from 'the authority', Mr Ngaïssona, in Yaoundé.⁵¹⁰⁰ P-1719 stated that Fylai, Sabé, Rocca Mokom, Ouilibona Aron were there and these were the various people who were close to 'the authority', Mr Ngaïssona, and received instructions directly and handed them to be able to take action.⁵¹⁰¹ [REDACTED] the instructions and decisions came from Yaoundé and they circulated those decisions amongst the groups for implementation.⁵¹⁰²

1992. P-1719 testified that Rocca Mokom was in constant touch with Yaoundé, Bangui and Zongo, because at that time he was one of the key elements of 'the restricted team'.⁵¹⁰³ P-1719 testified that Rocca Mokom [REDACTED] was in touch with the authorities in Yaoundé and had exchanges with his father in Yaoundé.⁵¹⁰⁴

1993. P-1719 testified that after Michel Djotodia resigned, they were asked to concentrate on 'recuperating' Beloko.⁵¹⁰⁵ P-1719 said that he did not recall when this attack took place, but the discussions to reinforce Bohong or attack Bouar were between 1 and 10 January 2014, and when they abandoned those discussions they focused on taking Beloko.⁵¹⁰⁶ P-1719 testified that Elysé Sabé informed them [REDACTED] that 'the authority' from Yaoundé, meaning the leadership in Yaoundé, Mr Ngaïssona and Bernard Mokom, gave the instruction to take over Beloko that day.⁵¹⁰⁷ P-1719 testified that according to Sabé, the instructions

⁵⁰⁹⁸ Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, para. 520.

⁵⁰⁹⁹ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 521.

⁵¹⁰⁰ P-1719: T-143, p. 17, line 23 – p. 18, line 23.

⁵¹⁰¹ P-1719: T-143, p. 18, lines 11-23.

⁵¹⁰² P-1719: T-143, p. 19, line 5 – p. 22, line 4.

⁵¹⁰³ P-1719: T-142, p. 48, line 20 – p. 49, line 15; T-144, p. 39, line 12 – p. 41, line 4.

⁵¹⁰⁴ P-1719: T-144, p. 40, lines 9-22.

⁵¹⁰⁵ P-1719: T-142, p. 30, lines 2-14.

⁵¹⁰⁶ P-1719: T-142, p. 30, line 2 – p. 32, line 15.

⁵¹⁰⁷ P-1719: T-142, p. 32, line 16 – p. 33, line 22; T-143-ENG, p. 44, line 2 – p. 46, line 5; T-143-FRA, p. 44, line 7 – p. 45, line 8. The Chamber considers, in regard to the suggestion that Mr Ngaïssona would not have been in Yaoundé when such instructions may have been given (see P-1719: T-143, p. 45, line 16 – p. 46, line 5, p. 53, line 11 – p. 55, line 13), that it is clear from the evidence of the witness that to P-1719, the reference to 'Yaoundé' was not so much

came from ‘*le sommet*’, Mr Ngaïssona.⁵¹⁰⁸ P-1719 testified that Elysé Sabé was the person who died in Beloko.⁵¹⁰⁹ P-1719 recalled that the first attack took place on 10 January and [REDACTED] took Beloko on 20 January 2017, the day after which he wrote to Yakété.⁵¹¹⁰

1994. P-1719 testified that during the first attack on 10 January 2014, [REDACTED] set up their general staff with Steve Yambété, Hervé Fylai, Elysé Sabé, Aron Ouilibona, Steve Seregaza and Rocca Mokom.⁵¹¹¹ P-1719 did not know if Rocca was called or someone else, but the inner circle received the instruction from Yaoundé before [REDACTED].⁵¹¹²

1995. P-1719 testified that during the attack on 20 January 2014 [REDACTED].⁵¹¹³ P-1719 testified that following this attack, the Seleka left Beloko once and for all.⁵¹¹⁴ P-1719 testified that from 21 January 2014, [REDACTED] Beloko, Baboua, Gallo, Aba being under control [REDACTED].⁵¹¹⁵ P-1719 testified that during this advance, [REDACTED], he only heard one shop owner was killed [REDACTED].⁵¹¹⁶ P-1719 testified that [REDACTED] some of the elements occupied the houses of Muslim civilians after their departure and used them as their places of residence, for example Rocca Mokom and Fylai took houses of Muslims and settled in them; there was no one in these houses and all their property had been pillaged.⁵¹¹⁷

1996. Further, the Chamber recalls the circumstances under which P-1847’s prior recorded testimony was introduced.⁵¹¹⁸ Bearing this background in mind, the Chamber considers of note that the information provided by P-1847 in his prior recorded testimony in fact echoes that of P-1719. Specifically, P-1847 stated that he was sure that Mr Ngaïssona was informed of the attacks in Beloko since he lived with ‘Mokom father’ in Yaoundé and the two

a question of the location where instructions were coming from, but rather his association with who ‘the authority’ was.

⁵¹⁰⁸ P-1719: T-143, p. 46, line 22 – p. 47, line 9, p. 47, line 21 – p. 48, line 17.

⁵¹⁰⁹ P-1719: T-142, p. 34, lines 7-17; T-143, p. 66, line 17 – p. 70, line 15. *See also* Facebook messages, CAR-OTP-2101-6428, at 6467 (with a message dated 21 January 2014).

⁵¹¹⁰ P-1719: T-142-FRA, p. 35, lines 14-25; T-142-ENG, p. 35, lines 2-12.

⁵¹¹¹ P-1719: T-142-FRA, p. 37, lines 17-27; T-142-ENG, p. 37, lines 6-16; T-144, p. 18, line 14 – p. 19, line 5, p. 43, line 23 – p. 44, line 3.

⁵¹¹² P-1719: T-144, p. 44, lines 8-19.

⁵¹¹³ P-1719: T-142, p. 37, line 17 – p. 38, line 4.

⁵¹¹⁴ P-1719: T-142, p. 42, lines 11-16.

⁵¹¹⁵ P-1719: T-142, p. 42, line 17 – p. 43, line 2.

⁵¹¹⁶ P-1719: T-142, p. 43, line 17 – p. 44, line 12.

⁵¹¹⁷ P-1719: T-142, p. 44, line 20 – p. 45, line 12.

⁵¹¹⁸ *See* paragraphs 365-373 above.

communicated with Godonam at the border and a lot with those in Beloko.⁵¹¹⁹ P-1847 stated further that following the meetings in Douala and Yaoundé, several young civilian Anti-Balaka combatants under lead of Kombo Juvenal and his deputy Ouilibona Aaron considered themselves Anti-Balaka, to be recognised by their *gris-gris*, and Juvenal proclaiming himself ‘general’ of the Anti-Balaka in Garam-Boulai.⁵¹²⁰ P-1847 stated that Aaron Ouilibona, Kombo Juvenal, Zokoue alias ‘Grand Machin’ and Rocca Mokom participated in the attack on Beloko, they were financially supported by ‘Mokom father’.⁵¹²¹ P-1847 stated that following this attack, the Anti-Balaka set up a base in Beloko and patrolled the zone up to Baboua and Aba, organising the youth to resist and fight the Seleka.⁵¹²² P-1847 also stated that he was in Yaoundé at the time of these attacks and ‘we’ were always informed of the attack activities of the Anti-Balaka, this was known among the Central African refugees in Cameroon.⁵¹²³

1997. The CAR Panel concluded in its interim report 2014 that a ‘*Haut Conseil de Résistance et du Redressement National*’, commanded by Rochael Mokom alias ‘Colonel Rocco’ and Mike Steve Yambété, based out of the Garam-Boulai region, led its first military offensive in Cantonnier and Beloko.⁵¹²⁴ According to the report, Anti-Balaka elements with FACA background in Beloko told the panel in April 2014 that ‘Colonel’ Aron Wilibona was ‘still in command of the [Anti-Balaka] from Cantonnier/Béloko to Bouar, capital of the province of Nana Mambéré’.⁵¹²⁵

1998. In light of this evidence, and bearing in mind its assessment of D30-4914’s credibility, the Chamber does not consider credible the generalised claims of this witness that he would never have received any instructions from Mr Ngaïssona with a view to attacking villages in the CAR [REDACTED],⁵¹²⁶ that he was not aware of any movement of ‘soldiers’ at the

⁵¹¹⁹ P-1847 Second Statement, CAR-OTP-2122-8251-R01, at 8256, para. 40.

⁵¹²⁰ P-1847 First Statement, CAR-OTP-2061-1534, at 1555, paras 136-137.

⁵¹²¹ P-1847 First Statement, CAR-OTP-2061-1534, at 1556, para. 139; P-1847 Second Statement, CAR-OTP-2122-8251-R01, at 8255, para. 36, at 8256, para. 38.

⁵¹²² P-1847 First Statement, CAR-OTP-2061-1534, at 1556, para. 140.

⁵¹²³ P-1847 First Statement, CAR-OTP-2061-1534, at 1556, para. 143.

⁵¹²⁴ Annex 5 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0875, para. 4. *See also* Annex 5.1 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0879.

⁵¹²⁵ Annex 5.1 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0880, para. 3.

⁵¹²⁶ D30-4914 Statement, CAR-D30-0024-0001-R01, at 0017, lines 680-684; D30-4914: T-303, p. 7, line 6 – p. 8, line 17.

border in late 2013,⁵¹²⁷ [REDACTED].⁵¹²⁸ This is the case especially since at the same time, D30-4914 did state that [REDACTED].⁵¹²⁹ D30-4914 also stated that [REDACTED].⁵¹³⁰

1999. The Chamber therefore concludes that an Anti-Balaka group, following instructions of ‘the authority’ from Yaoundé, including Mr Ngaïssona and Bernard Mokom, attacked the Seleka in Beloko on 20 January 2014.

i. Baoro – 22 January 2014

2000. Following the initial attack on the CAR side of the border in Beloko, the evidence provided by Barthélémy Namsenmo shows that an Anti-Balaka group also attacked Baoro, located in the Nana-Mambéré prefecture, on 22 January 2014.

2001. Specifically, Barthélémy Namsenmo heard of the Anti-Balaka while he was imprisoned by the Seleka, at which time the Anti-Balaka were not far from Baoro.⁵¹³¹ The witness heard about them through [REDACTED] to the prison where the witness was held.⁵¹³² The witness heard that they had started in Bossangoa, with base in Gobere, then left for Baoro, splitting up for each village, with those taking the route to Bangui those going to Bozoum, which were the ones that then came to Baoro, and yet others taking the route to Bossempaté and Bouar.⁵¹³³ Barthélémy Namsenmo stated that after Baoro, they continued to Carnot.⁵¹³⁴ The witness stated that the different Anti-Balaka groups communicated via telephone⁵¹³⁵ and the plan of the Anti-Balaka grouped in the bush was to occupy Carnot and then move on down to attack Berbérati.⁵¹³⁶

⁵¹²⁷ D30-4914: T-302, p. 36, line 3 – p. 37, line 2.

⁵¹²⁸ D30-4914: T-303, p. 8, line 18 – p. 12, line 1, p. 18, line 25 – p. 25, line 18.

⁵¹²⁹ D30-4914: T-303, p. 18, line 25 – p. 25, line 18.

⁵¹³⁰ D30-4914: T-303, p. 18, line 25 – p. 25, line 18.

⁵¹³¹ P-1042 Interview Transcript, CAR-OTP-2107-0202-R02, at 0214, lines 396-411.

⁵¹³² P-1042 Interview Transcript, CAR-OTP-2107-0202-R02, at 0216-18, lines 460-517.

⁵¹³³ P-1042 Interview Transcripts, CAR-OTP-2107-0202-R02, at 0216-20, lines 460-599; CAR-OTP-2107-0402-R03, at 0425-26, lines 779-810; P-1042: T-163, p. 6, line 22 – p. 7, line 14, p. 8, line 22 – p. 9, line 22, p. 70, line 10 – p. 71, line 17.

⁵¹³⁴ P-1042 Interview Transcript, CAR-OTP-2107-0202-R02, at 0220-21, lines 604-625.

⁵¹³⁵ P-1042 Interview Transcript, CAR-OTP-2107-0554-R01, at 0564-67, lines 332-437.

⁵¹³⁶ P-1042 Interview Transcript, CAR-OTP-2107-0591-R01, at 0616-17, lines 826-852.

2002. Barthélémy Namsenmo stated that he heard from Muslims in Baoro chased by the Anti-Balaka and Christians about an attack in Baoro which happened on 22 January 2014.⁵¹³⁷ The witness stated that in Baoro, the Anti-Balaka killed Muslims, and the Muslims killed also, houses were burned, bodies were burned by the Muslims and others thrown into wells, while most of the houses of Christians were burned by Muslims, and in revenge, the Anti-Balaka looted and destroyed the houses of Muslims once they had left.⁵¹³⁸ Barthélémy Namsenmo testified that the attack was not just against Muslim civilians, the Muslim civilians had been armed by the Seleka.⁵¹³⁹

ii. *Guen – 1 February 2014*

2003. The evidence as outlined below shows that on or about 1 February 2014, an Anti-Balaka group attacked Guen, and within it unarmed Muslim civilians, killing at least 22 people on the first day of attack, and looting and destroying houses, business and mosques. On 5 February 2014, at least another 43 Muslim men were killed by the Anti-Balaka group. Following the attack, Muslims were confined to locations in Carnot before many were removed from the town.

2004. P-1598 [REDACTED] stated that the Seleka left Guen when they heard that the Anti-Balaka were approaching, except for certain fighters associated with the Peuhls.⁵¹⁴⁰ P-1598 stated that the Muslims who remained in Guen were not Seleka and had no weapons.⁵¹⁴¹

2005. P-1964 [REDACTED] stated that before the Anti-Balaka arrived in Guen, there were rumours that they were coming.⁵¹⁴²

⁵¹³⁷ P-1042 Interview Transcript, CAR-OTP-2107-0202-R02, at 0204-06, lines 66-135; P-1042: T-163, p. 8, lines 2-12, p. 71, line 22 – p. 72, line 7.

⁵¹³⁸ P-1042 Interview Transcript, CAR-OTP-2107-0202-R02, at 0204, lines 39-65; P-1042: T-163, p. 72, line 24 – p. 73, line 5.

⁵¹³⁹ P-1042: T-163-ENG, p. 72, lines 8-23; T-163-FRA, p. 76, lines 10-15.

⁵¹⁴⁰ P-1598 Statement, CAR-OTP-2057-0892-R02, at 0895, para. 17.

⁵¹⁴¹ P-1598 Statement, CAR-OTP-2057-0892-R02, at 0897, para. 26.

⁵¹⁴² P-1964 Statement, CAR-OTP-2094-1755-R02, at 1758, para. 22.

2006.P-1964 stated that on ‘1 February 2012’, at around 05:30, he heard sounds of shooting from hunting weapons and ‘war weapons’, people shouting, and he thought it might be the Anti-Balaka arriving in Guen.⁵¹⁴³

2007.P-1964 stated that he [REDACTED] saw the Anti-Balaka coming from the bush, some with charcoal-painted faces, turbans like masks, *gris-gris*.⁵¹⁴⁴ P-1964 stated he could see what was happening [REDACTED].⁵¹⁴⁵ P-1964 stated that [REDACTED].⁵¹⁴⁶ P-1964 stated that [REDACTED].⁵¹⁴⁷

2008.P-1964 stated that he saw some people going to hide in the farms [REDACTED], some of them crying.⁵¹⁴⁸ P-1964 stated that he saw two male Christian teenagers with head injuries come out of the bush, having been attacked with machetes by the Anti-Balaka on their way from a farm in the bush as they were unable to speak Gbaya and the Anti-Balaka thought that they were Mbororos.⁵¹⁴⁹

2009.P-0595 [REDACTED] stated that on 1 February 2014, as he was going to the mosque, he heard gunshots coming from the direction of Djomo and saw people wearing all black civilian clothing.⁵¹⁵⁰ P-0595 stated that he went home, got his wife and fled, encountering their neighbour [REDACTED].⁵¹⁵¹ P-0595 stated that the Anti-Balaka were screaming ‘*sortez-vous en joue*’ (‘take aim’) in Sango, and they had hunting weapons, automatic weapons, pistols, machetes and arrows.⁵¹⁵² P-0595 stated that [REDACTED] they could hear

⁵¹⁴³ P-1964 Statement, CAR-OTP-2094-1755-R02, at 1758, para. 23. The Chamber notes that the witness further stated that Michel Djotodia was present at the time, and that it was prior to Catherine Samba-Panza’s appointment (see P-1964 Statement, CAR-OTP-2094-1755-R02, at 1758, para. 24). In light of the other evidence before it, together with the details on the attack provided by P-1964, the Chamber concludes that the witness was speaking of the attack in February 2014.

⁵¹⁴⁴ P-1964 Statement, CAR-OTP-2094-1755-R02, at 1758-59, para. 27.

⁵¹⁴⁵ P-1964 Statement, CAR-OTP-2094-1755-R02, at 1758, para. 26.

⁵¹⁴⁶ P-1964 Statement, CAR-OTP-2094-1755-R02, at 1758-59, para. 27.

⁵¹⁴⁷ P-1964 Statement, CAR-OTP-2094-1755-R02, at 1759, para. 27.

⁵¹⁴⁸ P-1964 Statement, CAR-OTP-2094-1755-R02, at 1759, para. 28.

⁵¹⁴⁹ P-1964 Statement, CAR-OTP-2094-1755-R02, at 1759, paras 29-30.

⁵¹⁵⁰ P-0595 Statement, CAR-OTP-2018-0761-R02, at 0764, para. 17.

⁵¹⁵¹ P-0595 Statement, CAR-OTP-2018-0761-R02, at 0764, para. 18.

⁵¹⁵² P-0595 Statement, CAR-OTP-2018-0761-R02, at 0764, para. 18. See also Photograph, CAR-OTP-2018-0782.

gunshots, and he saw Anti-Balaka elements leave with bags, merchandise, even beds having looted houses.⁵¹⁵³ P-0595 stated they stayed hidden [REDACTED].⁵¹⁵⁴

2010. P-0595 stated that [REDACTED].⁵¹⁵⁵ P-0595 stated that [REDACTED] the group chief of the Anti-Balaka from Zaoro-Yangoa [REDACTED] there was no problem with the Hausa, Borno and Malians, but with the Chadians and Mbororos because they were linked to the Seleka.⁵¹⁵⁶

2011. P-1598 stated that [REDACTED] informed him that the Anti-Balaka had arrived in Guen on the evening of 31 January 2014 and committed violence.⁵¹⁵⁷ P-1598 stated that he saw groups of Muslims, who he could identify by their clothes like the ‘grand boubou’ and their accent when speaking Sango, and non-Muslims [REDACTED] fleeing from the Anti-Balaka in Guen.⁵¹⁵⁸ The witness stated that the fleeing people were mostly Mbororo [REDACTED] with their oxen and sheep.⁵¹⁵⁹ P-1598 stated that he [REDACTED] saw perhaps 200 or 300 Anti-Balaka, some in combat trousers, others in civilians clothes, as well as *gris-gris* and rosaries.⁵¹⁶⁰ P-1598 stated some had ‘Kalas’,⁵¹⁶¹ machetes, knives, small axes, and the majority traditional weapons, handmade rifles, and he saw grenades.⁵¹⁶²

2012. P-0732 [REDACTED] stated that the Anti-Balaka arrived in Guen very early in the morning after they returned home from morning prayers at the mosque.⁵¹⁶³ P-0732 stated that there was a lot of shooting.⁵¹⁶⁴ P-0732 stated that [REDACTED] some of the Anti-Balaka had red straps tied around their heads and guns, and others had a piece of cloth wrapped around their heads, called ‘kadamoul’.⁵¹⁶⁵ P-0732 said that she ran away [REDACTED].⁵¹⁶⁶

⁵¹⁵³ P-0595 Statement, CAR-OTP-2018-0761-R02, at 0764-0765, para. 19.

⁵¹⁵⁴ P-0595 Statement, CAR-OTP-2018-0761-R02, at 0765, para. 20.

⁵¹⁵⁵ P-0595 Statement, CAR-OTP-2018-0761-R02, at 0765, para. 20.

⁵¹⁵⁶ P-0595 Statement, CAR-OTP-2018-0761-R02, at 0765, para. 22.

⁵¹⁵⁷ P-1598 Statement, CAR-OTP-2057-0892-R02, at 0895, paras 19-20.

⁵¹⁵⁸ P-1598 Statement, CAR-OTP-2057-0892-R02, at 0895, para. 20.

⁵¹⁵⁹ P-1598 Statement, CAR-OTP-2057-0892-R02, at 0895, para. 20.

⁵¹⁶⁰ P-1598 Statement, CAR-OTP-2057-0892-R02, at 0896, para. 23.

⁵¹⁶¹ The Chamber understands this to be a reference to ‘Kalashnikovs’.

⁵¹⁶² P-1598 Statement, CAR-OTP-2057-0892-R02, at 0896, para. 23.

⁵¹⁶³ P-0732 Statement, CAR-OTP-2061-0003-R02, at 0008, para. 31.

⁵¹⁶⁴ P-0732 Statement, CAR-OTP-2061-0003-R02, at 0008, para. 32.

⁵¹⁶⁵ P-0732 Statement, CAR-OTP-2061-0003-R02, at 0008, para. 33.

⁵¹⁶⁶ P-0732 Statement, CAR-OTP-2061-0003-R02, at 0008, para. 33.

2013. The evidence before the Chamber shows that 22 people were killed during this first part of the attack.⁵¹⁶⁷

2014. The evidence further shows that the Anti-Balaka looted and destroyed houses and mosques during the attack.⁵¹⁶⁸

2015. The evidence as outlined below shows that the violence against Muslims did not end with this attack.

2016. Specifically, P-0595 stated that following this attack, around 300 people including women, children, elderly, but no armed Seleka or armed men, sought refuge at [REDACTED].⁵¹⁶⁹ P-0595 stated that on 2 or 3 February 2014, Beina came to [REDACTED], searching the houses [REDACTED] for weapons but finding nothing.⁵¹⁷⁰ P-0595 stated that Anti-Balaka groups [REDACTED] to search and sometimes loot and ask for money [REDACTED], or say that they wanted to kill them because they were Muslims.⁵¹⁷¹ P-0595 stated [REDACTED].⁵¹⁷² P-0595 stated that there were four Anti-Balaka groups in Guen [REDACTED].⁵¹⁷³

2017. P-0595 stated that on 5 February 2014 [REDACTED].⁵¹⁷⁴ P-0595 stated that [REDACTED].⁵¹⁷⁵ P-0595 stated that the Anti-Balaka elements searched and pillaged everything [REDACTED].⁵¹⁷⁶ P-0595 said that [REDACTED] a group of 50 men was taken 500 metres away and the Anti-Balaka made them lie down on the ground.⁵¹⁷⁷ P-0595 stated that [REDACTED].⁵¹⁷⁸ P-0595 stated that one or two minutes afterwards, [REDACTED] a

⁵¹⁶⁷ P-1964 Statement, CAR-OTP-2094-1755-R02, at 1760, paras 40, 42, at 1761, para. 44, at 1762, para. 52 (the Chamber notes in this regard the evidence on the number of killed in the subsequent days); P-0595 Statement, CAR-OTP-2018-0761-R02, at 0765, paras 23-24, at 0766, paras 27-28; P-0732 Statement, CAR-OTP-2061-0003-R02, at 0008, para. 31; P-1598 Statement, CAR-OTP-2057-0892-R02, at 0896, para. 24.

⁵¹⁶⁸ P-1964 Statement, CAR-OTP-2094-1755-R02, at 1759, paras 32, 34-35, at 1759-60, para. 36, at 1762, para. 57, at 1765, para. 78; P-0732 Statement, CAR-OTP-2061-0003-R02, at 0009, para. 41, at 0017, paras 100-101; P-1598 Statement, CAR-OTP-2057-0892-R02, at 0899, para. 37.

⁵¹⁶⁹ P-0595 Statement, CAR-OTP-2018-0761-R02, at 0766, para. 30.

⁵¹⁷⁰ P-0595 Statement, CAR-OTP-2018-0761-R02, at 0766, para. 31.

⁵¹⁷¹ P-0595 Statement, CAR-OTP-2018-0761-R02, at 0767, para. 32.

⁵¹⁷² P-0595 Statement, CAR-OTP-2018-0761-R02, at 0767, para. 32.

⁵¹⁷³ P-0595 Statement, CAR-OTP-2018-0761-R02, at 0767, para. 33.

⁵¹⁷⁴ P-0595 Statement, CAR-OTP-2018-0761-R02, at 0767, para. 35.

⁵¹⁷⁵ P-0595 Statement, CAR-OTP-2018-0761-R02, at 0767, para. 36.

⁵¹⁷⁶ P-0595 Statement, CAR-OTP-2018-0761-R02, at 0767, para. 36.

⁵¹⁷⁷ P-0595 Statement, CAR-OTP-2018-0761-R02, at 0767-68, para. 37.

⁵¹⁷⁸ P-0595 Statement, CAR-OTP-2018-0761-R02, at 0767, para. 37, at 0768, para. 41.

lot of gunshots, cries and the Anti-Balaka crying out in joy.⁵¹⁷⁹ P-0595 stated that [REDACTED].⁵¹⁸⁰ P-0595 stated that [REDACTED] more than 30 bodies where the group of 50 had been taken earlier that day; men had dug a hole to bury the bodies.⁵¹⁸¹ P-0595 that the group of 50 included: [REDACTED].⁵¹⁸² P-0595 [REDACTED].⁵¹⁸³

2018.P-0732 stated that she later sought shelter [REDACTED].⁵¹⁸⁴ She stated [REDACTED] that the Anti-Balaka specifically targeted Chadians.⁵¹⁸⁵ P-0732 stated that [REDACTED].⁵¹⁸⁶ P-0732 stated that [REDACTED].⁵¹⁸⁷ P-0732 stated that [REDACTED].⁵¹⁸⁸ She stated that [REDACTED].⁵¹⁸⁹ P-0732 heard that 43 men were killed.⁵¹⁹⁰ P-0732 stated that [REDACTED].⁵¹⁹¹ P-0732 stated that [REDACTED].⁵¹⁹² P-0732 stated that [REDACTED].⁵¹⁹³

2019.P-1598 stated that he was informed on 4 February 2014 [REDACTED] that people had been killed.⁵¹⁹⁴ P-1598 stated that [REDACTED].⁵¹⁹⁵ P-1598 stated that [REDACTED] others counted 43 dead bodies.⁵¹⁹⁶ P-1598 said that [REDACTED].⁵¹⁹⁷ P-1598 [REDACTED].⁵¹⁹⁸ P-1598 thought that the victims were all Muslims since the Anti-Balaka had sought them out

⁵¹⁷⁹ P-0595 Statement, CAR-OTP-2018-0761-R02, at 0768, para. 42.

⁵¹⁸⁰ P-0595 Statement, CAR-OTP-2018-0761-R02, at 0768, para. 42.

⁵¹⁸¹ P-0595 Statement, CAR-OTP-2018-0761-R02, at 0769, paras 45-48.

⁵¹⁸² P-0595 Statement, CAR-OTP-2018-0761-R02, at 0768, para. 38; P-0595 Attestation, ICC-01/14-01/18-2283-Conf-AnxA-Red, p. 5.

⁵¹⁸³ P-0595 Statement, CAR-OTP-2018-0761-R02, at 0768-0769, para. 43.

⁵¹⁸⁴ P-0732 Statement, CAR-OTP-2061-0003-R02, at 0009, para. 41.

⁵¹⁸⁵ P-0732 Statement, CAR-OTP-2061-0003-R02, at 0009, para. 42.

⁵¹⁸⁶ P-0732 Statement, CAR-OTP-2061-0003-R02, at 0009-10, paras 44-45, at 0011, para. 52.

⁵¹⁸⁷ P-0732 Statement, CAR-OTP-2061-0003-R02, at 0010, para. 46.

⁵¹⁸⁸ P-0732 Statement, CAR-OTP-2061-0003-R02, at 0010, para. 47.

⁵¹⁸⁹ P-0732 Statement, CAR-OTP-2061-0003-R02, at 0010, para. 48.

⁵¹⁹⁰ P-0732 Statement, CAR-OTP-2061-0003-R02, at 0010, para. 49, at 0011, paras 52-53.

⁵¹⁹¹ P-0732 Statement, CAR-OTP-2061-0003-R02, at 0010, para. 50.

⁵¹⁹² P-0732 Statement, CAR-OTP-2061-0003-R02, at 0010, para. 51.

⁵¹⁹³ P-0732 Statement, CAR-OTP-2061-0003-R02, at 0011, para. 52.

⁵¹⁹⁴ P-1598 Statement, CAR-OTP-2057-0892-R02, at 0898, para. 32.

⁵¹⁹⁵ P-1598 Statement, CAR-OTP-2057-0892-R02, at 0898, para. 33; Sketch, CAR-OTP-2057-0916.

⁵¹⁹⁶ P-1598 Statement, CAR-OTP-2057-0892-R02, at 0898, para. 33.

⁵¹⁹⁷ P-1598 Statement, CAR-OTP-2057-0892-R02, at 0898, para. 34.

⁵¹⁹⁸ P-1598 Statement, CAR-OTP-2057-0892-R02, at 0898, para. 34.

at sites where there were only Muslims.⁵¹⁹⁹ P-1598 said that [REDACTED].⁵²⁰⁰ P-1598 [REDACTED].⁵²⁰¹

2020. P-1964 stated that [REDACTED].⁵²⁰² P-1964 stated that [REDACTED].⁵²⁰³ P-1964 heard that [REDACTED].⁵²⁰⁴ P-1964 stated that he heard [REDACTED].⁵²⁰⁵

2021. P-2325 stated that he heard [REDACTED] that at the end of January or beginning of February 2014, the Anti-Balaka in Guen gathered over 50 Muslims inside the compound of a diamond collector and killed them all, including women and children.⁵²⁰⁶

2022. A video with an AP logo shows an individual speaking on the phone, reiterating to his interlocutor that the 44 people he killed were indeed Seleka: *‘Si ce n’était pas des Séléka, est ce que j’allais les tuer?’* (‘if they were not Seleka, would I have killed them?’).⁵²⁰⁷

2023. The evidence further shows that the Anti-Balaka also gathered Muslims at specific sites in Guen and Djomo. Following the killings, Muslims left to other sites, with many Muslims eventually leaving Guen.

2024. Specifically, P-1598 stated that [REDACTED] about 300 displaced Muslim people spread over two sites, gathered there by the Anti-Balaka [REDACTED].⁵²⁰⁸ P-1598 stated that both sites were ‘guarded’ by the Anti-Balaka.⁵²⁰⁹ P-1598 stated that [REDACTED].⁵²¹⁰ He further stated that he learned that [REDACTED].⁵²¹¹

⁵¹⁹⁹ P-1598 Statement, CAR-OTP-2057-0892-R02, at 0898, para. 34.

⁵²⁰⁰ P-1598 Statement, CAR-OTP-2057-0892-R02, at 0898, para. 34.

⁵²⁰¹ P-1598 Statement, CAR-OTP-2057-0892-R02, at 0898-99, paras 35-36.

⁵²⁰² P-1964 Statement, CAR-OTP-2094-1755-R02, at 1761, para. 46.

⁵²⁰³ P-1964 Statement, CAR-OTP-2094-1755-R02, at 1761, para. 46.

⁵²⁰⁴ P-1964 Statement, CAR-OTP-2094-1755-R02, at 1761, para. 48.

⁵²⁰⁵ P-1964 Statement, CAR-OTP-2094-1755-R02, at 1761, para. 49.

⁵²⁰⁶ P-2325 Statement, CAR-OTP-2100-2386-R02, at 2402, para. 68.

⁵²⁰⁷ Video, CAR-OTP-2019-1230, at 00:03:00-00:03:22; Transcript, CAR-OTP-2082-0278; Translation, CAR-OTP-2082-0285, at 0288-89, lines 70-77.

⁵²⁰⁸ P-1598 Statement, CAR-OTP-2057-0892-R02, at 0896-97, paras 25-28; Sketch, CAR-OTP-2057-0916.

⁵²⁰⁹ P-1598 Statement, CAR-OTP-2057-0892-R02, at 0897, para. 28.

⁵²¹⁰ P-1598 Statement, CAR-OTP-2057-0892-R02, at 0901, para. 46.

⁵²¹¹ P-1598 Statement, CAR-OTP-2057-0892-R02, at 0901, para. 44.

2025.P-0595 stated that [REDACTED].⁵²¹² P-0595 said [REDACTED].⁵²¹³ P-0595 said [REDACTED].⁵²¹⁴ P-0595 stated [REDACTED].⁵²¹⁵ P-0595 stated that he lost everything when he left Guen.⁵²¹⁶

2026.P-1964 stated that [REDACTED].⁵²¹⁷

2027.P-1598 stated that [REDACTED].⁵²¹⁸ P-1598 stated that [REDACTED].⁵²¹⁹ P-1598 stated that [REDACTED].⁵²²⁰ [REDACTED].⁵²²¹ P-1598 stated that [REDACTED].⁵²²² P-1598 stated that the Anti-Balaka tolerated Muslims but they strictly refused to welcome Peuhls because of their close collaboration with the Seleka.⁵²²³ [REDACTED].⁵²²⁴ P-1598 stated that [REDACTED].⁵²²⁵

2028.P-1598 stated that [REDACTED].⁵²²⁶ P-1598 stated that [REDACTED].⁵²²⁷ [REDACTED].⁵²²⁸ [REDACTED].⁵²²⁹ P-1598 stated that [REDACTED].⁵²³⁰ P-1598 stated that [REDACTED].⁵²³¹ P-1598 stated that the Muslims did not want to return to their homes and preferred to go to Carnot or Cameroon because they were afraid and scarred by the killings.⁵²³² P-1598 stated [REDACTED] that the Muslims of Djomo and Guen have not yet returned.⁵²³³

⁵²¹² P-0595 Statement, CAR-OTP-2018-0761-R02, at 0770, para. 50.

⁵²¹³ P-0595 Statement, CAR-OTP-2018-0761-R02, at 0770, paras 54-55.

⁵²¹⁴ P-0595 Statement, CAR-OTP-2018-0761-R02, at 0770, para. 55.

⁵²¹⁵ P-0595 Statement, CAR-OTP-2018-0761-R02, at 0770-71, para. 57.

⁵²¹⁶ P-0595 Statement, CAR-OTP-2018-0761-R02, at 0774, para. 83.

⁵²¹⁷ P-1964 Statement, CAR-OTP-2094-1755-R02, at 1761, para. 47.

⁵²¹⁸ P-1598 Statement, CAR-OTP-2057-0892-R02, at 0899, paras 38-39.

⁵²¹⁹ P-1598 Statement, CAR-OTP-2057-0892-R02, at 0899, paras 38-39.

⁵²²⁰ P-1598 Statement, CAR-OTP-2057-0892-R02, at 0904, para. 59.

⁵²²¹ P-1598 Statement, CAR-OTP-2057-0892-R02, at 0900, para. 41.

⁵²²² P-1598 Statement, CAR-OTP-2057-0892-R02, at 0904, para. 58.

⁵²²³ P-1598 Statement, CAR-OTP-2057-0892-R02, at 0904, para. 58.

⁵²²⁴ P-1598 Statement, CAR-OTP-2057-0892-R02, at 0904, para. 58.

⁵²²⁵ P-1598 Statement, CAR-OTP-2057-0892-R02, at 0905, para. 60; Sketch, CAR-OTP-2057-0915.

⁵²²⁶ P-1598 Statement, CAR-OTP-2057-0892-R02, at 0901, para. 47.

⁵²²⁷ P-1598 Statement, CAR-OTP-2057-0892-R02, at 0902, para. 48.

⁵²²⁸ P-1598 Statement, CAR-OTP-2057-0892-R02, at 0903, para. 54.

⁵²²⁹ P-1598 Statement, CAR-OTP-2057-0892-R02, at 0902, paras 49-50.

⁵²³⁰ P-1598 Statement, CAR-OTP-2057-0892-R02, at 0904, para. 58.

⁵²³¹ P-1598 Statement, CAR-OTP-2057-0892-R02, at 0906-07, para. 67, at 0907, para. 70.

⁵²³² P-1598 Statement, CAR-OTP-2057-0892-R02, at 0907, para. 70.

⁵²³³ P-1598 Statement, CAR-OTP-2057-0892-R02, at 0907, para. 70.

2029.P-0732 stated that [REDACTED].⁵²³⁴ [REDACTED].⁵²³⁵ P-0732 stated that [REDACTED].⁵²³⁶ [REDACTED].⁵²³⁷ P-0732 stated that [REDACTED].⁵²³⁸ P-0732 stated that [REDACTED].⁵²³⁹ P-0732 stated that [REDACTED].⁵²⁴⁰ [REDACTED].⁵²⁴¹ P-0732 stated that [REDACTED].⁵²⁴² [REDACTED].⁵²⁴³ She stated that [REDACTED].⁵²⁴⁴ [REDACTED].⁵²⁴⁵ P-0732 stated that [REDACTED].⁵²⁴⁶ [REDACTED].⁵²⁴⁷ [REDACTED].⁵²⁴⁸

2030.In relation to the Anti-Balaka in Guen, P-1964 stated that the leader of the Anti-Balaka in Guen was [REDACTED].⁵²⁴⁹ P-1964 knew that [REDACTED].⁵²⁵⁰ P-1964 stated that [REDACTED].⁵²⁵¹

2031.P-1598 stated that [REDACTED] were, in his opinion, the Anti-Balaka leaders in Guen [REDACTED].⁵²⁵² P-1598 believed that [REDACTED].⁵²⁵³ [REDACTED].⁵²⁵⁴ He stated that the Anti-Balaka who had arrived in Guen came [REDACTED].⁵²⁵⁵

2032.P-0732 stated that [REDACTED].⁵²⁵⁶ P-0732 stated that [REDACTED].⁵²⁵⁷

⁵²³⁴ P-0732 Statement, CAR-OTP-2061-0003-R02, at 0011, para. 55.

⁵²³⁵ P-0732 Statement, CAR-OTP-2061-0003-R02, at 0011, para. 56.

⁵²³⁶ P-0732 Statement, CAR-OTP-2061-0003-R02, at 0011, para. 57.

⁵²³⁷ P-0732 Statement, CAR-OTP-2061-0003-R02, at 0011-12, para. 58.

⁵²³⁸ P-0732 Statement, CAR-OTP-2061-0003-R02, at 0012, para. 59.

⁵²³⁹ P-0732 Statement, CAR-OTP-2061-0003-R02, at 0014, para. 76.

⁵²⁴⁰ P-0732 Statement, CAR-OTP-2061-0003-R02, at 0013, para. 72, at 0014, para. 74, at 0017, para. 103.

⁵²⁴¹ P-0732 Statement, CAR-OTP-2061-0003-R02, at 0013, para. 72.

⁵²⁴² P-0732 Statement, CAR-OTP-2061-0003-R02, at 0016, para. 96.

⁵²⁴³ P-0732 Statement, CAR-OTP-2061-0003-R02, at 0014, para. 77.

⁵²⁴⁴ P-0732 Statement, CAR-OTP-2061-0003-R02, at 0014, paras 78-81.

⁵²⁴⁵ P-0732 Statement, CAR-OTP-2061-0003-R02, at 0015, paras 85-87.

⁵²⁴⁶ P-0732 Statement, CAR-OTP-2061-0003-R02, at 0017, paras 103-104, at 0018, paras 105, 107.

⁵²⁴⁷ P-0732 Statement, CAR-OTP-2061-0003-R02, at 0018, paras 106, 108.

⁵²⁴⁸ P-0732 Statement, CAR-OTP-2061-0003-R02, at 0018, para. 109.

⁵²⁴⁹ P-1964 Statement, CAR-OTP-2094-1755-R02, at 1763, para. 60.

⁵²⁵⁰ P-1964 Statement, CAR-OTP-2094-1755-R02, at 1763, para. 61.

⁵²⁵¹ P-1964 Statement, CAR-OTP-2094-1755-R02, at 1765, para. 83. *See also* Photograph, CAR-OTP-2094-1770.

⁵²⁵² P-1598 Statement, CAR-OTP-2057-0892-R02, at 0896, para. 24.

⁵²⁵³ P-1598 Statement, CAR-OTP-2057-0892-R02, at 0896, para. 24.

⁵²⁵⁴ P-1598 Statement, CAR-OTP-2057-0892-R02, at 0896, para. 24. *See also* Photograph, CAR-OTP-2057-0917-R01.

⁵²⁵⁵ P-1598 Statement, CAR-OTP-2057-0892-R02, at 0897, para. 31.

⁵²⁵⁶ P-0732 Statement, CAR-OTP-2061-0003-R02, at 0009-10, para. 45.

⁵²⁵⁷ P-0732 Statement, CAR-OTP-2061-0003-R02, at 0016, para. 94.

2033. The CAR Panel stated that its interlocutors in Guen claimed that the Anti-Balaka attacking Guen on 1 February 2014 came from the villages of Tedoa and Mbaina, with Anti-Balaka leader named Edmond Beina from Tedoa having ordered the attack.⁵²⁵⁸

2034. Jacob Mokpem-Bionli stated that the Anti-Balaka elements in Guen depended on the national coordination and were represented by Aubin Mboya, also receiving financial support from Mr Ngaïssona through Mboya like all other ComZones.⁵²⁵⁹ The witness stated that, at some point, he heard from the Guen ComZone Aubin Mboya that there were provocations of Muslims to which Anti-Balaka reacted violently, following which Mr Ngaïssona sent a delegation to calm the situation, including Ndomaté, Olivier Feissona, Judicael Orofe.⁵²⁶⁰ Jacob Mokpem-Bionli did not recall Mboya mentioning the name of Beina in his reports.⁵²⁶¹

iii. Carnot – early February 2014

2035. The evidence before the Chamber as outlined below shows that in early February 2014, Anti-Balaka elements entered Carnot, and killed Muslim civilians, looted properties, and created conditions which led to the majority of the Muslim population leaving.

2036. P-0289 [REDACTED] stated that rumours that the Anti-Balaka would attack had multiplied before the attack, and the Seleka left at the end of January 2014 when the Anti-Balaka were at 30 kilometres from Carnot.⁵²⁶² P-0289 stated that the majority of Muslims from Carnot left at the same time as the Seleka, while Muslims from surrounding villages, especially from Yaloké, Bossembélé, Bozoum, Baoro, Bossempaté, sought refuge in the parish.⁵²⁶³

2037. P-0289 stated that Anti-Balaka elements entered Carnot in a column formation on 2 February 2014.⁵²⁶⁴ P-2132 [REDACTED] described that he saw the Anti-Balaka coming towards the

⁵²⁵⁸ Annex 29 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0979, para. 3, at 0980, para. 5.

⁵²⁵⁹ P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0315, para. 171.

⁵²⁶⁰ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0062-63, paras 78-79; P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0314-15, paras 166-170.

⁵²⁶¹ P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0315, para. 173.

⁵²⁶² P-0289 Statement, CAR-OTP-2024-0288-R02, at 0293, paras 27-28, at 0293-94, para. 31.

⁵²⁶³ P-0289 Statement, CAR-OTP-2024-0288-R02, at 0293-94, paras 31-33.

⁵²⁶⁴ P-0289 Statement, CAR-OTP-2024-0288-R02, at 0294, para. 36.

centre of Carnot in a column formation on 3 February 2014.⁵²⁶⁵ P-2393, a Muslim civilian residing in Carnot at the time of the attack, stated that he saw the Anti-Balaka entering Carnot in military columns on 5 February 2014.⁵²⁶⁶

2038. Barthélémy Namsenmo agreed that the attack on Carnot took place in the first week of February 2024.⁵²⁶⁷ He also stated that more than a thousand Anti-Balaka elements entered Carnot.⁵²⁶⁸ The witness testified that the Bossangoa group, along with that of Baoro, went to attack Carnot.⁵²⁶⁹

2039. P-2556, who was among the Anti-Balaka group entering Carnot, stated that some of the elements were armed, carrying bows, arrows, knives, big knives called '*dankanarés*' and machetes.⁵²⁷⁰

2040. P-2393 stated that two days after the Anti-Balaka's arrival, a meeting was held between local authorities and the Anti-Balaka, with the latter represented by Babé aka 'B13', Kongomani, Sylvestre Sinacolo, Barthélémy 'Namsenmo', Nicodeme Sekolo and another.⁵²⁷¹ P-0289 stated that the leader of the Anti-Balaka was called 'Stève', a former FACA.⁵²⁷²

2041. P-2393 stated that during the meeting the Anti-Balaka said that they did not come to cause trouble or commit crimes and did not have anything against any ethnic group except the 'Arabs', who they considered had aligned with the Seleka and they wanted to take revenge against them.⁵²⁷³ P-0289 stated that the Anti-Balaka said that they had come to free the town and the country, that they no longer wanted to see the Seleka or those that had worked with the Seleka and if they found them, they would kill them, adding that they would search the

⁵²⁶⁵ P-2132 Statement, CAR-OTP-2080-0884-R01, at 0892, paras 42-43.

⁵²⁶⁶ P-2393 Statement, CAR-OTP-2108-0140-R03, at 0149, para. 52.

⁵²⁶⁷ P-1042: T-163, p. 15, lines 6-8.

⁵²⁶⁸ P-1042 Interview Transcript, CAR-OTP-2107-0427-R02, at 0454, lines 908-917.

⁵²⁶⁹ P-1042: T-163, p. 10, lines 19-23.

⁵²⁷⁰ P-2556 Statement, CAR-OTP-2112-1300-R01, at 1309, para. 74. *See also* P-2556 Statement, CAR-OTP-2112-1300-R01, at 1314, para. 104.

⁵²⁷¹ P-2393 Statement, CAR-OTP-2108-0140-R03, at 0149, paras 55-56. *See also* P-2556 Statement, CAR-OTP-2112-1300-R01, at 1311, para. 79.

⁵²⁷² P-0289 Statement, CAR-OTP-2024-0288-R02, at 0295, para. 38.

⁵²⁷³ P-2393 Statement, CAR-OTP-2108-0140-R03, at 0149-50, para. 57.

houses to find any remaining weapons.⁵²⁷⁴ P-0289 stated that the leader of the Anti-Balaka terrorised Carnot.⁵²⁷⁵

2042. Barthélémy Namsenmo stated that the objective of the Anti-Balaka entering Carnot was to kill and chase the Muslims from the CAR, they said they no longer wanted Muslims on their territory because the Seleka are Muslims.⁵²⁷⁶

2043. P-2393 stated that, following the meeting, the Anti-Balaka, including those who were at the meeting, went to the Donoum neighbourhood to search the houses of ‘Arabs’, and started searching and looting the houses of wealthy Muslims.⁵²⁷⁷ P-2393 described that the Anti-Balaka created disorder in Carnot.⁵²⁷⁸

2044. P-0289 stated that between their arrival and the arrival of MISCA ten days later, the Anti-Balaka immediately started killing Muslims they suspected of being Seleka, with all Muslims leaving town or fleeing [REDACTED].⁵²⁷⁹

2045. P-2556 stated that the Anti-Balaka controlled the area and Muslims could not move freely as they were in danger of being attacked by the Anti-Balaka.⁵²⁸⁰

2046. More specifically, several witnesses spoke of the killing of Muslims at Abou Panga’s house. P-2393 stated that he heard that the Anti-Balaka went to Abou Panga’s house on 7 or 8 February 2014 to loot, and killed at least seven persons inside the house and one in front of it.⁵²⁸¹ Similarly, P-0289 stated he heard that the Anti-Balaka killed eight persons as they went to loot at the house.⁵²⁸² P-2132 stated that he heard three or four bodies were discovered in the house of Abou Panga someday after 3 February 2014.⁵²⁸³ P-2556 stated that he had heard that four Muslims were killed in the incident and six others injured.⁵²⁸⁴ Barthélémy

⁵²⁷⁴ P-0289 Statement, CAR-OTP-2024-0288-R02, at 0295, para. 39.

⁵²⁷⁵ P-0289 Statement, CAR-OTP-2024-0288-R02, at 0295, para. 41.

⁵²⁷⁶ P-1042 Interview Transcript, CAR-OTP-2107-0202-R02, at 0233-36, lines 1051-1155.

⁵²⁷⁷ P-2393 Statement, CAR-OTP-2108-0140-R03, at 0150, paras 59-60.

⁵²⁷⁸ P-2393 Statement, CAR-OTP-2108-0140-R03, at 0158, para. 91.

⁵²⁷⁹ P-0289 Statement, CAR-OTP-2024-0288-R02, at 0296, para. 44.

⁵²⁸⁰ P-2556: T-145, p. 40, line 24 – p. 41, line 13.

⁵²⁸¹ P-2393 Statement, CAR-OTP-2108-0140-R03, at 0158, paras 92-94, at 0159, para. 96, at 0165, para. 124.

⁵²⁸² P-0289 Statement, CAR-OTP-2024-0288-R02, at 0297, paras 50-51, 54.

⁵²⁸³ P-2132 Statement, CAR-OTP-2080-0884-R01, at 0895, para. 56.

⁵²⁸⁴ P-2556 Statement, CAR-OTP-2112-1300-R01, at 1316, paras 118, 120; P-2556: T-145, p. 34, line 25 – p. 35, line 10.

Namsenmo stated that the only remaining Muslims in Carnot who were at [REDACTED] compound were killed by the Anti-Balaka.⁵²⁸⁵

2047. In addition, P-0289 stated that further isolated killings were reported to him, such as that of one person who was killed by the Anti-Balaka at a roundabout.⁵²⁸⁶

2048. P-2556 stated that he heard of one incident in the Zawa neighbourhood in which the Anti-Balaka had attacked two men, cutting them with machetes, and who were later escorted by MISCA.⁵²⁸⁷ P-2556 stated that in another incident, an Anti-Balaka killed a 'Mbororo' at the entrance of the hospital compound in Carnot.⁵²⁸⁸

2049. Several witnesses described the looting of houses and mosques in Carnot starting in early February 2014.

2050. P-2556 stated that the looting in Carnot started 'only after the arrival of the Anti-Balaka',⁵²⁸⁹ and that this created 'a lot of trouble in town'.⁵²⁹⁰ P-2393 stated that the Anti-Balaka searched the houses of 'Arabs' in the Donoum neighbourhood.⁵²⁹¹ P-2393 stated that once François Bozizé said in a speech that the fences of houses had to be stripped because weapons might be hidden in them and the Anti-Balaka seemed to have adopted that idea and that was why they started destroying the fences surrounding Muslim houses and searching them.⁵²⁹² The witness heard about this from a young Christian who was associated with the Anti-Balaka.⁵²⁹³ P-0289 and P-2393 described that Muslim houses in Carnot were looted and destroyed at the relevant time.⁵²⁹⁴

2051. As regards mosques, P-2393 stated that soon after the arrival of the Anti-Balaka in Carnot, several mosques were looted and some even destroyed, amongst them the mosques in the

⁵²⁸⁵ P-1042 Interview Transcript, CAR-OTP-2107-0202-R02, at 0233, lines 1024-1036.

⁵²⁸⁶ P-0289 Statement, CAR-OTP-2024-0288-R02, at 0297, paras 52-53.

⁵²⁸⁷ P-2556 Statement, CAR-OTP-2112-1300-R01, at 1315, para. 115; P-2556 Corrections, CAR-OTP-2135-4121-R01, at 4137, para. 115.

⁵²⁸⁸ P-2556 Statement, CAR-OTP-2112-1300-R01, at 1315-16, para. 117.

⁵²⁸⁹ P-2556: T-146, p. 8, lines 7-19.

⁵²⁹⁰ P-2556 Statement, CAR-OTP-2112-1300-R01, at 1315, para. 112.

⁵²⁹¹ P-2393 Statement, CAR-OTP-2108-0140-R03, at 0149-50, paras 57-58.

⁵²⁹² P-2393 Statement, CAR-OTP-2108-0140-R03, at 0150, para. 58.

⁵²⁹³ P-2393 Statement, CAR-OTP-2108-0140-R03, at 0150, para. 60, at 0160, para. 103.

⁵²⁹⁴ P-0289 Statement, CAR-OTP-2024-0288-R02, at 0296, paras 46-47; P-2393 Statement, CAR-OTP-2108-0140-R03, at 0168-69, paras 146-147.

Malam Pacco, Donoum, Nagaito and Zawa I neighbourhoods.⁵²⁹⁵ P-2556 stated that the Anti-Balaka who came from Baoro used to steal the roofs and wood from the mosques so as to sell them.⁵²⁹⁶ P-2132 stated he observed three or four Anti-Balaka elements breaking into the house of a Muslim merchant from Niger.⁵²⁹⁷

2052. The Chamber heard several witnesses describing how Muslims left their homes and sought refuge elsewhere, some in Carnot, especially at the Catholic church, and some in villages in the CAR, in Cameroon or Chad.

2053. P-2393 stated that following the attack by the Anti-Balaka, some of the Muslim residents in Carnot fled and took refuge in Abou Panga's house in the Mbonet I neighbourhood.⁵²⁹⁸ P-2132 stated that the census established that there were 1177 houses and 36 pieces of land belonging to Muslims mostly in Carnot and that after the attack all Muslims had fled their homes.⁵²⁹⁹ P-2556 more generally described that many Muslims went to Cameroon.⁵³⁰⁰

2054. P-2132 and P-2556 stated that many Muslims were dislocated to the Catholic church parish following the arrival of the Anti-Balaka in Carnot.⁵³⁰¹ P-0289 [REDACTED],⁵³⁰² stated that at some point in February 2014 there were around 2,000 Muslims present.⁵³⁰³ He clarified that more than half of the refugees, in majority women and children, were not from Carnot but from the Gadzi sub-prefecture, from Yaloké, Bossembélé, Bozoum, Baoro and Bossemptélé.⁵³⁰⁴ P-1576 stated that when he visited Carnot in October 2015, he found around 500 displaced Muslims that had stayed at the church grounds for almost two years.⁵³⁰⁵

⁵²⁹⁵ P-2393 Statement, CAR-OTP-2108-0140-R03, at 0164, para. 121, at 0164-65, para. 123, at 0165, paras 125-126, at 0167, para. 139.

⁵²⁹⁶ P-2556 Statement, CAR-OTP-2112-1300-R01, at 1316, para. 122.

⁵²⁹⁷ P-2132 Statement, CAR-OTP-2080-0884-R01, at 0900, para. 84.

⁵²⁹⁸ P-2393 Statement, CAR-OTP-2108-0140-R03, at 0158, para. 91.

⁵²⁹⁹ P-2132 Statement, CAR-OTP-2080-0884-R01, at 0901, para. 86.

⁵³⁰⁰ P-2556: T-145, p. 27, line 25 – p. 28, line 12.

⁵³⁰¹ P-2132 Statement, CAR-OTP-2080-0884-R01, at 0898, para. 74, at 0898-99, para. 76; P-2556 Statement, CAR-OTP-2112-1300-R01, at 1309, para. 67, at 1312, paras 91-92; P-2556: T-145, p. 39, line 22 – p. 40, line 9.

⁵³⁰² P-0289 Statement, CAR-OTP-2024-0288-R02, at 0302, para. 77.

⁵³⁰³ P-0289 Statement, CAR-OTP-2024-0288-R02, at 0294, para. 32, at 0300, para. 66.

⁵³⁰⁴ P-0289 Statement, CAR-OTP-2024-0288-R02, at 0294, paras 33-34.

⁵³⁰⁵ P-1576 Statement, CAR-OTP-2060-0280-R01, at 0287, para. 44. *See also* P-1042: T-163, p. 23, lines 13-18.

2055. Contemporaneous media coverage also spoke of the events in Carnot.⁵³⁰⁶

iv. *Berbérati – early February 2014*

2056. The evidence before the Chamber as outlined below shows that different Anti-Balaka groups entered Berbérati in early February 2014. This led to looting, destruction, and the dislocation of Muslims from their homes.

2057. The evidence shows that the Seleka left Berbérati on 7 February 2014, before the arrival of the Anti-Balaka.⁵³⁰⁷

2058. P-2325 stated that after Michel Djotodia resigned, they heard that the Anti-Balaka was in areas close to Berbérati.⁵³⁰⁸ P-2324 stated that members of the Muslim community of Berbérati were scared because of rumours that the Anti-Balaka were coming and seeing Muslims from Boda, Baoro and Carnot fleeing the violence in large groups, so a large part of the Muslim population decided to leave Berbérati to Cameroon.⁵³⁰⁹

2059. The evidence further shows that on 7 February 2014, after the Seleka's departure, a first Anti-Balaka group arrived from the road of Gamboula.⁵³¹⁰ This group was led by Rodrigue or 'Rocca' Mokom, son of Bernard Mokom and brother of Maxime Mokom.⁵³¹¹ P-2325 stated that this group arrived on motorbikes and two pick-up vehicles, was armed with machetes and traditional weapons and had *gris-gris*.⁵³¹²

2060. P-2324 stated that the Anti-Balaka group was welcomed by a religious delegation in Wapo, eight kilometres from Berbérati, and the bishop advised Rocca not to harm the population, to which Rocca replied he was not planning to do so.⁵³¹³

⁵³⁰⁶ See Press articles, CAR-OTP-2001-4401; CAR-OTP-2001-2306; CAR-OTP-2001-2247.

⁵³⁰⁷ P-2325 Statement, CAR-OTP-2100-2386-R02, at 2390, para. 21.

⁵³⁰⁸ P-2325 Statement, CAR-OTP-2100-2386-R02, at 2391, para. 22.

⁵³⁰⁹ P-2324 Statement, CAR-OTP-2100-2002-R02, at 2010, para. 34.

⁵³¹⁰ P-2324 Statement, CAR-OTP-2100-2002-R02, at 2010, para. 35; P-2325 Statement, CAR-OTP-2100-2386-R02, at 2391, para. 23.

⁵³¹¹ P-2324 Statement, CAR-OTP-2100-2002-R02, at 2010-11, paras 35-36, at 2012, para. 39; P-2325 Statement, CAR-OTP-2100-2386-R02, at 2391, para. 24; P-2133 Statement, CAR-OTP-2093-0267-R02, at 0289, para. 153, at 0290, para. 163.

⁵³¹² P-2325 Statement, CAR-OTP-2100-2386-R02, at 2391, para. 23.

⁵³¹³ P-2324 Statement, CAR-OTP-2100-2002-R02, at 2011, para. 37.

2061.P-2324 stated that the next morning, 8 February 2014, Rocca Mokom and many elements came to the market.⁵³¹⁴ P-2324 stated that the FACA in this group had ‘Kalashnikovs’ and military uniforms, one had an automatic weapon, others had artisanal weapons and machetes; others were dressed as regular civilians, all had *gris-gris* and some wore wigs.⁵³¹⁵ P-2324 stated that Rocca wore a military uniform although he was not military.⁵³¹⁶ P-2324 stated that the first group of Anti-Balaka began conducting searches of Muslim houses to look for weapons.⁵³¹⁷

2062.P-2325 stated that people told him that the Anti-Balaka told non-Muslims to distinguish their houses using palm leaves at their door, he noticed this with non-Muslim houses when passing Poto-Poto, the Muslim neighbourhood.⁵³¹⁸ P-2325 stated that the first Anti-Balaka group searched Muslim houses, commencing at around 09:30, most Muslims were cooperative, although at some stage a few Anti-Balaka, joined by local youths, started looting from the houses.⁵³¹⁹ P-2325 stated that he saw Mokom, whom he knew, commanding the Anti-Balaka and looking for weapons given to the Muslims by the Seleka, stating that he had no intention of harming the Muslims.⁵³²⁰

2063.P-2325 stated that around noon, some Anti-Balaka elements tried to enter the central mosque, one stating that it was to seek revenge and another that they had to kill all the Muslims.⁵³²¹ P-2325 stated that in another incident when Anti-Balaka armed with traditional weapons were about to shoot four young Muslims, he believed the reason was that the Anti-Balaka in general assimilated the Muslims with Seleka.⁵³²²

2064.P-2324 stated that the following day, 9 February 2014, a second group of Anti-Balaka arrived, led by Chrysostome Yapélé alias ‘Chiki-Chiki’.⁵³²³ P-2324 stated that he also

⁵³¹⁴ P-2324 Statement, CAR-OTP-2100-2002-R02, at 2011-12, para. 38.

⁵³¹⁵ P-2324 Statement, CAR-OTP-2100-2002-R02, at 2011-12, para. 38.

⁵³¹⁶ P-2324 Statement, CAR-OTP-2100-2002-R02, at 2011-12, para. 38.

⁵³¹⁷ P-2324 Statement, CAR-OTP-2100-2002-R02, at 2012-13, paras 39-42.

⁵³¹⁸ P-2325 Statement, CAR-OTP-2100-2386-R02, at 2391, para. 23.

⁵³¹⁹ P-2325 Statement, CAR-OTP-2100-2386-R02, at 2392, para. 25.

⁵³²⁰ P-2325 Statement, CAR-OTP-2100-2386-R02, at 2391, para. 24.

⁵³²¹ P-2325 Statement, CAR-OTP-2100-2386-R02, at 2392, para. 26.

⁵³²² P-2325 Statement, CAR-OTP-2100-2386-R02, at 2392-93, para. 27.

⁵³²³ P-2324 Statement, CAR-OTP-2100-2002-R02, at 2014, para. 44.

recognised ‘Mopao’, not from Berbérati, who had a weapon and wore a wig, and others; he was told there were many FACA in the second group.⁵³²⁴

2065. P-2325 stated that he heard around 13:00 on 8 February 2014 that another Anti-Balaka group was about to enter the town, which Mokom confirmed, stating they were more violent and suggesting that Muslims should hide in a safe place.⁵³²⁵ P-2325 stated that this second group was large and came from surrounding towns like Carnot, Gadzi, Guen, Sassele and Bekadili, he recognised some as former [REDACTED] and heard some speak dialects from those places.⁵³²⁶ P-2325 stated that the group, wearing *gris-gris*, wigs, horns on necklaces, started operating at around 13:30 on 8 February 2014, going directly to Poto-Poto and starting to chase the Muslims, looting from houses and shops of Muslims, and he believed them to be familiar with the area because they knew where to find the Muslims.⁵³²⁷ P-2325 stated that the next group was led by a local street seller called ‘Chiki-Chiki’, who explained to P-2325 that he had lost everything because of the Seleka and had gone north to get his ‘vaccination’ and returned to seek revenge against the Muslims since all Muslims were accomplices of the Seleka, so he wanted to chase them out/kill them.⁵³²⁸ P-2325 stated that ‘Chiki-Chiki’ had about a hundred elements under his control.⁵³²⁹ P-2325 stated that an Anti-Balaka group based in Poto-Poto seemed to have some autonomy, but was under orders of ‘Chiki-Chiki’.⁵³³⁰

2066. Roger de Martial Yagao stated that subsequently ‘Chiki-Chiki’ was the Anti-Balaka leader in Berbérati⁵³³¹ and recalled that his real name was Chrysostome Yapelet.⁵³³² He also recalled the presence of the following Anti-Balaka members during a meeting to discuss the Brazzaville agreement: ‘Chiki-Chiki’ [REDACTED].⁵³³³ He explained that [REDACTED]

⁵³²⁴ P-2324 Statement, CAR-OTP-2100-2002-R02, at 2014, para. 46. *See also* P-2324 Statement, CAR-OTP-2100-2002-R02, at 2022-23, para. 73.

⁵³²⁵ P-2325 Statement, CAR-OTP-2100-2386-R02, at 2392-93, para. 27.

⁵³²⁶ P-2325 Statement, CAR-OTP-2100-2386-R02, at 2393, para. 29.

⁵³²⁷ P-2325 Statement, CAR-OTP-2100-2386-R02, at 2393, para. 29.

⁵³²⁸ P-2325 Statement, CAR-OTP-2100-2386-R02, at 2397, paras 47-48, at 2399, para. 54.

⁵³²⁹ P-2325 Statement, CAR-OTP-2100-2386-R02, at 2399, para. 54.

⁵³³⁰ P-2325 Statement, CAR-OTP-2100-2386-R02, at 2399, para. 55.

⁵³³¹ P-2133 Statement, CAR-OTP-2093-0267-R02, at 0287, para. 142.

⁵³³² P-2133 Statement, CAR-OTP-2093-0267-R02, at 0284, para. 121.

⁵³³³ P-2133 Statement, CAR-OTP-2093-0267-R02, at 0287, para. 142.

was the Anti-Balaka chief in the Poto-Poto quartier,⁵³³⁴ [REDACTED] was the Anti-Balaka chief in the Baba Salao quartier,⁵³³⁵ and Chiki-Chiki was the coordinator of all the Anti-Balaka elements in Berbérati until the time of his arrest.⁵³³⁶

2067. Chrysosteme Yapélé, also known as ‘Chiki-Chiki’, confirmed that he was an Anti-Balaka leader in Berbérati in 2014, a ComZone among that group, and then the prefectural coordinator for the prefect of Mambéré-Kadéï.⁵³³⁷ The witness testified that when he arrived in Berbérati, Rocca Mokom was already there and left about three days after he arrived.⁵³³⁸

2068. P-2556 testified that the national coordination asked the mission chiefs in Carnot to go to Berbérati to attack the Poto-Poto neighbourhood; it seemed that there were Muslims, and Aimé Blaise phoned the Anti-Balaka and mission chiefs and took them to Berbérati in order to attack the town, and they took advantage of the situation to sell fetishes to the population of Berbérati.⁵³³⁹

2069. P-2324 stated that on 10 February 2014, the two Anti-Balaka groups argued and fought when the group of ‘Chiki-Chiki’ told Rocca and his group that the task they were given was to kill and chase Muslims, but the latter disagreed and Rocca’s group retreated after they clashed.⁵³⁴⁰

2070. P-2324 stated that at around 18:00, he went to the mosque for evening prayer when he was told by a Red Cross person that it was not safe because the Anti-Balaka were killing people in the Muslim neighbourhoods.⁵³⁴¹ P-2324 stated that he returned home to collect his brother and departed, seeing hundreds of young Anti-Balaka elements attacking the houses of Muslims, destroying walls, and leaving with mattresses and furniture.⁵³⁴² P-2324 stated that his house was looted and the fence around the property was destroyed, and he learned that

⁵³³⁴ P-2133 Statement, CAR-OTP-2093-0267-R02, at 0287, para. 143.

⁵³³⁵ P-2133 Statement, CAR-OTP-2093-0267-R02, at 0287, para. 144.

⁵³³⁶ P-2133 Statement, CAR-OTP-2093-0267-R02, at 0287, para. 145. *See also* P-2133 Statement, CAR-OTP-2093-0267-R02, at 0285-89, paras 129-152.

⁵³³⁷ P-1077: T-149, p. 6, lines 13-24, p. 38, line 24 – p. 39, line 4.

⁵³³⁸ P-1077: T-149, p. 25, line 13 – p. 26, line 22.

⁵³³⁹ P-2556: T-146, p. 23, line 3 – p. 24, line 1, p. 44, line 11 – p. 46, line 2.

⁵³⁴⁰ P-2324 Statement, CAR-OTP-2100-2002-R02, at 2014-15, para. 47.

⁵³⁴¹ P-2324 Statement, CAR-OTP-2100-2002-R02, at 2015, para. 49.

⁵³⁴² P-2324 Statement, CAR-OTP-2100-2002-R02, at 0215-16, para. 50.

some of his neighbours participated in the looting.⁵³⁴³ P-2324 stated that in Poto-Poto, all houses were completely emptied, some destroyed, some had roofs or windows removed.⁵³⁴⁴ P-2324 stated that the Anti-Balaka said publicly that their goal was to destroy everything so the Muslims would leave and never come back.⁵³⁴⁵ P-2324 stated that the Anti-Balaka targeted the Muslims' shops and spared the Christians', his shop was looted and damaged, but his Christian neighbours' were not.⁵³⁴⁶ P-2324 stated that he heard the Anti-Balaka destroying the mosque in Sambanda.⁵³⁴⁷

2071. Chrysostome Yapélé testified that the attack on Berbérati occurred and houses of Muslims were destroyed in Poto-Poto, the Muslim neighbourhood of Berbérati.⁵³⁴⁸ The witness testified that sometimes the attacks were carried out by the Anti-Balaka, sometimes other people, sometimes the civilian population.⁵³⁴⁹ The witness confirmed that, as opposed to the Malians or Senegalese, it was the Chadian and Fulbe that were especially targeted because mostly (*'majoritairement'*) it was them that joined the Seleka movement to attack the Central Africans.⁵³⁵⁰ The witness testified that he heard that there were killings during the attack, but did not see them personally.⁵³⁵¹ He further testified that the attack involved more than a thousand Anti-Balaka elements.⁵³⁵²

2072. In light of the evidence as outlined above, and bearing in mind its assessment of this witness's credibility,⁵³⁵³ the Chamber does not consider credible the claim of Chrysostome Yapélé that he arrived in Poto-Poto when the attack had already begun and that those acts were carried out by militias in the Anti-Balaka who 'acted in their own way' and of which

⁵³⁴³ P-2324 Statement, CAR-OTP-2100-2002-R02, at 2023-24, paras 76-77; Photograph, CAR-OTP-2100-2082.

⁵³⁴⁴ P-2324 Statement, CAR-OTP-2100-2002-R02, at 2024, para. 77. *See also* P-2324 Statement, CAR-OTP-2100-2002-R02, at 2025, para. 82; Photographs, CAR-OTP-2100-2070; CAR-OTP-2100-2073; CAR-OTP-2100-2075; CAR-OTP-2100-2076; CAR-OTP-2100-2077; CAR-OTP-2100-2078; CAR-OTP-2100-2080; CAR-OTP-2100-2081.

⁵³⁴⁵ P-2324 Statement, CAR-OTP-2100-2002-R02, at 2024, para. 77.

⁵³⁴⁶ P-2324 Statement, CAR-OTP-2100-2002-R02, at 2024, para. 82.

⁵³⁴⁷ P-2324 Statement, CAR-OTP-2100-2002-R02, at 2024, para. 80.

⁵³⁴⁸ P-1077: T-149, p. 34, line 17 – p. 36, line 8.

⁵³⁴⁹ P-1077: T-149, p. 34, line 17 – p. 36, line 8.

⁵³⁵⁰ P-1077: T-149-FRA, p. 35, lines 3-6; T-149-ENG, p. 34, line 17 – p. 36, line 8.

⁵³⁵¹ P-1077: T-149, p. 58, line 6 – p. 59, line 24.

⁵³⁵² P-1077: T-149, p. 9, line 22 – p. 10, line 8, p. 25, lines 5-11.

⁵³⁵³ See paragraphs 315-321 above.

he was not a part,⁵³⁵⁴ or that he warned people in Berbérati that the Anti-Balaka would attack Muslims as they did not know the difference between Muslims and Seleka.⁵³⁵⁵

2073. Contemporaneous media reporting also spoke of the events in Berbérati in early February 2014.⁵³⁵⁶

2074. Further, the evidence shows that the situation in Berbérati worsened following the attack.

2075. Roger de Martial Yagao stated that when the Anti-Balaka were in command of Berbérati coordinated by Chiki-Chiki, they looted and destroyed the properties of Muslims, stealing goats and chickens, and attacking those who resisted.⁵³⁵⁷ The witness stated that when he arrived in Berbérati in July 2014, there had been extensive looting and destruction of property mostly in Poto-Poto, the Muslim neighbourhood of Berbérati, with mosques, houses, shops, diamond and gold collector offices of Muslims looted and destroyed.⁵³⁵⁸

2076. P-2325 stated that after ‘Chiki-Chiki’ and his Anti-Balaka group finished looting everything from houses of the Muslims, they started destroying them.⁵³⁵⁹ P-2325 stated that around April 2024, he witnessed them ‘systematically’ removing the roofs, aluminium sheets, doors and window frames and sometimes bricks from houses and mosques, including those in Djambala and Sambanda.⁵³⁶⁰ P-2325 stated that the Anti-Balaka then turned against some Christian neighbours who they accused of protecting the belongings of Muslims.⁵³⁶¹

2077. P-2324 stated that he heard later at the IDP site that a crowd destroyed the main mosque in the Arab neighbourhood, while the one in Djambala was turned into a church.⁵³⁶² P-2324 stated that, at first, the central mosque was not completely attacked, although doors and windows were removed, it was then destroyed on orders of Louis Balendji aka ‘Awilo’, an

⁵³⁵⁴ P-1077: T-149, p. 29, lines 18-21, p. 57, line 20 – p. 59, line 24.

⁵³⁵⁵ P-1077: T-149, p. 24, line 11 – p. 25, line 1.

⁵³⁵⁶ See Press articles, CAR-OTP-2001-4257; CAR-OTP-2117-0698.

⁵³⁵⁷ P-2133 Statement, CAR-OTP-2093-0267-R02, at 0284, para. 118, 121.

⁵³⁵⁸ P-2133 Statement, CAR-OTP-2093-0267-R02, at 0283-84, paras 116-117.

⁵³⁵⁹ P-2325 Statement, CAR-OTP-2100-2386-R02, at 2399, para. 57.

⁵³⁶⁰ P-2325 Statement, CAR-OTP-2100-2386-R02, at 2399, para. 57, at 2400, para. 58.

⁵³⁶¹ P-2325 Statement, CAR-OTP-2100-2386-R02, at 2399, para. 57.

⁵³⁶² P-2324 Statement, CAR-OTP-2100-2002-R02, at 2024, para. 79.

Anti-Balaka element, after a reconciliation meeting organised by the bishop between the Anti-Balaka, the Muslim community and the rest of the population.⁵³⁶³

2078. P-2325 stated that around June 2014, the Anti-Balaka gathered near the central mosque and he noticed that roof, doors, window frames had been removed and the mosque was empty, with an Anti-Balaka element stating that he was executing the order of ‘Chiki-Chiki’, who later told him that the Anti-Balaka had to erase ‘all the trace’ of Muslims in Berbérati.⁵³⁶⁴ P-2325 stated that ‘Chiki-Chiki’ would sell the goods he had looted with his group, using the money to buy machetes and weapons for his elements.⁵³⁶⁵

2079. Roger de Martial Yagao stated that all mosques had already been destroyed when he arrived in Berbérati, he heard that they were destroyed by the Anti-Balaka and some ill-intentioned Christians.⁵³⁶⁶ The witness stated that there were mosques in all neighbourhoods, the central mosque was in Poto-Poto and has since been rebuilt.⁵³⁶⁷

2080. The evidence as outlined below shows that Muslims sought refuge at the bishopric, before eventually being transported away.

2081. P-2324 stated that he managed to get to the bishopric where there were already many displaced Muslims from Boda, Mboula, Balego, Bania, Yamamdo and Carnot who had fled in the previous weeks, about 400 displaced people were there in total, only Muslim men, women, children, elderly.⁵³⁶⁸ P-2324 stated that the next day, MISCA started evacuating Muslims from another church and other hiding places to the bishopric, increasing the number of displaced Muslims there to thousands.⁵³⁶⁹

⁵³⁶³ P-2324 Statement, CAR-OTP-2100-2002-R02, at 2024-25, paras 81-82. *See also* Photographs, CAR-OTP-2100-2068; CAR-OTP-2100-2069; CAR-OTP-2100-2071; CAR-OTP-2100-2072; CAR-OTP-2100-2074; CAR-OTP-2100-2079.

⁵³⁶⁴ P-2325 Statement, CAR-OTP-2100-2386-R02, at 2400, para. 58.

⁵³⁶⁵ P-2325 Statement, CAR-OTP-2100-2386-R02, at 2400, para. 60.

⁵³⁶⁶ P-2133 Statement, CAR-OTP-2093-0267-R02, at 0291, para. 168.

⁵³⁶⁷ P-2133 Statement, CAR-OTP-2093-0267-R02, at 0291, para. 168.

⁵³⁶⁸ P-2324 Statement, CAR-OTP-2100-2002-R02, at 2016, para. 51. *See also* Video, CAR-OTP-2079-0882, at 00:07:28-00:07:56; Transcript, CAR-OTP-2127-4507; Translation, CAR-OTP-2127-4597, at 4605, lines 212-215.

⁵³⁶⁹ P-2324 Statement, CAR-OTP-2100-2002-R02, at 2016, para. 51.

2082.P-2324 stated that while they were at the bishopric, information was gathered, between 10 February and 7 April 2014, about 16 killings in total.⁵³⁷⁰

2083.P-2325 stated that following the attack, there were over 400 Muslims at the parish.⁵³⁷¹ P-2325 stated that the next morning, a Cameroonian MISCA contingent started bringing people to the bishopric, which was bigger and safer since it was further away from the city centre on the road to Gamboula.⁵³⁷² P-2325 stated that in the first five days following the attack, [REDACTED] about 100 Muslims from their homes [REDACTED], and MISCA would evacuate them to the bishopric [REDACTED].⁵³⁷³ P-2325 said that after an incident when the Anti-Balaka [REDACTED] all Muslims there should be evacuated to the bishopric.⁵³⁷⁴

2084.P-2325 stated that at the bishopric, latrines were dug in the compound and the displaced had access to water.⁵³⁷⁵ P-2325 said a dispensary was run by the nuns where the displaced people who needed treatment could seek free medical care, later taken over by MSF.⁵³⁷⁶ P-2325 stated food was collected from Christians in various parishes.⁵³⁷⁷ P-2325 stated that people were confined within the fenced off compound of the bishopric with MISCA forces providing protection.⁵³⁷⁸

2085.Roger de Martial Yagao stated that most of the Muslims from Berbérati had fled to Cameroon and those remaining had sought shelter in the St Anne Church of Berbérati, often transferred there from other churches to which they had initially fled.⁵³⁷⁹ The witness stated that there were more than 1,000 Muslims in this church; some were with their families while others were alone; some were sleeping in rooms and others in tents provided by the UNHCR.⁵³⁸⁰ The witness stated that NGOs were providing water, food and toilets, and

⁵³⁷⁰ P-2324 Statement, CAR-OTP-2100-2002-R02, at 2023, paras 74-75, at 2032. *See also* Letter, CAR-OTP-2100-2065, at 2066.

⁵³⁷¹ P-2325 Statement, CAR-OTP-2100-2386-R02, at 2394, paras 34-35.

⁵³⁷² P-2325 Statement, CAR-OTP-2100-2386-R02, at 2395, para. 36.

⁵³⁷³ P-2325 Statement, CAR-OTP-2100-2386-R02, at 2395, para. 37.

⁵³⁷⁴ P-2325 Statement, CAR-OTP-2100-2386-R02, at 2395, para. 38.

⁵³⁷⁵ P-2325 Statement, CAR-OTP-2100-2386-R02, at 2396, para. 41.

⁵³⁷⁶ P-2325 Statement, CAR-OTP-2100-2386-R02, at 2396, para. 41.

⁵³⁷⁷ P-2325 Statement, CAR-OTP-2100-2386-R02, at 2396, para. 42.

⁵³⁷⁸ P-2325 Statement, CAR-OTP-2100-2386-R02, at 2396, para. 43, at 2398, para. 50 (with 'Chiki-chiki' in charge of the Anti-Balaka in town, the Muslims could not go out of the bishop's compound).

⁵³⁷⁹ P-2133 Statement, CAR-OTP-2093-0267-R02, at 0284, para. 117, at 0290, para. 166.

⁵³⁸⁰ P-2133 Statement, CAR-OTP-2093-0267-R02, at 0292, para. 177.

MISCA was present outside of the church, providing security and protection.⁵³⁸¹ Roger de Martial Yagao recalled that an abbot was almost killed by the Anti-Balaka for assisting the Muslims.⁵³⁸²

2086. Roger de Martial Yagao stated that during the conflict the Muslims were attacked and targeted and the Muslims in Berbérati who did not leave but remained in the Catholic church were the ones who were born and raised in CAR.⁵³⁸³ The witness stated that all the Muslims who were displaced to the Catholic church returned to their quarters about two to three years before his statement in 2018; some of the Muslims who had fled to Kenzo also returned, but not all of them.⁵³⁸⁴ He stated that the bishop created a committee for peace and social cohesion that brought together representatives of the Muslim and Christian population.⁵³⁸⁵

2087. P-2325 stated that there was a registration process for evacuation by MISCA, and three to four trucks left at one time, each with around 40 people, twice a week from April to May 2014, evacuating thousands.⁵³⁸⁶ P-2325 stated that the remaining group of displaced Muslims stayed at the bishopric for over a year before returning to the town.⁵³⁸⁷

2088. Chrysostome Yapélé confirmed that Muslims in Poto-Poto went to the bishopric and left for Cameroon,⁵³⁸⁸ and further that no Muslims remained in their homes after the attack, they all left or went to the Catholic church where they were protected by international forces.⁵³⁸⁹

2089. P-2325 stated that when 'Chiki-Chiki' was in charge of the Anti-Balaka, they received reports of seven incidents in which Muslims who had left the bishopric, were injured with machetes [REDACTED].⁵³⁹⁰ P-2325 stated that Issa Waziri was killed by the Anti-Balaka and his house looted; at that time the only Anti-Balaka group operating in town was that of

⁵³⁸¹ P-2133 Statement, CAR-OTP-2093-0267-R02, at 0292, para. 178.

⁵³⁸² P-2133 Statement, CAR-OTP-2093-0267-R02, at 0289, paras 156-157.

⁵³⁸³ P-2133 Statement, CAR-OTP-2093-0267-R02, at 0292, para. 180.

⁵³⁸⁴ P-2133 Statement, CAR-OTP-2093-0267-R02, at 0290, para. 159.

⁵³⁸⁵ P-2133 Statement, CAR-OTP-2093-0267-R02, at 0292, para. 179.

⁵³⁸⁶ P-2325 Statement, CAR-OTP-2100-2386-R02, at 2396-97, para. 45.

⁵³⁸⁷ P-2325 Statement, CAR-OTP-2100-2386-R02, at 2397, para. 46.

⁵³⁸⁸ P-1077: T-149, p. 34, line 20 – p. 36, line 8.

⁵³⁸⁹ P-1077: T-149, p. 37, line 4 – p. 38, line 7.

⁵³⁹⁰ P-2325 Statement, CAR-OTP-2100-2386-R02, at 2398, para. 50.

‘Chiki-Chiki’.⁵³⁹¹ He stated that a 22 year old Muslim was also killed after the Anti-Balaka asked him for money and he refused to give them; they cut his throat.⁵³⁹²

2090. P-2325 stated that Seregaza, a former FACA and well-known Anti-Balaka leader in Gamboula, and his fifteen Anti-Balaka elements arrived in Berbérati in May 2014.⁵³⁹³ P-2325 stated the overall Anti-Balaka commander was still ‘Chiki-Chiki’; Seregaza had come to Berbérati to get involved in the mining business of gold and diamond.⁵³⁹⁴ P-2325 stated that they noticed that ‘Chiki-Chiki’ started changing his position, being only against the Muslims of Chadian origin.⁵³⁹⁵ P-2325 stated that [REDACTED], Seregaza represented the Anti-Balaka and explained they were not against all the Muslims but only against those who had been involved with the Seleka, in P-2325’s opinion he meant the Chadian Muslims, who had mostly collaborated with the Seleka, and that it was now time for reconciliation.⁵³⁹⁶

c. Lobaye (Boda) – 5 February 2014

2091. The evidence before the Chamber, as outlined below, shows that after the withdrawal of the Seleka from Boda in early 2014, non-Muslim and Muslim communities attacked each other, leading to deaths and destruction of property. The evidence shows that following these clashes, the non-Muslim community wanted the Muslim community to leave Boda. The evidence further shows that the Anti-Balaka launched an attack in Boda in support of the non-Muslim population soon thereafter.

2092. The evidence before the Chamber shows that the Seleka withdrew from Boda on or about 28 January 2014, before the Anti-Balaka attack.⁵³⁹⁷

⁵³⁹¹ P-2325 Statement, CAR-OTP-2100-2386-R02, at 2398, para. 51.

⁵³⁹² P-2325 Statement, CAR-OTP-2100-2386-R02, at 2398, para. 52.

⁵³⁹³ P-2325 Statement, CAR-OTP-2100-2386-R02, at 2401, para. 62.

⁵³⁹⁴ P-2325 Statement, CAR-OTP-2100-2386-R02, at 2401, para. 62.

⁵³⁹⁵ P-2325 Statement, CAR-OTP-2100-2386-R02, at 2401, para. 62.

⁵³⁹⁶ P-2325 Statement, CAR-OTP-2100-2386-R02, at 2401, para. 63.

⁵³⁹⁷ Annex 23 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0954, para. 7; P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0042, para. 15, at 0043, para. 25; P-1773 Statement, CAR-OTP-2064-0063-R03, at 0068, para. 31, at 0069, para. 33; P-1871 Statement, CAR-OTP-2064-0884-R02, at 0887, para. 17; P-0801: T-037, p. 53, lines 11-15; Audio, CAR-OTP-2042-3463; Transcript, CAR-OTP-2107-1526, at 1527, lines 3-4; Audio, CAR-OTP-2042-3464; Transcript, CAR-D29-0006-0053.

2093. The evidence further shows that almost immediately thereafter, on or about 29 January 2014, violent clashes erupted between the non-Muslim and Muslim population,⁵³⁹⁸ leading to deaths⁵³⁹⁹ and houses being burnt.⁵⁴⁰⁰ The evidence indicates that the Muslim and non-Muslim population blamed each other for starting the fighting.⁵⁴⁰¹ P-1962 testified that this bred ‘anger and animosity’ amongst the non-Muslim community of Boda towards the Muslim population and the government, people were angered by the loss of their relatives and property, and the population sought the departure of the Muslim civilians as a result.⁵⁴⁰² Joachim Kokaté agreed similarly that the non-Muslim population had lost everything and consequently wanted all the Muslims to leave.⁵⁴⁰³

2094. The Chamber received evidence from P-1962 on the events preceding the attack in Boda. The Chamber recalls in this regard its assessment of this witness’s credibility.⁵⁴⁰⁴

2095. P-1962 stated that the then-president of the youth in Boda, Hippolyte Yamini wanted to drive out the Muslims, and made the decision to attack with support of the Christian youth.⁵⁴⁰⁵ P-1962 described further that on [REDACTED] February 2014, Habib Soussou gathered FACA members from Boda in Bangui with a view to defending Boda [REDACTED], with weapons and ammunition [REDACTED].⁵⁴⁰⁶ P-1962 stated that [REDACTED] Cœur de Lion, deputy of ‘Rambo’ [REDACTED] his mixed FACA and Anti-Balaka elements from Bossangoa.⁵⁴⁰⁷

2096. P-1962 testified that the stated goal of the journey to Boda, to drive out all the Muslims in Boda [REDACTED].⁵⁴⁰⁸ P-1962 said [REDACTED] Cœur de Lion state that he wanted to

⁵³⁹⁸ Annex 23 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0955, para. 9; P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0041, para. 13, at 0042, para 15, 19.

⁵³⁹⁹ P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0041, paras 10, 13.

⁵⁴⁰⁰ P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0041, para. 13; P-0801: T-037, p. 55, line 25 – p. 56, line 10.

⁵⁴⁰¹ P-1962: T-140, p. 45, lines 10-15; Video, CAR-OTP-2060-0795; Transcript, CAR-OTP-2130-1370; Translation, CAR-OTP-2130-1236, at 1237, lines 3-9; P-0801: T-036, p. 15, line 20 – p. 16, line 7; T-037, p. 55, lines 15-23.

⁵⁴⁰² P-1962: T-139, p. 25, lines 7-8, p. 57, line 20 – p. 58, line 6; T-140, p. 47, line 22 – p. 48, line 17.

⁵⁴⁰³ P-0801: T-037, p. 56, lines 11-18.

⁵⁴⁰⁴ See paragraphs 374-389 above. See also [REDACTED].

⁵⁴⁰⁵ P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0043, paras 24-25.

⁵⁴⁰⁶ P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0041, paras 10-12.

⁵⁴⁰⁷ P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0044, paras 27-28, at 0044-45, paras 31-32, at 0047, para. 43; P-1962: T-139, p. 36, lines 14-17; T-141, p. 16, lines 17-25. See also paragraph 380 above.

⁵⁴⁰⁸ P-1962: T-141, p. 18, lines 2-10.

chase the Muslims out of the CAR and to their country of origin, whoever was praying as Muslim had to go, whether born in the CAR or not; even though the Seleka were gone, the Muslims had taken weapons against the Christians in place of the Seleka.⁵⁴⁰⁹

2097. P-1962 stated that [REDACTED] the Anti-Balaka group met Yamini and [REDACTED] discussed the objective of chasing away the Muslims.⁵⁴¹⁰ P-1962 stated it was decided that Cœur de Lion would lead the attack and Habib Soussou would be his deputy, they divided into three groups.⁵⁴¹¹

2098. The Chamber notes in this context also the evidence of P-1577, who stated that on his travel between Boda and Mbaïki in the days before the attack, he came across two groups that identified themselves as Anti-Balaka, one closer to Boda, one at the entrance to Mbaïki travelling in from Boda, and that both indicated that they were getting ready to attack Boda.⁵⁴¹²

2099. Zakaria Saidou, a Muslim from Boda, stated that when the Anti-Balaka saw that the Seleka had left, they were intent on the Muslims leaving Boda as they started attacking the Muslim population prompting them to flee.⁵⁴¹³ The witness also stated that in anticipation of an Anti-Balaka attack, people fled Boda, including his family.⁵⁴¹⁴ The witness stated that many Muslims remained grouped together in the mosques.⁵⁴¹⁵ He stated that people were killed in Boda.⁵⁴¹⁶ Zakaria Saidou stated that the young Muslims of Boda formed a self-defence group and would carry knives, machetes, sticks and arrows.⁵⁴¹⁷

⁵⁴⁰⁹ P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0045, para. 33.

⁵⁴¹⁰ P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0045, para. 37, at 0046, para. 39, at 0047, para. 42; P-1962: T-141, p. 20, lines 3-12.

⁵⁴¹¹ P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0045, para. 36, at 0046, para. 40, at 0047, paras 43-44.

⁵⁴¹² P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0812, at 0817, para. 60; P-1577: T-027, p. 83, line 8 – p. 84, line 15; T-028, p. 77, lines 20-25. See Photograph, CAR-OTP-2085-7606; Metadata, CAR-OTP-2085-7606; CAR-OTP-2086-9246; CAR-OTP-2091-4796. See also P-1577 Second Statement, CAR-OTP-2088-0717, at 0722; Satellite image (annotated by P-1577), CAR-OTP-2088-0733; Satellite image (annotated by P-1577), CAR-OTP-2088-0734; Post, CAR-OTP-2081-0923-R01, at 0942.

⁵⁴¹³ P-1773 Statement, CAR-OTP-2064-0063-R03, at 0070, para. 37.

⁵⁴¹⁴ P-1773 Statement, CAR-OTP-2064-0063-R03, at 0068-69, para. 31.

⁵⁴¹⁵ P-1773 Statement, CAR-OTP-2064-0063-R03, at 0071, para. 48.

⁵⁴¹⁶ P-1773 Statement, CAR-OTP-2064-0063-R03, at 0070, para. 41.

⁵⁴¹⁷ P-1773 Statement, CAR-OTP-2064-0063-R03, at 0072-73, para. 54.

2100. Several news outlets reported on an interview with Firmin Dopani, an Anti-Balaka from Boda,⁵⁴¹⁸ about the situation in the CAR during which he stated that he could not accept living with Muslims long term, that the Muslims must leave the CAR and that he reserved the right to kill Muslims.⁵⁴¹⁹

2101. The Chamber notes in this context that P-1962 stated that the youth of Boda were fighting the Muslims and only some of the youth had been vaccinated or had *gris-gris*, with the remainder only officially becoming Anti-Balaka when ‘Huit’ (‘8’, ‘Witte’), a ‘*féticheur*’, arrived to Boda after the attack.⁵⁴²⁰ The Chamber considers that this does not detract from its conclusion that the attack on Boda was carried out by Anti-Balaka groups. Even if these groups were, on the spot, joined by youth from the locality, their activities in the context of the attack on Boda fell thus, by their coordinated actions, within the framework of one and the same attack. Similarly, in relation to P-1962’s testimony that the threats by Dopani and others in Boda were not necessarily implemented,⁵⁴²¹ the Chamber notes that P-1962 also stated that the aggressive language of Dopani was used ‘from the very beginning’.⁵⁴²²

2102. P-1962 stated that the Anti-Balaka attack took place between 05:00 and 10:00 on 4 February 2014.⁵⁴²³ P-1871 confirmed the attack as commencing early in the morning between 04:00 and 05:00, as she was awoken in her home in Boda by her husband who heard gunshots and discovered that the Anti-Balaka was attacking after venturing outside to see what was happening.⁵⁴²⁴

2103. The evidence shows that the clashes ceased after the arrival of the Sangaris who coordinated with the Red Cross to collect the bodies; 11 Muslims and three FACA and two Anti-Balaka

⁵⁴¹⁸ P-1962: T-138, p. 72, line 24 – p. 73, line 4.

⁵⁴¹⁹ Video, CAR-OTP-2066-5312; Transcript, CAR-OTP-2127-4504; Translation, CAR-OTP-2127-4593, at 4595-96, lines 30-40; Video, CAR-OTP-2060-0795; Transcript, CAR-OTP-2130-1370; Translation, CAR-OTP-2130-1236, at 1237-38, lines 36-43; Press article, CAR-OTP-2001-4633. *See also* P-1962: T-138, p. 73, line 5 – p. 77, line 3; Video, CAR-OTP-2074-0789, at 00:03:17-00:04:37; Transcript, CAR-OTP-2130-0317, at 0319, lines 48-71; Translation, CAR-OTP-2130-0361, at 0364, lines 49-72.

⁵⁴²⁰ P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0042, para. 19, at 0047, para. 43; P-1962: T-140, p. 53, lines 7-24.

⁵⁴²¹ P-1962: T-139, p. 54, line 4 – p. 55, line 7.

⁵⁴²² P-1962: T-138, p. 73, line 23 – p. 77, line 3. *See also* Press article, CAR-OTP-2001-4633; P-0884: T-056, p. 85, line 19 – p. 86, line 22.

⁵⁴²³ P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0046, para. 43.

⁵⁴²⁴ P-1871 Statement, CAR-OTP-2064-0884-R02, at 0887-88, para. 19.

were killed in that attack.⁵⁴²⁵ The evidence further shows that the market in Boda was burnt,⁵⁴²⁶ as were houses and businesses.⁵⁴²⁷

2104. The report of satellite imagery expert Lars Bromley concluded from images of Boda taken on 8 January and 28 February 2014, respectively, that ‘analysis found at least 747 damaged or destroyed structures in the town’, that further review ‘would certainly locate more destroyed structures, especially in the denser downtown area’ located ‘especially in the denser downtown area’, that ‘[a]n obvious market area and many large commercial or community structures are also destroyed’, and that the cause of the damage was ‘probably fire, based on blackened remains and often collapsed structures’.⁵⁴²⁸

2105. P-1871 stated that the Anti-Balaka arrived in Boda in January 2014, sometime after the resignation of Michel Djotodia, and she took refuge in the central mosque with her family and other Muslims when the fighting started; more than 400 people had gathered at this mosque.⁵⁴²⁹ She saw people who had been killed on the way.⁵⁴³⁰ P-1871 stated that as they were scared the Anti-Balaka would even attack the central mosque, she and her family decided to leave and were the only Muslims in a vehicle leaving Boda which was stopped by persons wearing *gris-gris* and armed with hunting rifles and machetes who she recognised as the Anti-Balaka both from what the other passengers were saying and from what the men themselves said to the driver.⁵⁴³¹ P-1871 stated that after her husband, who was of Arab descent, was identified as a Muslim by the Anti-Balaka, they told the driver to continue on his journey and to leave P-1871 and her family behind.⁵⁴³² P-1871 and her husband were

⁵⁴²⁵ P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0047, para. 45. Zakaria Saidou stated that he saw 17 corpses of those who had recently died, including women and a child (see P-1773 Statement, CAR-OTP-2064-0063-R03, at 0070, para. 41).

⁵⁴²⁶ P-1962: T-139, p. 23, line 25 – p. 24, line 4 (P-1962 recalled the market being burnt); P-1773 Statement, CAR-OTP-2064-0063-R03, at 0080, para. 98 (Zakaria Saidou recalled that the market in Boda was burnt); P-1576 Statement, CAR-OTP-2060-0280-R01, at 0285-86, para. 35 (P-1576 stated that the market in Boda was burnt); P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0811, para. 57. See also Photograph, CAR-OTP-2085-6725; Metadata, CAR-OTP-2085-6726; CAR-OTP-2086-8976; CAR-OTP-2091-4526).

⁵⁴²⁷ P-1773 Statement, CAR-OTP-2064-0063-R03, at 0080, para. 98 (Zakaria Saidou recalled that the merchandise that he had in his shop was either burnt or pillaged).

⁵⁴²⁸ P-2193 Report, CAR-OTP-2127-6617, at 6623. See also Annex 1 to P-2193 Report, CAR-OTP-2127-6626, at 6631, Map 4.

⁵⁴²⁹ P-1871 Statement, CAR-OTP-2064-0884-R02, at 0887, para. 19, at 0888, paras 20-21, 24.

⁵⁴³⁰ P-1871 Statement, CAR-OTP-2064-0884-R02, at 0888, paras 22-23.

⁵⁴³¹ P-1871 Statement, CAR-OTP-2064-0884-R02, at 0889, para. 25, at 0889-91, paras 29-33.

⁵⁴³² P-1871 Statement, CAR-OTP-2064-0884-R02, at 0890, paras 32-33.

then led into the bush by the Anti-Balaka, where they raped P-1871 and killed her husband.⁵⁴³³

2106. The evidence as further outlined below shows that thereafter, the town of Boda became an enclave in which Muslims were effectively trapped.

2107. P-1962 stated that the city was divided into non-Muslim and Muslim areas by the Sangaris.⁵⁴³⁴ Both P-1962⁵⁴³⁵ and P-1577⁵⁴³⁶ said that the Muslims were enclaved in Boda,⁵⁴³⁷ essentially encircled, and remained like this for approximately a year.⁵⁴³⁸ The evidence suggests that an estimated 11,000 people were in the small enclave in the centre of town.⁵⁴³⁹ P-1576, who travelled to Boda in early April 2014, described the dire situation in the Muslim enclave, which lacked access to medical care as well as food, since the Anti-Balaka made it hard for provision trucks to pass and logistics were difficult.⁵⁴⁴⁰

2108. Zakaria Saidou stated that the Sangaris separated the Muslim zone from the Christian zone with a red line traced on a satellite image of Boda which was disseminated all over Boda and

⁵⁴³³ P-1871 Statement, CAR-OTP-2064-0884-R02, at 0891, paras 34-38.

⁵⁴³⁴ Video, CAR-OTP-2060-0795, at 00:00:00-00:00:50; Transcript, CAR-OTP-2130-1236, at 1237, lines 3-14; P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0047-48, para. 46, at 0046, para. 38; Map (annotated by P-1962), CAR-OTP-2068-0073.

⁵⁴³⁵ P-1962: T-138, p. 78, line 13 – p. 80, line 4.

⁵⁴³⁶ P-1577 stated that the enclave of Muslims in Boda was surrounded by the Anti-Balaka [REDACTED] (see P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0811).

⁵⁴³⁷ P-1962: T-138, p. 78, line 13 – p. 79, line 1.

⁵⁴³⁸ P-1962: T-138, p. 79, line 24 – p. 80, line 4.

⁵⁴³⁹ P-1962: T-139, p. 23, lines 4-24; P-1576 Statement, CAR-OTP-2060-0280-R01, at 0285-86, para. 35. See also Annex 23 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0955, para. 12; Press article, CAR-OTP-2001-4464; P-0801: T-036, p. 26, line 4 – p. 27, line 4.

⁵⁴⁴⁰ P-1576 Statement, CAR-OTP-2060-0280-R01, at 0285-86, para. 35. See Photograph, CAR-OTP-2061-4360; Metadata, CAR-OTP-2061-3214; Photograph, CAR-OTP-2061-4361; Metadata, CAR-OTP-2061-3220; Photograph, CAR-OTP-2061-4362; Metadata, CAR-OTP-2061-3226; Photograph, CAR-OTP-2061-4363; Metadata, CAR-OTP-2061-3232; Photograph, CAR-OTP-2061-4364; Metadata, CAR-OTP-2061-3236; Photograph, CAR-OTP-2061-4365; Metadata, CAR-OTP-2061-3242; Photograph, CAR-OTP-2061-4366; Metadata, CAR-OTP-2061-3246; Photograph, CAR-OTP-2061-4367; Metadata, CAR-OTP-2061-3252; Photograph, CAR-OTP-2061-4368; Metadata, CAR-OTP-2061-3258; Photograph, CAR-OTP-2061-4369; Metadata, CAR-OTP-2061-3264; Photograph, CAR-OTP-2061-4370; Metadata, CAR-OTP-2061-3270; Photograph, CAR-OTP-2061-4371; Metadata, CAR-OTP-2061-3276; Photograph, CAR-OTP-2061-4372; Metadata, CAR-OTP-2061-3282; Photograph, CAR-OTP-2061-4373; Metadata, CAR-OTP-2061-3288; Photograph, CAR-OTP-2061-4374; Metadata, CAR-OTP-2061-3294; Photograph, CAR-OTP-2061-4375; Metadata, CAR-OTP-2061-3300; Photograph, CAR-OTP-2061-4376; Metadata, CAR-OTP-2061-3306; Photograph, CAR-OTP-2061-4377; Metadata, CAR-OTP-2061-3312; Photograph, CAR-OTP-2061-4378; Metadata, CAR-OTP-2061-3318. See also Annex 23 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0956-57, paras 19-28.

told them that they could not cross this red line.⁵⁴⁴¹ He gave examples of people who had been killed by the Anti-Balaka after they crossed the red line.⁵⁴⁴²

2109. Joachim Kokaté confirmed that a red line was drawn up and the Muslims were protected by the French elements and the Sangaris forces, and that after the confrontation between the two communities, the Muslims found themselves enclaved in Boda.⁵⁴⁴³

2110. The evidence shows that the conditions in the enclave were difficult. Zakaria Saidou stated that *‘[s]i un musulman traversait cette ligne, les Anti-Balaka le tuaient, donc on était obligé des rester dans les quartiers musulmans, où on n’avait pas suffisamment de la nourriture. Cela est la raison pour laquelle je crois qu’ils voulaient nous exterminer’* (‘if a Muslim would cross this line, the Anti-Balaka would kill them, so we were obliged to stay in the Muslim zone, where we did not have enough food. This was the reason why I think they wanted to exterminate us’).⁵⁴⁴⁴ P-1962 stated that *‘[i]t was forbidden to sell food to the Muslims so either they would starve to death or they would be forced to leave’*.⁵⁴⁴⁵

2111. Contemporaneous media coverage reported on the dire situation in Boda.⁵⁴⁴⁶

2112. The evidence also shows that both non-Muslims and Muslims tried to leave Boda. P-1871 described how she and others fled Boda.⁵⁴⁴⁷ Some Muslims were evacuated by international forces to Bangui, Chad and Cameroon.⁵⁴⁴⁸

2113. The evidence further shows that later in 2014, Mr Ngaïssona appointed Habib Soussou as ComZone in Boda.⁵⁴⁴⁹

⁵⁴⁴¹ P-1773 Statement, CAR-OTP-2064-0063-R03, at 0073, para. 58. *See also* P-1962 Statement, CAR-OTP-2068-0037-R04, at 0046, para. 38, at 0056, para. 94, at 0063, para. 125.

⁵⁴⁴² P-1773 Statement, CAR-OTP-2064-0063-R03, at 0073-74, paras 59-61. *See also* P-1962 Statement, CAR-OTP-2068-0037-R04, at 0052, paras 69-70.

⁵⁴⁴³ P-0801: T-037, p. 56, line 19 – p. 57, line 2.

⁵⁴⁴⁴ P-1773 Statement, CAR-OTP-2064-0063-R03, at 0073, para. 59.

⁵⁴⁴⁵ P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0063, para. 125.

⁵⁴⁴⁶ *See* Press articles, CAR-OTP-2064-1013; CAR-OTP-2117-0670; CAR-OTP-2060-0801; CAR-OTP-2001-0463.

⁵⁴⁴⁷ P-1871 Statement, CAR-OTP-2064-0884-R02, at 0889-92, paras 25-43.

⁵⁴⁴⁸ Press article, CAR-OTP-2001-4434.

⁵⁴⁴⁹ Annex 11 to CAR Panel Final Report 2014, CAR-OTP-2001-5386, at 5466-68; Annex 63 to CAR Panel Final Report 2014, CAR-OTP-2001-5386, at 5566, para. 3. *See also* P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0069, para. 126; P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0057, para. 97; P-0884: T-056, p. 77, lines 17-20.

2114. The evidence before the Chamber shows that later, various peace initiatives were undertaken in Boda, including with the involvement of Mr Ngaïssona and Mr Yekatom.⁵⁴⁵⁰

B. The attack on Bangui, including Boeing and Cattin, on 5 December 2013

1. Coordination of the attack

2115. In what follows, the Chamber finds that the Anti-Balaka elements, including Mr Yekatom's group,⁵⁴⁵¹ carried out a coordinated attack on Bangui, including in Boeing and Cattin,⁵⁴⁵² on 5 December 2013 (the 'Bangui Attack').

2116. The Prosecution submits that Mr Yekatom and his group participated in the Bangui Attack, 'carried out in a coordinated manner by the Anti-Balaka', and specifically attacked Boeing and Cattin.⁵⁴⁵³ It argues that 'in furtherance of the strategic decisions of B[ozizé]'s inner circle (which included [Mr Ngaïssona]), Maxime M[okom] organised the descent of the Anti-Balaka elements from the provinces and from Z[ongo] to B[angui]'.⁵⁴⁵⁴ It submits that 'in around mid-November 2013', 'Anti-Balaka groups from G[obere, Bossangoa, Bouca]' and 'Anti-Balaka elements from B[ouar and Bossembélé]' marched south to carry out the Bangui Attack.⁵⁴⁵⁵

2117. Both accused challenge aspects of the coordinated manner in which the Bangui Attack is alleged to have been carried out.

⁵⁴⁵⁰ Mission order, CAR-OTP-2100-1699, at 1699; Video, CAR-OTP-2023-2049; Transcript, CAR-OTP-2127-6298; Audio, CAR-OTP-2042-4040; Transcript, CAR-OTP-2122-9433; Audio, CAR-OTP-2042-3464; Transcript, CAR-D29-0006-0053; Mission order, CAR-OTP-2039-0020; P-0801: T-036, p. 14, line 16 – p. 20, line 24, p. 21, lines 5-13, p. 23, lines 14-20, p. 24, line 12 – p. 25, line 24, p. 30, lines 3-14; T-037, p. 51, lines 3-18, p. 52, line 3 – p. 55, line 12, p. 56, lines 11-18; P-2328: p. 77, line 24 – p. 78, line 12; T-048, p. 5, lines 3-16; T-050, p. 7, lines 1-3, p. 10, lines 1-11; P-0884: T-056, p. 80, line 18 – p. 83, line 16, p. 84, line 5 – p. 85, line 2; T-057, p. 75, line 5 – p. 76, line 2; P-0888: T-122, p. 25, line 16 – p. 27, line 10; P-1193: T-124, p. 27, lines 8-19, p. 28, lines 17-25, p. 69, line 23 – p. 70, line 18; T-125, p. 41, line 1 – p. 42, line 2; T-126, p. 80, line 4 – p. 81, line 7; P-1858 Statement, CAR-OTP-2063-0050-R04, at 0068, para. 112; P-1858: T-186, p. 13, line 16 – p. 15, line 2; P-0952: T-249, p. 43, line 4 – p. 45, line 9; T-250, p. 39, line 15 – p. 41, line 3, p. 70, line 7 – p. 71, line 10; T-252, p. 46, line 23 – p. 54, line 5, p. 55, lines 10-16; D29-5015: T-254, p. 58, line 5 – p. 61, line 21, p. 62, line 14 – p. 63, line 23, p. 65, line 16 – p. 68, line 3; T-255, p. 7, line 21 – p. 8, line 2; D29-5012: T-293, p. 59, lines 2-8; T-294, p. 25, line 16 – p. 28, line 19. *See also* Press article, CAR-OTP-2087-9105; Video, CAR-OTP-2023-2764; Transcript, CAR-D29-0006-0103.

⁵⁴⁵¹ *See* paragraphs 2411-2525 below.

⁵⁴⁵² *See* paragraphs 2526-2651 and 2652-2677 below.

⁵⁴⁵³ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 540.

⁵⁴⁵⁴ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 213.

⁵⁴⁵⁵ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 214.

2118. The Ngaïssona Defence challenges the level of coordination between ‘the different alleged geographical groups’, arguing, in particular, that Maxime Mokom was not organising Mr Yekatom’s group and his alleged interactions with the ‘Gobere group’ were ‘inconclusive’; it also submits that ‘the Gobere group’ did not coordinate with individuals in Cameroon, including Mr Ngaïssona.⁵⁴⁵⁶

2119. While the Yekatom Defence does not dispute Mr Yekatom’s group’s participation in clashes in the Cattin neighbourhood in Bangui on 5 December 2013, it argues that Mr Yekatom was not aware of the ‘broader 5th December Operation i.e. that “anti-balaka”, ex-FACA and/other resistance groups were also combatting the Seleka in Bangui on that day, nor that he was aware of the respective or collective nature(s), objective(s) or conduct of these groups or their leaders’.⁵⁴⁵⁷ It submits that Mr Yekatom’s awareness cannot be inferred from the mere fact that Mr Yekatom’s group attack on Seleka positions in Cattin ‘coincided’ with other attacks on Seleka positions ‘elsewhere in Bangui that day’.⁵⁴⁵⁸ In support of this argument, it points to evidence ‘that would indicate the lack of prior coordination’ between Mr Yekatom’s group and those that participated in the ‘broader 5th December Operation’.⁵⁴⁵⁹ Further, the Yekatom Defence argues that, even assuming that Mr Yekatom was aware of a ‘broader Operation’, it does not follow that he was aware of any criminal objectives that other groups, leaders, or participants may have harboured.⁵⁴⁶⁰

2120. As regards the Yekatom Defence’s arguments that Mr Yekatom was not aware of the ‘broader’ operation concerning the Bangui Attack, the Chamber finds that the alleged coordinated nature of the Bangui Attack does not rest on Mr Yekatom’s awareness of its broader contours. Given the mode of responsibility attributed to him, Mr Yekatom would not have needed to be aware of the ‘respective or collective’ nature of the Bangui Attack or the conduct of the other groups or leaders that participated in it. Admittedly, in theory, while Mr Yekatom’s awareness of the ‘broader’ Bangui Attack would have been a factor positively

⁵⁴⁵⁶ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 201-209.

⁵⁴⁵⁷ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 357.

⁵⁴⁵⁸ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 357.

⁵⁴⁵⁹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 358; *see also* paras 359-361.

⁵⁴⁶⁰ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 362.

demonstrating coordination, the lack thereof does not mean that the Bangui Attack was not otherwise coordinated.

2121. Accordingly, in assessing the evidence in light of the Defence's challenges, the Chamber has first addressed the coordinated nature of the Bangui Attack and then turned to the actions attributed to Mr Yekatom and his group. As set out below, the coordinated nature of the Bangui Attack is indeed demonstrated with *and* without having regard to Mr Yekatom's purported awareness.

In the early morning hours of 5 December 2013, the Anti-Balaka mounted a coordinated attack on Bangui, including in Boeing and Cattin. The plan to mount an attack on Bangui existed at least as of 30 November 2013. Anti-Balaka elements and groups travelled from the provinces to arrive close to Bangui before 5 December 2013.

During their move from the provinces to Bangui, Anti-Balaka chiefs communicated across their groups, kept and maintained records or lists of elements, armed themselves, and waited at common locations and prepared for an attack on Bangui. Mr Ngaïssona provided funds to Anti-Balaka elements that participated in the attack on Bangui on 5 December 2013. By the beginning of December 2013, several thousand Anti-Balaka elements had arrived at the outskirts of Bangui to participate in an attack. News about an impending attack on Bangui circulated in various circles within the Anti-Balaka leadership. Mr Ngaïssona knew that an attack would take place on Bangui.

The Anti-Balaka participating in the attack on Bangui on 5 December 2013 shared the same goal, which was to target Seleka positions in Bangui with a view to 'getting rid of Djotodia' and 'chasing out the Seleka', which included systematic targeting of Muslim civilians. Various Anti-Balaka groups that participated in the attack on Bangui on 5 December 2013 had common leaders, who coordinated their actions and instructed them. Anti-Balaka groups that reassembled close to Bangui prior to the attack on Bangui on 5 December 2013 were each assigned a specific target within Bangui and instructed to begin the attack on the respective targets at 05:00 on 5 December 2013. The attack was carried out as planned, resulting in clashes between the Anti-Balaka and the Seleka in several locations in Bangui, including Boeing, with the Anti-Balaka beginning to retreat around 10:00 the same day. Later that day, FROCCA issued a radio statement in relation to the attack on Bangui, referring to it as '*[l]e rétablissement de l'ordre fonctionnel*' and stating that the Anti-Balaka

‘sont des Centrafricains pour aller libérer leur pays des jougs des djihadistes venus du D[arfour], du T[chad], du S[oudan]’.

The attacks on Bangui and Bossangoa on 5 December 2013 were coordinated with each other.

2122. The Chamber heard evidence from witnesses who participated in the Bangui Attack themselves, for example, P-0306,⁵⁴⁶¹ Brice Emotion Namsio,⁵⁴⁶² P-2251,⁵⁴⁶³ P-1521,⁵⁴⁶⁴ P-0965,⁵⁴⁶⁵ Jo-Brice Ouabiro Dana, P-0884,⁵⁴⁶⁶ P-0975, and P-1339;⁵⁴⁶⁷ as well as those who did not themselves participate in the Bangui Attack but were in direct communication with those who did, namely, Alfred Legrand Ngaya,⁵⁴⁶⁸ P-2232,⁵⁴⁶⁹ P-2027,⁵⁴⁷⁰ Thierry Tribunal Ndokobanda, P-0889, P-0876,⁵⁴⁷¹ and P-0954.⁵⁴⁷²

2123. In assessing the level of coordination and planning of the Bangui Attack, the Chamber looked at several indicators, which have been discussed separately below, namely (i) the existence of a plan to attack prior to December 2013; (ii) movement of Anti-Balaka elements and groups from the provinces to arrive close to Bangui before 5 December 2013; (iii) the level of communication between the Anti-Balaka chiefs across the various groups during their advance to Bangui; (iv) keeping and maintaining of records or lists of elements prior to the Bangui Attack; (v) waiting at common locations and preparing; (vi) number of elements estimated to be involved; (vii) financing, arming and efforts to obtain weapons and ammunition along the way to Bangui; (viii) circulation of information, prior to 5 December 2013, about an impending attack; (ix) the order to attack Bangui; (x) goal of the Bangui Attack; (xi) common leaders; (xii) the assignment of specific locations and time to attack in advance; (xiii) unfolding of the attack and retreat; and (xiv) its aftermath and retaliation by the Seleka.

⁵⁴⁶¹ See paragraphs 206-218 above.

⁵⁴⁶² See paragraphs 219-222 above.

⁵⁴⁶³ See paragraphs 403-414 above.

⁵⁴⁶⁴ See paragraphs 338-347 above.

⁵⁴⁶⁵ See paragraphs 308-314 above.

⁵⁴⁶⁶ See paragraphs 266-273 above.

⁵⁴⁶⁷ See paragraphs 330-337 above.

⁵⁴⁶⁸ See paragraphs 248-255 above.

⁵⁴⁶⁹ See paragraphs 400-402 above.

⁵⁴⁷⁰ See paragraphs 390-399 above.

⁵⁴⁷¹ See paragraphs 256-265 above.

⁵⁴⁷² See paragraphs 297-307 above.

2124. The Chamber then turns to Mr Yekatom's actions and how they feature within the 'broader' Bangui Attack.⁵⁴⁷³ The Chamber examines whether and to what extent Mr Yekatom's group appeared to be (i) setting up a base in Gbangba composed of civilians and FACA members;⁵⁴⁷⁴ (ii) advancing from Gbangba to Projet prior to the Bangui Attack;⁵⁴⁷⁵ (iii) joining with elements from Bossangoa;⁵⁴⁷⁶ (iv) communicating with Ngremangou and others in advance of the Bangui Attack;⁵⁴⁷⁷ (v) preparing for and attacking pre-decided locations; and (vi) instructing his group about the attack on the market in Boeing (the 'Boeing Market') and Cattin.⁵⁴⁷⁸

i. Existence of a plan, prior to December 2013

2125. Turning to the first indicator of coordination, the Chamber finds that a plan to attack Bangui existed, at least, as of 30 November 2013, of which Mr Ngaïssona was aware.

2126. The Chamber finds that, in November 2013, Mr Ngaïssona and Bernard Mokom met certain individuals in Yaoundé, Cameroon, in relation to a future attack on Bangui.⁵⁴⁷⁹

2127. Joachim Kokaté described a meeting that he himself attended, towards the 'end of November' 2013, with Mr Ngaïssona, Eric Danboy, Franklin Bozizé and Bernard Mokom,⁵⁴⁸⁰ during which Mr Ngaïssona stated that it would not be long before 'his troops' attacked the Seleka, of which they would be notified in due time, telling them that there would be 'an imminent attack on Bangui'.⁵⁴⁸¹

2128. P-0884 testified that he would talk to Mr Ngaïssona 'during this period'; P-0884 told Mr Ngaïssona that the situation was difficult and that the Seleka were continuing to attack the population, to which the latter answered, 'when I come back [...], one day God will allow

⁵⁴⁷³ See section IV.B.2 below.

⁵⁴⁷⁴ See paragraphs 2411-2458 below.

⁵⁴⁷⁵ See paragraphs 2459-2464 below. The Chamber notes the alternative spellings of Proget as 'Projet'. The Chamber uses 'Projet' in its discussions.

⁵⁴⁷⁶ See paragraphs 2465-2479 below.

⁵⁴⁷⁷ See paragraphs 2485-2522 below.

⁵⁴⁷⁸ See paragraphs 2480-2484, 2529-2539 below.

⁵⁴⁷⁹ See also IV.A.2.i.b above.

⁵⁴⁸⁰ P-0801: T-034, p. 58, line 17 – p. 59, line 18, p. 63, lines 12-19.

⁵⁴⁸¹ P-0801: T-034, p. 58, line 24 – p. 59, line 9; T-035, p. 12, lines 10-21.

the country to be freed’.⁵⁴⁸² P-0884 described phoning Mr Ngaïssona ‘regularly’ during this time to talk about the situation in the country, and while he did not remember the exact content of their phone call just before 5 December 2013, P-0884 said that they talked about the Bangui Attack (*‘avant le 5 décembre, il avait l’habitude de m’appeler et de me parler... d’avoir les nouvelles du pays et de me parler de l’attaque du 5 décembre’*).⁵⁴⁸³

2129. The Chamber further notes Adrien Poussou’s phone call with Mr Ngaïssona around 30 November 2013 after the witness was appointed as a minister in Michel Djotodia’s government.⁵⁴⁸⁴ Adrien Poussou said that, in his conversation with Mr Ngaïssona, the word ‘attack’ was not used, but everything Mr Ngaïssona was saying, the references he was using, insinuated that there would be an attack – Mr Ngaïssona said the regime was going to topple in a short time, and asked what the witness was going to Bangui to do.⁵⁴⁸⁵ Adrien Poussou based his conclusion on his experience within FROCCA and what they imagined that François Bozizé and his entourage were up to, as well as information of public knowledge that François Bozizé was organising his supporters with a view to attacking Bangui.⁵⁴⁸⁶ In the witness’s view, it was impossible to imagine Michel Djotodia falling in a peaceful way, or at least falling and being replaced by François Bozizé in a peaceful manner.⁵⁴⁸⁷ Adrien Poussou did not discuss with Mr Ngaïssona the latter’s sources or how he came to know about this.⁵⁴⁸⁸

2130. The Prosecution points to Facebook exchanges showing Mr Ngaïssona’s arrival in Yaoundé in the latter half of November 2013 joining Bernard Mokom and others, and then designating individuals to lead people in Bangui, with the instructions coming from François Bozizé to Mr Ngaïssona and Bernard Mokom.⁵⁴⁸⁹ Solely on the basis of these Facebook exchanges, the Chamber is unable to enter the conclusion suggested by the Prosecution. Having

⁵⁴⁸² P-0884: T-055, p. 48, line 14 – p. 49, line 7.

⁵⁴⁸³ P-0884: T-056-ENG, p. 5, line 17 – p. 6, line 18; P-0884: T-056-FRA, p. 5, line 23 – p. 6, line 6.

⁵⁴⁸⁴ P-2625: T-190, p. 17, line 12 – p. 20, line 7; T-193, p. 42, line 16 – p. 43, line 20.

⁵⁴⁸⁵ P-2625: T-190, p. 20, lines 8-18.

⁵⁴⁸⁶ P-2625: T-190, p. 21, lines 14-20. *See also* paragraphs 993, 999-1047 above.

⁵⁴⁸⁷ P-2625: T-190, p. 21, line 22 – p. 22, line 3.

⁵⁴⁸⁸ P-2625: T-190, p. 22, lines 6-11.

⁵⁴⁸⁹ Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, para. 202 *referring inter alia* to CAR-OTP-2131-5407, at 5505-07; CAR-OTP-2102-2520, at 2687; CAR-OTP-2102-3799, at 3879; CAR-OTP-2133-2227, at 2254-55; CAR-OTP-2131-5707, at 5839; CAR-OTP-2102-5143, at 5184.

reviewed these exchanges in light of the information discussed herein, and recalling its general conclusions on Facebook material, the Chamber draws no conclusions on that basis alone as to whether Mr Ngaïssona instructed individuals to lead elements in Bangui.

2131. Having regard to the evidence discussed above, together with the Chamber's assessment of the evidence concerning (i) Mr Ngaïssona's participation in meetings in Yaoundé;⁵⁴⁹⁰ (ii) his communications in September-November 2013;⁵⁴⁹¹ and (iii) FROCCA meetings,⁵⁴⁹² the Chamber finds that a plan to attack Bangui existed, at least as of 30 November 2013.

ii. Movement of Anti-Balaka elements and groups from the provinces to arrive close to Bangui before 5 December 2013

2132. Turning to the second indicator of coordination, as set out below, the Chamber finds that various groups of Anti-Balaka elements began moving from the provinces to Bangui before 5 December 2013.

2133. The Prosecution submits that under Maxime Mokom's coordination, Anti-Balaka groups from Gobere, Bossangoa, Bouca, Bouar, and Bossembélé marched south to carry out the Bangui Attack.⁵⁴⁹³ The Ngaïssona Defence argues that the evidence is inconsistent on the groups' progression out of Gobere and the subsequent attacks in the region.⁵⁴⁹⁴

2134. The evidence shows an advance of 'people from everywhere' towards Bangui, under somewhat difficult circumstances, to 'converge' and arrive in Bangui to participate in what later culminated into the Bangui Attack.

2135. At the outset, having regard to the agreed maps,⁵⁴⁹⁵ the Chamber notes that there are two primary roadways from the northern Bossangoa region to Bangui (through Bouca – Damara and Bossembélé – Boali), and one from Bouar through Yaloké – Bossembélé – Boali. From the southern end of Bangui, the river Oubangui runs between the CAR and the Democratic Republic of Congo with Zongo on the immediate other side of the river. On the western side

⁵⁴⁹⁰ See paragraphs 769-812 above. See also paragraphs 813-822 above.

⁵⁴⁹¹ See section IV.A.2.i.b above.

⁵⁴⁹² See section IV.A.3 above.

⁵⁴⁹³ Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, para. 214.

⁵⁴⁹⁴ Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, para. 220.

⁵⁴⁹⁵ Map, CAR-OTP-2070-0268; Map, CAR-OTP-2126-2710; Map, CAR-OTP-2062-0666.

of Bangui lies the M’Poko airport and the M’Poko river. Bimbo lies on the southwest end of Bangui.

2136. The Chamber has first assessed evidence concerning the elements entering into Bangui from these directions and then examined where these elements gathered, or otherwise reassembled, prior to the Bangui Attack.

2137. Describing generally the movement of Anti-Balaka elements, P-0884, [REDACTED] who received information directly from actors in the field,⁵⁴⁹⁶ testified that, for the attack, people came from ‘everywhere’, including from Bossembélé, Bossangoa, Bambari, Sibut, Bogangolo and Damara.⁵⁴⁹⁷ P-0884 said that these people, some of whom went on foot, arrived from the north-east, north and south of the country, and that ‘their convergence point was Bangui’.⁵⁴⁹⁸ P-0876 also said that, before the Bangui Attack, ‘people continued to come in from the hinterlands, on foot, on dirt tracks, through the forest as they converged on Bangui’.⁵⁴⁹⁹ P-1847 said generally that the young Anti-Balaka of the Bossangoa area, supported by members of the PG, walked towards Bangui for the Bangui Attack.⁵⁵⁰⁰ Alfred Legrand Ngaya said that he did not know how the young people from the villages all knew to come to Bangui on 5 December 2013, and did not know in advance that they were coming.⁵⁵⁰¹

2138. The evidence shows that some of these individuals had organised themselves in distinct groups within their respective provinces with varying compositions, and then began making their way to Bangui in advance of the Bangui Attack, merging with other groups along the way.⁵⁵⁰² The Chamber has considered the movement of some of these Anti-Balaka groups,

⁵⁴⁹⁶ P-0884: T-054, p. 11, lines 5-12; *see* paragraphs 805, 861, 897, 911, 971, 1066.

⁵⁴⁹⁷ P-0884: T-056, p. 10, lines 9-17.

⁵⁴⁹⁸ P-0884: T-056, p. 10, lines 9-17.

⁵⁴⁹⁹ P-0876: T-085, p. 34, line 21 – p. 35, line 9.

⁵⁵⁰⁰ P-1847 First Statement, CAR-OTP-2061-1534, at 1560, para. 164; *see also* at 1558, paras 150-151, at 1560, para. 165 for the source of P-1847’s knowledge. In particular, P-1847 said that [REDACTED] (*see* para. 165). P-1847 also stated that the Anti-Balaka groups around the town of Bangui, who were very well organised, encouraged the Anti-Balaka of the provinces to join them for the assault on Bangui (P-1847 First Statement, CAR-OTP-2061-1534, at 1559, para. 160). Roger de Martial Yagao, a gendarme from Berbérati, heard ‘rumours’ that some of the Anti-Balaka from Bossangoa decided to take their weapons and *gris-gris* and to go to Bangui walking through the bush to participate in the attack of 5 December 2013 (*see* P-2133 Statement, CAR-OTP-2093-0267-R02, at 0280, para. 95).

⁵⁵⁰¹ P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0022-23, para. 67.

⁵⁵⁰² *See also* section IV.A.4 above.

as discussed further below, from the provinces to Bangui to assess the level of organisation and coordination prior to the Bangui Attack.

2139. In what follows, the Chamber finds that while these groups progressed at a different pace and took different routes to reach Bangui, this movement occurred along specific axes ending at Bangui.⁵⁵⁰³

2140. From the north, groups that were based around Gobere and Bossangoa travelled through villages along two main axes, discussed separately below.⁵⁵⁰⁴ P-2269 said that individuals that were in Gobere had divided themselves into groups,⁵⁵⁰⁵ each with their own chief, and took different routes to go to Bangui; some groups went to other towns to attack areas controlled by the Seleka, like Bouca and Bossangoa; however, not every group went to Bangui, some people stayed behind at the Gobere base and in Bossangoa.⁵⁵⁰⁶ P-2602, [REDACTED],⁵⁵⁰⁷ stated that military and civilians at Gobere were joined by other people from the villages on the way to Bangui.⁵⁵⁰⁸ P-0889, who was himself not in Gobere, put it more simplistically insofar as he claimed that ‘all Anti-Balaka leaders’ met in Gobere to get *gris-gris* and then went into different directions, to reach Bangui on 5 December 2013.⁵⁵⁰⁹

2141. At the same time, from the south, individuals who had sought refuge in Zongo after the Seleka arrival in Bangui, travelled back from Zongo to Bangui, crossing the river Oubangui, in advance of the Bangui Attack.⁵⁵¹⁰ Mr Yekatom, who was in Zongo, crossed back over and

⁵⁵⁰³ See sections IV.B.1.ii.a, IV.B.1.ii.b, IV.B.1.ii.c below. See generally P-0965 Interview Transcript, CAR-OTP-2046-0195, at 0202, lines 247-54, at 0203-04, lines 283-309, at 0209, lines 484-490. See also P-0965: T-061, p. 49, lines 9-20.

⁵⁵⁰⁴ See sections IV.B.1.ii.a, IV.B.1.ii.b below.

⁵⁵⁰⁵ The Chamber notes P-2658’s evidence that the elements at Gobere were divided into six groups with many people each (see P-2658 Statement, CAR-OTP-2126-0012-R02, at 0027, para. 97). The Chamber further notes that P-2658 noticed ‘Dedane’ meeting with other chiefs of groups there ‘every morning’ but said that he himself was not present during those meetings and could only see them speaking from a distance (see P-2658: T-135, p. 42, lines 6 – 25, p. 44, line 6 – p. 45, line 15). The Chamber considers that this difference in the number of groups at Gobere is inconsequential for the purposes of the present discussion.

⁵⁵⁰⁶ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0346, para. 77.

⁵⁵⁰⁷ P-2602 Interview Transcript, CAR-OTP-2118-9500-R01, at 9522-23, lines 765-773.

⁵⁵⁰⁸ P-2602 Interview Transcripts, CAR-OTP-2118-9500-R01, at 9522, lines 745-759; CAR-OTP-2118-9579-R01, at 9580-81, lines 29-39; CAR-OTP-2118-9579-R01, at 9581, lines 42-67. P-2602 names people that joined them. See P-2602 Interview Transcript, CAR-OTP-2118-9617-R01, at 9622-33, lines 142-535, at 9639-40, lines 710-765.

⁵⁵⁰⁹ P-0889 Statement, CAR-OTP-2027-2290-R02, at 2297, para. 38.

⁵⁵¹⁰ See section IV.B.1.ii.d below.

set up a base at Gbangba from where his group travelled to arrive in Bangui close to the M'Poko airport.⁵⁵¹¹

2142. The witnesses described the difficulties they met in their advance, for example walking long distances without shoes,⁵⁵¹² without any means of transportation, with the food collected 'whenever', 'without clothing' and 'without materials [sic]'.⁵⁵¹³ P-0876 said that, at that time, people could not travel through the main roads, they could only take the paths they knew through the forest to reach Bangui; having seen some of the elements himself, P-0876 agreed that many of them were 'badly dressed, badly taken care of, and it could be seen that they were unable to feed well also'.⁵⁵¹⁴ In the Chamber's view, this speaks to a level of drive sustained over a long period of time by the Anti-Balaka elements, that also demonstrates coordination between the groups and their leaders.

a. Bouca – Bogangolo – Damara axis

2143. Witnesses who were in the Bossangoa area, and particularly in Gobere, provided consistent accounts concerning their movement to and from locations on the Bouca – Bogangolo – Damara axis to reach Bangui, namely P-2269, P-0975, Jo-Brice Ouabiro Dana, P-0306 and P-2251.

2144. The evidence shows that individuals present in Gobere, including Andjilo,⁵⁵¹⁵ Thierry Lebene, P-2269, Dedane Danboy,⁵⁵¹⁶ along with their elements, moved along the Bouca – Bogangolo – Damara axis to reach Bangui in advance of the Bangui Attack.

⁵⁵¹¹ See sections IV.B.2.i – IV.B.2.iv below.

⁵⁵¹² P-0306: T-068, p. 65, lines 6-12.

⁵⁵¹³ P-2251 agreed that the situation in which they lived until they arrived in Bangui for the 'events of 5 December' was precisely the way that the counsel had described it, in that they 'were living without any means of transportation, with the food that [they] could collect whenever, without clothing and without materials' ('vivez sans moyen de transport, avec de la nourriture que vous trouvez au jour le jour, sans vêtements, sans équipement') (see P-2251: T-044, p. 9, lines 6-12).

⁵⁵¹⁴ P-0876: T-086, p. 23, lines 8-22.

⁵⁵¹⁵ [REDACTED]

⁵⁵¹⁶ See also paragraphs 1126-1143 above.

2145. Jo-Brice Ouabiro Dana, who was in Gobere himself,⁵⁵¹⁷ described that his group with Florent Kema, Thierry Lebene, Ndangba, Alexis Mandago and others split into two: (i) one that remained in the Bossangoa area, headed by Florent Kema and Ndangba for the Bossangoa Attack,⁵⁵¹⁸ and (ii) another that advanced towards Bangui led by Thierry Lebene that went to Bogangolo to meet Andjilo.⁵⁵¹⁹ As per Jo-Brice Ouabiro Dana, Dedane stayed with the group that advanced towards Bangui.⁵⁵²⁰

2146. P-2269's group went from Gobere, taking the road from Bogangolo to Damara and then Bangui, and he said that all the groups taking different routes was part of their strategy, with the aim of arriving in Bangui for the attack on 5 December 2013.⁵⁵²¹

2147. Some witnesses described that they encountered FACA members fleeing Bangui from Seleka exactions, who then also joined the descent for the Bangui Attack. Thierry Tribunal Ndokobanda described that, in his group, after the attack at Ouham-Bac, the movement from Bossangoa kept progressing, with 'military from Bangui' joining them; they progressed to Bouca, Sibut and 'Bokangolo'.⁵⁵²²

2148. P-1521, [REDACTED],⁵⁵²³ was one of those who fled from Boy-Rabe in Bangui and joined Andjilo's group in a place [REDACTED], close to Damara.⁵⁵²⁴ P-1521 said that when he joined them, 'they all came from different villages to gather at that location', there were

⁵⁵¹⁷ P-0966: T-117, p. 4, line 7 – p. 5, line 12; P-0966 Statement, CAR-OTP-2031-0241, at 0245, paras 23-26. *See also* Map, CAR-OTP-2031-0266. The Chambers notes that P-0966 stayed in Bossangoa and travelled to Bangui only after the Bangui Attack and therefore did not have first-hand information about the movement along the axis towards Bangui (*see* P-0966: T-117, p. 32, lines 14-22; T-117, p. 66, line 5 – p. 67, line 3; T-118, p. 10, line 1 – p. 12, line 6; T-116, p. 63, line 17 – p. 64, line 17). Nonetheless, his description of the splitting up of groups in Gobere is reflected in the evidence from the witnesses that formed part of those groups.

⁵⁵¹⁸ P-0966: T-117, p. 32, lines 14-22, p. 33, line 12 – p. 34, line 1. *See further* paragraphs 2767-2776 below.

⁵⁵¹⁹ P-0966: T-117, p. 34, line 24 – p. 35, line 17. P-1847 said generally that Andjilo and his Anti-Balaka group came from Bouca and Damara towards Bangui (*see* P-1847 First Statement, CAR-OTP-2061-1534, at 1560, para. 166). *See also* paragraphs 365-373 above. This is also borne out by evidence as discussed in detail in this section.

⁵⁵²⁰ P-0966: T-117, p. 32, lines 9-22. P-1847, [REDACTED] stated that [REDACTED] he started his attacks in Benzambe, after which he descended towards Bossangoa, Bouca and Bossembele to reach Bangui (*see* P-1847 Second Statement, CAR-OTP-2122-8251, at 8255, para. 34). *See also* paragraphs 365-373 above.

⁵⁵²¹ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0346, para. 75.

⁵⁵²² P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1063, para. 32.

⁵⁵²³ P-1521: T-080, p. 11, lines 7-15, p. 12, lines 21-22, p. 19, lines 7-18.

⁵⁵²⁴ P-1521: T-081, p. 7, line 12 – p. 8, line 22.

elements from Bouca, Bossangoa, Ndjo, and from villages along the Bouca-Batangafo road.⁵⁵²⁵

2149.P-0306 described the movement of Andjilo's group from Bouca to Bangui.⁵⁵²⁶ P-0306 indicated that many people, including soldiers and civilians, including himself, fled the Seleka and advanced towards Bangui following the instructions of their 'leader'.⁵⁵²⁷ P-0965, [REDACTED], described generally that his group 'moved village by village', travelling by foot, and 'waited there until there was a significant number of persons present who would then move on Bangui' for the Bangui Attack.⁵⁵²⁸ P-0965 indicated that they would meet to 'set their strategy before moving on'.⁵⁵²⁹

2150.The Ngaïssona Defence argues that 'other witnesses' refute P-0306's account of events concerning the progression towards Bangui, in particular, as regards Konaté joining Andjilo's⁵⁵³⁰ group and asking Andjilo to go to Bangui.⁵⁵³¹

2151.The Chamber notes that, when asked about who directed Andjilo to travel to Bangui, P-0306 testified that, after the Bouca attack, Andjilo received 'intermediaries' sent by 'Mr Ngaïssona', 'the authority' – [REDACTED]⁵⁵³² – who instructed them to travel to Bangui to 'assist in chasing out the Seleka' because 'they were destroying the country'.⁵⁵³³ The Chamber has considered that P-0306 said that later, at a meeting with Mr Ngaïssona in

⁵⁵²⁵ P-1521: T-081, p. 9, lines 7-15.

⁵⁵²⁶ See also paragraphs 206-218 above.

⁵⁵²⁷ P-0306: T-064, p. 37, line 22 – p. 38, line 13.

⁵⁵²⁸ P-0965: T-061, p. 14, line 22 – p. 15, line 15.

⁵⁵²⁹ P-0965: T-061, p. 15, lines 16-22.

⁵⁵³⁰ As regards the discussion below concerning P-0306's evidence concerning the meeting between Andjilo and Konaté, see also [REDACTED] above.

⁵⁵³¹ Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, para. 452 referring to P-0966, P-2602, P-1521, and P-0889.

⁵⁵³² P-0306: T-064, p. 40, lines 7-14. P-1847 also indicated that during the Bangui Attack, Andjilo was under Konaté's directives (see P-1847 First Statement, CAR-OTP-2061-1534, at 1564, para. 189). See paragraphs 365-373 above. Regarding Konaté's role in seeking out Andjilo's group to come to Bangui, the Chamber has also considered Fredo Giscard Baboue, who stated that when Konaté, a high-ranking FACA at the time, knew that the Anti-Balaka advanced towards Bangui, he went into the bush with his elements and joined them at Damara, returning with the Anti-Balaka and setting up in Thierry Lebene's base (see P-1530 Statement, CAR-OTP-2054-0249-R02, at 0260, para. 51). The Chamber notes the witness's source of information. Fredo Giscard Baboue said that he knew of this because his father, as chief of the neighbourhood, was informed of what was happening, including by elements of Konaté who were from the area, but the witness did not know who exactly. The witness also heard that Konaté was tasked with provisioning the Anti-Balaka with weapons because given his position in the army, he knew where the weapon stocks were.

⁵⁵³³ P-0306: T-064, p. 26, line 15 – p. 32, line 25, p. 33, lines 11-20, p. 44, line 16 – p. 45, line 14; T-066, p. 54, line 19 – p. 57, line 6.

Bangui, Mr Ngaïssona introduced himself as the chief/leader of the group and said ‘I am the one who asked you to come’ and that Mr Ngaïssona said this to the entire group.⁵⁵³⁴

2152. P-0306 said that Konaté arrived with a delegation of ‘numerous’ military and civilians who joined Andjilo’s group and that it was on Konaté’s instruction that Andjilo decided to reach Bangui.⁵⁵³⁵ P-0306 also indicated that, before they started walking to Bangui, Konaté promised this group assistance in terms of food and money at the end of the operation, but that it was never received.⁵⁵³⁶

2153. The Ngaïssona Defence argues that P-0306’s account concerning Mr Ngaïssona [REDACTED] ‘lacks credibility and should be set aside entirely’, arguing that his account was ‘repetitive, giving the impression of a pre-rehearsed narrative’, and ‘lacked the details and nuances expected of a witness who actually lived through the events he described’.⁵⁵³⁷ It further argues that P-0306 was unable to explain why he ultimately decided to [REDACTED] and merely asserted unconvincingly that Mr Ngaïssona was an ‘authority’.⁵⁵³⁸

2154. The Chamber notes that the Ngaïssona Defence argument concerns three related facts, notably (i) when and where Konaté met Andjilo; (ii) who sent Konaté to Andjilo; and (iii) who instructed Andjilo to move his group to Bangui. In this respect, the Chamber has considered P-0306’s testimony in light of the evidence provided by Jo-Brice Ouabiro Dana, P-2602, P-0889, Thierry Tribunal Ndokobanda, and P-1521.

2155. As regards when and where Konaté met Andjilo, the evidence suggests that this happened approximately 100 kilometres from Bangui 1-2 months before the Bangui Attack. P-0306 himself was not clear about where Konaté met Andjilo but placed his visits two months after August 2013.⁵⁵³⁹ P-2602 said that Konaté was never in Gobere, they met him ‘120 kilometres from Bangui’ and he ‘joined those who did not know the capital [...] in order to lead them

⁵⁵³⁴ P-0306: T-064, p. 33, line 21 – p. 34, line 10, p. 35, lines 4-13, p. 49, line 11 – p. 50, line 1.

⁵⁵³⁵ P-0306: T-064, p. 37, line 22 – p. 38, line 13, p. 40, lines 17-24, p. 45, line 15 – p. 46, line 4.

⁵⁵³⁶ P-0306: T-064, p. 55, line 11 – p. 56, line 19.

⁵⁵³⁷ Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, para. 450.

⁵⁵³⁸ Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, para. 451.

⁵⁵³⁹ P-0306: T-064, p. 40, lines 7-14.

to the capital.⁵⁵⁴⁰ P-1521, asked about Andjilo having been ‘recruited’ by Konaté, said that this was ‘absolutely false’ and spoke about Andjilo’s personal motivations to join ‘the movement’ and Konaté meeting Andjilo at [REDACTED], 100 kilometres from Bangui.⁵⁵⁴¹

2156. Jo-Brice Ouabiro Dana seemed to think that the order to Andjilo to advance to Bangui for the Bangui Attack was given as early as in Gobere, following which he was sent to Bouca; in the witness’s opinion, after the Bouca attack, Andjilo became ‘uncontrollable’ and his objective was ‘to go to Bangui’; the witness testified that Andjilo did not respect any instructions from others – Andjilo retrieved weapons from the Seleka, people joined his group, and he assumed command and then he commanded all the people who followed him.⁵⁵⁴² Jo-Brice Ouabiro Dana said that Andjilo controlled the Bouca and Bogangolo axis and ‘no one could give [him] any orders’; all the persons who followed Andjilo to participate in the Bangui Attack, it was he who gave the orders.⁵⁵⁴³

2157. As regards who sent Konaté to Andjilo, the Chamber considered P-0889’s and Thierry Tribunal Ndokobanda’s evidence concerning Maxime Mokom sending Konaté to Andjilo. P-0889 said that Maxime Mokom contacted people in the villages, such as Andjilo, to ask them to help out in other villages, and that this is how groups went from village to village, until Maxime Mokom ultimately asked them to go to Bangui and free the people there.⁵⁵⁴⁴ Further, the Chamber recalls that Thierry Tribunal Ndokobanda told Konaté that military men were going to the provinces to ‘help the children’ and Thierry Tribunal Ndokobanda

⁵⁵⁴⁰ P-2602 Interview Transcript, CAR-OTP-2118-9617-R01, at 9624, lines 224-237.

⁵⁵⁴¹ P-1521: T-080, p. 38, lines 5-8; T-081, p. 3, line 20 – p. 8, line 22, p. 9, lines 16-22, T-082, p. 65, lines 14-16, p. 66, line 13 – p. 67, line 7. P-1521 said that the distance between Damara [REDACTED] and Bangui was 100 kilometres [REDACTED] (see T-083, p. 3, lines 10-20). The Chamber further notes that P-1521’s testimony about Andjilo joining the Anti-Balaka movement comports with P-0306’s testimony about the circumstances in which Andjilo joined the Anti-Balaka prior to the Bouca attack. For example, both witnesses gave a similar account of how Andjilo’s family members were killed by the Seleka and how Andjilo recuperated a firearm left behind by the Seleka during a fight. See P-0306, T-064, p. 13 – p. 18, line 6, p. 23, line 13 – p. 24, line 10. In the view of the Chamber, Andjilo’s movement to Bangui after the Bouca attack [REDACTED] is not contradictory to him having joined the Anti-Balaka earlier for personal reasons. In that respect, the Chamber does not consider that P-1521’s testimony contradicts that of P-0306.

⁵⁵⁴² P-0966: T-117, p. 41, line 21 – p. 42, line 10.

⁵⁵⁴³ P-0966: T-117, p. 41, line 21 – p. 42, line 10.

⁵⁵⁴⁴ P-0889: T-109, p. 16, line 13 – p. 17, line 24. See also T-111, p. 21, line 9 – p. 22, line 5.

put him in contact with Maxime Mokom; Maxime Mokom confirmed later he had contacted Konaté, sent him to Andjilo's group 'before Damara' and he had safely reached them.⁵⁵⁴⁵

2158. As regards who instructed Andjilo to advance to Bangui, the Chamber notes that P-0306 had understood that it was on Mr Ngaïssona's instructions, relayed through [REDACTED], that Andjilo had gone to Bangui, and this understanding appeared to be based on Mr Ngaïssona being their 'leader' and 'general coordinator' after their arrival in Bangui.⁵⁵⁴⁶

2159. The Chamber considers that Maxime Mokom sending Konaté does not preclude the possibility that Mr Ngaïssona was in communication with Andjilo himself, [REDACTED], as described by P-0306.

2160. On the basis of the above, the Chamber concludes that Maxime Mokom was in contact with Andjilo before the latter's advance to Bangui. Further, facilitated by Maxime Mokom, Konaté joined Andjilo and his group 100 kilometres away from Bangui before the Bangui Attack.⁵⁵⁴⁷ During Konaté's time with Andjilo's group, the former was in contact with Mr Ngaïssona and would relay messages from him.⁵⁵⁴⁸ Andjilo met Mr Ngaïssona after the Bangui Attack in which the latter acknowledged and accepted the role of a coordinator. In P-0306's understanding of the situation, this meant that it had indeed been Mr Ngaïssona that had sent for Andjilo and his group to move towards Bangui.

2161. While there is no further clarity on the content of the instructions purportedly being relayed from Mr Ngaïssona and Andjilo, the Chamber finds it more telling *how* P-0306 made sense of what was being relayed. In P-0306's mind, there was no doubt after meeting Mr Ngaïssona that Mr Ngaïssona was indeed involved in the coordination and expressed it as such to the Chamber. There was no confusion in P-0306's mind as to his impressions being aligned with what he later learnt. Importantly, to him, Maxime Mokom's or Konaté's communications with Andjilo did not exclude, or otherwise, compete with that of Mr Ngaïssona.

⁵⁵⁴⁵ P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1070, para. 75.

⁵⁵⁴⁶ P-0306: T-064, p. 64, line 22 – p. 66, line 17.

⁵⁵⁴⁷ See also paragraphs 964, 967-968, 1191 above.

⁵⁵⁴⁸ See section IV.B.1.xi. below.

2162. Having regard to the above, the Chamber finds that Konaté instructed Andjilo to advance to Bangui. On the basis of the evidence before it, the Chamber is unable to conclude whether this instruction, at the time, emanated from Mr Ngaïssona himself. Nonetheless, the Chamber finds that Konaté was relaying messages between Mr Ngaïssona and Andjilo's group.

2163. Turning to the descent to Bangui, P-0306 said that they made their way from Bouca to Bangui by foot and would fight 'the Seleka' if they came across them.⁵⁵⁴⁹ P-0306 recalled [REDACTED], arriving at the back side of the hills in Bangui where they waited for about a month for war materiel to be brought to them [REDACTED], and entering Bangui early morning on 5 December 2013.⁵⁵⁵⁰

2164. P-0975, who was part of one of the groups descending from Gobere,⁵⁵⁵¹ said that the Anti-Balaka groups progressed at a different pace in the provinces while coming to Bangui,⁵⁵⁵² and described how his group walked through the bush to Bogangolo, Gbozo and Damara to arrive at the hill behind Boy-Rabe in Bangui.⁵⁵⁵³ His group, [REDACTED], 'freeing villages from the Seleka on their way to the capital'.⁵⁵⁵⁴

2165. Witnesses described how other groups at different locations in the provinces joined or followed Andjilo's group towards Bangui through Damara.

2166. P-2251, who was an element for some time in [REDACTED] group,⁵⁵⁵⁵ said that after the clashes at Bogangolo and Boban, they met both young civilians and FACA soldiers who had come from Bangui [REDACTED], and who told them that the situation in Bangui was such that many soldiers left Bangui to come to the villages and that the Seleka were targeting FACA and killing them.⁵⁵⁵⁶ According to P-2251, who heard about the plan to descend to Bangui from people who came to buy salt, sugar and coffee,⁵⁵⁵⁷ this was why Thierry

⁵⁵⁴⁹ P-0306: T-064, p. 66, line 25 – p. 68, line 2.

⁵⁵⁵⁰ P-0306: T-064, p. 65, line 23 – p. 66, line 8, p. 68, lines 3-9, p. 69, line 20 – p. 71, line 4.

⁵⁵⁵¹ P-0975 Statement, CAR-OTP-2033-7885-R02, at 7889, para. 28.

⁵⁵⁵² P-0975 Statement, CAR-OTP-2033-7885-R02, at 7890, para. 38.

⁵⁵⁵³ P-0975 Statement, CAR-OTP-2033-7885-R02, at 7890, para. 37.

⁵⁵⁵⁴ P-0975 Statement, CAR-OTP-2033-7885-R02, at 7890, paras 32, 35-36.

⁵⁵⁵⁵ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0050-51, para. 35.

⁵⁵⁵⁶ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0056, para. 71.

⁵⁵⁵⁷ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0056, para. 73.

Lebene's group decided to leave and travel on foot through the bush to Bangui.⁵⁵⁵⁸ P-2251 said that at first Thierry Lebene did not want to leave Bogangolo, but when people told him that many people were being attacked in Bangui, Lebene agreed to 'help to drive the Seleka out'.⁵⁵⁵⁹

2167. P-2251 said that Andjilo also came to Bogangolo and wanted to descend to Bangui and fight there.⁵⁵⁶⁰ P-2251 said that Andjilo then spoke to P-2251's chiefs [REDACTED], and continued towards Damara with the people who had fled Bangui and who were now returning to Bangui to attack; P-2251 said that, for a while he himself stayed in [REDACTED] but was then told by his chief [REDACTED] that they too had to go to Bangui to 'help their brothers'.⁵⁵⁶¹ P-2251's group walked down to Bogoin and on to Benima.⁵⁵⁶²

2168. When P-2251 arrived in Benima, he saw that Andjilo, [REDACTED], all of whom had their own groups,⁵⁵⁶³ were already there and [REDACTED] joined them there later.⁵⁵⁶⁴ According to P-2251, some groups from Benima stayed in the Bossembélé area,⁵⁵⁶⁵ while others left Benima at different times to go to Bangui, the first and biggest group being led by Andjilo.⁵⁵⁶⁶ P-2251's group, led by [REDACTED] at the time, [REDACTED] establishing a base at Kpata, near Nguito,⁵⁵⁶⁷ close to Bangui.⁵⁵⁶⁸

b. Bouar – Bossembélé – Boali axis

2169. The Chamber now turns to the Anti-Balaka elements advancing to Bangui along the Bouar – Bossembélé – Boali axis. The Prosecution submits that, on 24 November 2013,

⁵⁵⁵⁸ P-2251: T-043, p. 27, lines 1-10.

⁵⁵⁵⁹ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0056, para. 72.

⁵⁵⁶⁰ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0056, para. 73.

⁵⁵⁶¹ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0057, para. 74.

⁵⁵⁶² P-2251 Statement, CAR-OTP-2093-0045-R01, at 0057, para. 75; Map, CAR-OTP-2093-0083.

⁵⁵⁶³ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0057, para. 79. P-2251 said that all of these people reported to Andjilo, and while he did not see him give them orders, he thought that Andjilo was their chief because of the respect that other chiefs showed him (see para. 80).

⁵⁵⁶⁴ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0057, para. 76.

⁵⁵⁶⁵ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0057, para. 76.

⁵⁵⁶⁶ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0057, para. 79.

⁵⁵⁶⁷ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0057, paras 78-79, 81; Map, CAR-OTP-2093-0083.

⁵⁵⁶⁸ P-2251 said that FACA members continued to join them along the way to Kpata and named a few (see P-2251 Statement, CAR-OTP-2093-0045-R01, at 0058, para. 86).

Mr Ngaïssona ‘ordered’ elements in Bouar, Emtenou and Danboy being among them, to reach Bossembélé in three days.⁵⁵⁶⁹ The Ngaïssona Defence argues that there is insufficient evidence to prove that Mr Ngaïssona instructed elements from Bouar to reach Bossembélé and the related Facebook allegations are ‘nothing more than anonymous hearsay’.⁵⁵⁷⁰

2170. The Chamber recalls P-2673’s evidence concerning the movement of elements and resources from Garam-Boulai to Bouar.⁵⁵⁷¹ In particular, P-2673 stated that Mr Ngaïssona sent ‘some military men’ from Yaoundé to Garam-Boulai and on to Bouar.⁵⁵⁷² P-2673 [REDACTED] that they had all received money to go there from Mr Ngaïssona through ‘Mokom père’; P-2673 stated that he did not know how many men were supposed to go to Bouar – ‘whoever wanted to go, could go’.⁵⁵⁷³ P-2673, asked where those from Bouar went after the attack there,⁵⁵⁷⁴ stated that, according to the information that he had, they were not able to chase the Seleka from Bouar so they stayed ‘somewhere in the bush’.⁵⁵⁷⁵ P-2673 also stated that [REDACTED] ‘Bozizé’ had called Yambété to tell Konaté to wait for ‘those from Bouar and Bossangoa to join those in Bangui before the attack’.⁵⁵⁷⁶

2171. This suggests that elements from Bouar may have joined the Bangui Attack. However, there is no other evidence showing that the elements that participated in the Bouar attack indeed travelled along the Boali axis to arrive in Bangui for the Bangui Attack.

⁵⁵⁶⁹ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 205.

⁵⁵⁷⁰ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 522-524.

⁵⁵⁷¹ See section IV.A.6.iii.d above.

⁵⁵⁷² P-2673 Statement, CAR-OTP-2127-6435-R01, at 6443, para. 54, at 6460-61, para. 168; P-2673: T-041, p. 23, line 16 – p. 24, line 14, p. 36, lines 4-9. P-2673 named Didier Danboy and ‘Emtenou’ as persons that left to go to Bouar. He also explained that there were three ‘Emtenou’, one of whom continued fighting ‘until Boali’ and did not return ‘like the others’; Hector Emtenou was in Yaoundé and Kambassio Emtenou went towards Bouar (see P-1719: T-041, p. 34, line 23 – p. 35, line 10). P-1719 said that a person called ‘Armel Emtenou and Pessere Jules’ were in charge of the Anti-Balaka in Bouar (see P-1719: T-142, p. 29, lines 4-8).

⁵⁵⁷³ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6444, para. 56, at 6460-61, para. 168. P-2673 was himself one of those that received money to go to Garam-Boulai; and while he did not personally receive the money from Mr Ngaïssona, he said that it was ‘Mokom father’ who said that it was Mr Ngaïssona who gave that money. [REDACTED] (see P-2673: T-042, p. 25, line 22 – p. 26, line 13, p. 71, line 24 – p. 73, line 10).

⁵⁵⁷⁴ See section IV.A.6.iii.d above.

⁵⁵⁷⁵ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6461, para. 171.

⁵⁵⁷⁶ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6461, para. 173; P-2673: T-041, p. 50, lines 3-9; T-042, p. 50, line 2 – p. 51, line 13.

2172. The Chamber now turns to elements from Boali and Bossembélé travelling to participate in the Bangui Attack.⁵⁵⁷⁷ The Prosecution submits that the Anti-Balaka group led by Dedane attacked a Muslim camp near Boali on 3 December 2013 on their way from Bossangoa to Bangui.⁵⁵⁷⁸

2173. P-1847 said that [REDACTED] at the time to confirm that the latter had been involved in the Boali attack.⁵⁵⁷⁹ P-0975 placed Dedane in Boali when ‘Andjilo was the chief commanding the defence revolt in Bangui’.⁵⁵⁸⁰ Whereas P-2658 talked about being [REDACTED], but placed it around the time of the Bouca attack and did not appear to be referring to an attack on Boali in December 2013.⁵⁵⁸¹

2174. Having regard to this, the Chamber finds that Dedane was in Boali, at the very least, before the Bangui Attack.⁵⁵⁸²

2175. The Chamber notes that P-1521 said generally that he was aware of some people who took the Bouca-Bangui route whereas others ‘went on the road to Gobéré-Bossembélé to go to Bangui’.⁵⁵⁸³

2176. The Chamber notes that there is also evidence generally suggesting that elements from Boali or Bossembélé were present among those that participated in the Bangui Attack. P-0884 said when Maxime Mokom called him, he told him that men were on their way, ‘some at Boali’, others at PK26 and that ‘the Anti-Balaka were on their way to liberate’ them.⁵⁵⁸⁴ P-0884 also generally stated that Anti-Balaka movement was made up of different individuals coming from different areas, including ‘Bouar’,⁵⁵⁸⁵ but did not provide any further detail on the movement of people from Bouar – Boali axis for the Bangui Attack. P-0884 said that Richard

⁵⁵⁷⁷ See also section IV.A.6.iii.e above.

⁵⁵⁷⁸ Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, para. 220.

⁵⁵⁷⁹ P-1847: T-023, p. 89, line 20 – p. 90, line 8. The Chamber notes that the Prosecution also submitted that CDR, CAR-OTP-2112-1513 shows that Dedane reached Boali by 3 December 2013 at the latest. The Chamber cannot arrive at this conclusion only from this CDR and has instead relied on P-1847 to place Dedane in Boali before the Bangui Attack.

⁵⁵⁸⁰ P-0975 Statement, CAR-OTP-2033-7885-R02, at 7891, para. 39.

⁵⁵⁸¹ P-2658: T-134, p. 24, line 23 – p. 25, line 4; T-135, p. 8, lines 18-24.

⁵⁵⁸² See also paragraphs 1471-1478 below.

⁵⁵⁸³ P-1521: T-081, p. 12, line 19 – p. 13, line 1, p. 46, lines 10-25.

⁵⁵⁸⁴ P-0884: T-055, p. 48, lines 14-24.

⁵⁵⁸⁵ P-0884: T-057, p. 4, line 7 – p. 5, line 6 referring to Transcript, CAR-D29-0008-0002, at 01:19-01:43.

Bejouane was from Boali,⁵⁵⁸⁶ but it is not known whether he necessarily travelled through the Boali axis. The Chamber notes that P-1339 said that generally ‘people of Bossangoa and Bossembele, the elements of Yaloke’ joined his group in Projet.⁵⁵⁸⁷ He also seemed to think that ‘Gobere 2 are the elements coming from Bossembele’.⁵⁵⁸⁸

2177. Apart from this, Thierry Lebene has been shown to be present in Bossembélé, on the Bouar-Boali axis. P-2602’s evidence pointed to Thierry Lebene and others obtaining weapons from Bossembélé, after which they continued towards Bangui.⁵⁵⁸⁹

2178. P-2602 [REDACTED] trips to Bossembélé before the Bangui Attack to obtain weapons and ammunition; during the first trip, [REDACTED] obtained AK47 guns and in the second, [REDACTED] obtained ammunition prior to the Bangui Attack.⁵⁵⁹⁰ As regards the second trip, P-2602 said that [REDACTED] met Dedane in Boguina, where they discussed, after which [REDACTED] went to Bossembélé looking for ammunition and managed to obtain AK47 ammunition and grenades, which [REDACTED] shared with ‘Bejouane’, who ‘headed towards Bangui’, while [REDACTED] headed back to Bossangoa for the attack on 5 December 2013.⁵⁵⁹¹ P-2602 stated that [REDACTED] knew that weapons were stored in Bossembélé and was in contact with people from whom [REDACTED] could get some; they recovered 30 AK-47s, which they worked with in the field; they also had DKM, RPG,

⁵⁵⁸⁶ P-0884: T-055, p. 24, line 23 – p. 25, line 20 *referring to* Press release, CAR-OTP-2060-0596.

⁵⁵⁸⁷ P-1339: T-152, p. 77, lines 3-14, p. 79, line 9-19.

⁵⁵⁸⁸ P-1339: T-152, p. 80, lines 6-13. *See also* paragraph 433 above.

⁵⁵⁸⁹ P-2602 Interview Transcript, CAR-OTP-2118-9714-R01, at 9717-18, lines 97-123. P-1847 evidence also pointed to the existence of weapons in Bossembélé that were then collected when the groups were moving towards Bangui. P-1847 said that some soldiers of the PG had remained in Bozizé’s village in Boguissi and Bossangoa centre; there was a strong base with weapons which had been abandoned there and in Bossembélé, so they collected that materiel, and under coordination of ‘Mokom’ and ‘Sgt Dedane’, they organised themselves to join the Anti-Balaka civilians with their hunting guns to launch attacks on the Seleka after attacks on the city of Bossangoa and other places, as they moved towards Bangui; they got to PK26 and stopped for a bit, and then attacked on 5 December in the morning (*see* P-1847: T-023, p. 91, line 16 – p. 92, line 3).

⁵⁵⁹⁰ P-2602 Interview Transcript, CAR-OTP-2118-9714-R01, at 9716-20, lines 55-206.

⁵⁵⁹¹ P-2602 Interview Transcript, CAR-OTP-2118-9641-R01, at 9657-59, lines 538-609.

mortars which they retrieved from Seleka after combat.⁵⁵⁹² Thierry Lebene later participated in the Bangui Attack.⁵⁵⁹³

2179. Having regard to the above, the Chamber infers that Dedane and Thierry Lebene travelled from locations such as Boali and Bossembélé respectively to Bangui before the Bangui Attack. Further, the exact route that Dedane and Thierry Lebene took to reach Bangui is not known nor of any consequence. From the evidence on the record, there is no indication that either Dedane or Thierry Lebene were otherwise involved in the Bouar attack.

2180. The Chamber notes that the Prosecution points to Facebook exchanges to assert that elements were deployed from Yaoundé to Bouar, from Bouar to Bossembélé to join the elements on the Bossangoa-Ndjo axis to participate in the Bangui Attack.⁵⁵⁹⁴ Having reviewed these exchanges in light of the information discussed herein, and recalling its general conclusions on Facebook material, the Chamber draws no conclusions on that basis alone as to whether this movement of elements did take place.

2181. In light of this, the Chamber cannot conclude that Mr Ngaïssona instructed elements from Bouar to reach Bossembélé in advance of the Bangui Attack. In reaching this conclusion, the Chamber found inconclusive the Facebook material referred by the Prosecution.⁵⁵⁹⁵

c. From Gbangba, M’Poko and Bimbo

2182. At the same time, similar movements towards Bangui were taking place in the south with groups forming and joining in the countryside and making their way to Bangui. This included

⁵⁵⁹² P-2602 Interview Transcripts, CAR-OTP-2118-9525-R01, at 9538-41, lines 434-533; CAR-OTP-2118-9641-R01, at 9657-60, lines 543-645. The Chamber notes the Ngaïssona Defence argument that P-2602’s evidence in this respect is inconsistent with his own evidence and that of P-0966 (see Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, para. 219). The Chamber does not find P-2602’s evidence concerning these [REDACTED] trips inconsistent. [REDACTED]

⁵⁵⁹³ See section IV.B.1.v.b, paragraph 2362 below.

⁵⁵⁹⁴ Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, para. 210, n. 410.

⁵⁵⁹⁵ Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, paras 205-206, 210, 219 *referring, inter alia*, to Facebook messages, CAR-OTP-2101-8987, at 8998; CAR-OTP-2102-2520, at 2689; CAR-OTP-2101-9451, at 9583-84; CAR-OTP-2100-6685, at 6734-35; CAR-OTP-2102-5471, at 5633-34; CAR-OTP-2099-7606, at 7672-73; CAR-OTP-2133-7723, at 7782-84; CAR-OTP-2101-8921, at 8951; CAR-OTP-2101-6428, at 6449.

the group of Mr Yekatom from Gbangba,⁵⁵⁹⁶ and [REDACTED] from Bimbo. At the same time, within Bangui, a group gathered close to the M’Poko airport.⁵⁵⁹⁷

2183. As regards the group in Bimbo, the Chamber received evidence from P-0954, P-0876, and P-1858.⁵⁵⁹⁸ The Chamber notes that this group was founded by Léopold Bara and Basile Mbomon (hereinafter: ‘Mbomon’), who was a FACA member.⁵⁵⁹⁹ They set up a camp in the bush in Ngoulanga (also spelt Ngulanga) at the bank of M’Poko river in Bimbo.⁵⁶⁰⁰ This group was referred to as FRAPPE (*‘Front de Résistance Pour l’Alternance Pour Le Peuple Centrafricain’*) before the Bangui Attack,⁵⁶⁰¹ composed of other FACA members⁵⁶⁰² and civilians.⁵⁶⁰³

2184. [REDACTED] joined this group and recalled being in the bush intermittently from September to November 2013.⁵⁶⁰⁴ This group was considered as an ‘Anti-Balaka’ group by those outside of this group.⁵⁶⁰⁵ As per [REDACTED], this group intended to attack Bangui from their location in Bimbo on ‘6th December 2013’.⁵⁶⁰⁶

d. Crossing over from Zongo

2185. The Prosecution argues that Maxime Mokom ‘deployed Anti-Balaka elements from Zongo to Bangui in preparation for the attack’, who then joined the Anti-Balaka from Gobere

⁵⁵⁹⁶ See sections IV.B.2.iii–IV.B.2.iv below. See also sections IV.B.2.i–IV.B.2.ii below.

⁵⁵⁹⁷ P-0884: T-056, p. 9, line 23 – p. 10, line 3.

⁵⁵⁹⁸ The Chamber has considered the discrepancies between P-1858’s and P-0954’s account concerning events around the Bangui Attack. [REDACTED]. Further, the Chamber has considered P-0876’s evidence in which he described a meeting with [REDACTED] on the hill in November 2013, [REDACTED] (see P-0876, p. 25, line 12-24, p. 31, line 22 – p. 32, line 7, p. 39, line 17 – p. 40, line 11). See also footnote 5765 below. P-0954 also acknowledged, when asked, that there were several phone calls [REDACTED] on 4 and 5 December 2013 because [REDACTED] (see P-0954: T-167, p. 46, line 24 – p. 47, line 4). Having assessed the above in its totality, the Chamber has no doubt that there was at least one group present in Bimbo that was expecting to participate in the Bangui Attack from the direction of Bimbo. In the view of the Chamber, whether Basile Mbomon visited Kpata before or after the Bangui Attack is not material with respect to finding that his group was present in Bimbo prior to the Bangui Attack.

⁵⁵⁹⁹ P-1858 Statement, CAR-OTP-2063-0050-R04, at 0056, para. 33.

⁵⁶⁰⁰ P-1858 Statement, CAR-OTP-2063-0050-R04, at 0055, para. 28.

⁵⁶⁰¹ [REDACTED]

⁵⁶⁰² P-1858 Statement, CAR-OTP-2063-0050-R04, at 0055, paras 30-31.

⁵⁶⁰³ P-1858: T-185, p. 70, line 24 – p. 71, line. 6, p. 73, lines 2-11.

⁵⁶⁰⁴ [REDACTED]

⁵⁶⁰⁵ P-1858: T-185, p. 69, line 18 – p. 70, line 5.

⁵⁶⁰⁶ [REDACTED]

behind the Boy-Rabe hill.⁵⁶⁰⁷ The Ngaïssona Defence submits that the Prosecution has failed to present evidence that remotely supports its allegation that Mr Ngaïssona took steps ‘to structure the Anti-Balaka and FACA in the Zongo area’.⁵⁶⁰⁸

2186. The Chamber notes that witnesses Brice Emotion Namsio and P-2232 were among those in Zongo at the time and who crossed over to Bangui to participate in the Bangui Attack, facilitated by Maxime Mokom.⁵⁶⁰⁹

2187. P-2232 said that Maxime Mokom asked people in Zongo to cross over to Bangui, towards Saint Paul, after which they went up to Ndress to get to ‘their various bases’.⁵⁶¹⁰ P-2232 explained how they crossed the river from Zongo to Bangui and how many persons crossed to participate in the attack.⁵⁶¹¹ P-2232 named, among others, Lieutenant Bruno Semdiro and Brice Emotion Namsio, as soldiers that crossed from Zongo to Bangui to participate in the Bangui Attack.⁵⁶¹² He indicated that civilians also joined them and crossed to Bangui to participate in the fights.⁵⁶¹³ P-2232 said that [REDACTED].⁵⁶¹⁴ P-2232 said that [REDACTED].⁵⁶¹⁵ P-2232 said that there were quite a lot of civilians in the Anti-Balaka, so the intention was to coordinate the Bangui Attack (*‘sur le mouvement anti-balaka, il y avait beaucoup plus que des... des civils, donc, l’intention, c’était de coordonner l’attaque du 5 décembre’*).⁵⁶¹⁶

⁵⁶⁰⁷ Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, para. 226. The Chamber notes that the Prosecution appears to suggest that ‘Eusèbe Emtenu and [REDACTED]’ were ‘deployed from Zongo to Damara’ citing to P-2269’s statement and three Facebook messages, namely, CAR-OTP-2102-2520, at 2687; CAR-OTP-2102-3014, at 3089; CAR-OTP-2102-6552, at 6578-79. From P-2269’s evidence, the Chamber notes that neither individual is shown to have been part of the elements that joined from Zongo to Damara. Further, the Chamber finds it insufficient to solely rely on Facebook material to make any conclusions in this regard about the movements of a certain ‘euzeb’.

⁵⁶⁰⁸ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 456.

⁵⁶⁰⁹ Witnesses have also named other individuals that went from Zongo to Bangui at this time (see P-2027 Statement, CAR-OTP-2078-0059-R03, at 0076, para. 97; P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1070-71, para. 78; see also P-1521: T-080, p. 52, line 17 – p. 55, line 17).

⁵⁶¹⁰ P-2232: T-076, p. 21, lines 1-14.

⁵⁶¹¹ P-2232: T-076, p. 21, line 22 – p. 22, line 19.

⁵⁶¹² P-2232: T-076, p. 22, lines 9-19.

⁵⁶¹³ P-2232: T-076, p. 22, lines 9-19.

⁵⁶¹⁴ P-2232: T-076, p. 21, line 22 – p. 22, line 8.

⁵⁶¹⁵ P-2232: T-075, p. 46, lines 12-19.

⁵⁶¹⁶ P-2232: T-075-ENG, p. 46, lines 20-21 ; T-075-FRA, p. 46, lines 7-9.

2188. Brice Emotion Namsio said that, in November 2013, after hearing that those in the hinterland who had left for Bangui to attack the Seleka and defend the country, had reached the hill behind Boy-Rabe, he crossed back over from Zongo.⁵⁶¹⁷

2189. Jacob Mokpem-Bionli recalled having ‘a lot of contact’ with Brice Emotion Namsio after the latter crossed from Zongo to Bangui and being connected with them when they were behind the hill in Boy-Rabe,⁵⁶¹⁸ where the group from Zongo had camped to organise themselves to attack the Seleka.⁵⁶¹⁹ Jacob Mokpem-Bionli stated that the people from the provinces arrived first and information was given to the people from across river Oubangui to join; the witness recalled the names ‘Ndangba from Bossangoa’ and ‘Yvon Konaté, a FACA soldier who was close to Bozizé’; and also recalled that there were also people from Ombella-M’Poko going towards Lobaye who were from the forest area.⁵⁶²⁰

2190. Having regard to the above, the Chamber concludes that Maxime Mokom deployed certain FACA members who were in Zongo to cross over to Bangui in November 2013. They then gathered on the hill behind Boy-Rabe in advance of the Bangui Attack and participated in it.

2191. The Chamber notes that Mr Yekatom was also in Zongo at the end of 2013 but crossed over separately to form his group and set up a base in Gbangba.⁵⁶²¹

iii. Level of communication between the Anti-Balaka chiefs across the various groups during their advance to Bangui

2192. Turning to the third indicator of coordination, as set out below, the Chamber finds that members of these Anti-Balaka groups were in communication with each other about their location, size, and operational needs during their movement from the provinces to Bangui prior to 5 December 2013.

⁵⁶¹⁷ P-0446 Interview Transcript, CAR-OTP-2059-1433-R01, at 1445-46, lines 459-473; P-0446: T-096, p. 34, lines 9-25.

⁵⁶¹⁸ P-0992: T-092-ENG, p. 47, line 23 – p. 48, line 7; T-092-FRA, p. 47, lines 6-17.

⁵⁶¹⁹ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0056, para. 41. *See also* section IV.B.1.v.a below.

⁵⁶²⁰ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0055, para. 35.

⁵⁶²¹ *See* sections IV.B.2.i–IV.B.2.iii below; P-2232: T-075, p. 40, line 18 – p. 41, line 5.

a. Communications between ‘chiefs’ on the ground

2193. Chiefs in the provinces and those in Zongo were in regular contact with each other *before* their groups began their descent to Bangui.⁵⁶²² For example, P-2269, who was in Zongo [REDACTED], said that he would call Andjilo [REDACTED] and they ‘spoke [REDACTED].’⁵⁶²³ [REDACTED].⁵⁶²⁴ P-2269 also describes meeting and discussing with other chiefs in Gobere on what to do, receiving information from informants, listening to the radio, deciding to go to Bangui, and discussing tactics.⁵⁶²⁵

2194. Similarly, P-2602 was in communication with ‘[REDACTED]’, asking if they met with the mercenaries on the way, if anything happened to them, and then told them they would meet in Gobere.⁵⁶²⁶ P-2602 said that, while in Gobere, they sent messages to the small villages around, to the chiefs of villages and through the self-defence groups, to tell them that they were children of the country, ‘we would like to defend’, ‘we are not mercenaries’, and asking to supply them with food and ‘those children who think that they are strong and they can defend their country’, and to let them join him in Gobere.⁵⁶²⁷

2195. P-2232 explained that whenever ‘Dedane’ heard that a self-defence group had been formed in a village, he would try to contact the leader of that group ‘to organise the members and link them up with Mokom’.⁵⁶²⁸ He indicated that ‘that is how a chain or a network developed’.⁵⁶²⁹

⁵⁶²² See sections IV.A.2.ii, IV.A.4.i.b–IV.A.4.i.c above.

⁵⁶²³ P-2269 said that he knew Andjilo [REDACTED]. See P-2269 Statement, CAR-OTP-2111-0336-R01, at 0343, para. 48.

⁵⁶²⁴ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0342, para. 46.

⁵⁶²⁵ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0343, paras 51-53.

⁵⁶²⁶ P-2602 Interview Transcript, CAR-OTP-2118-9579-R01, at 9592, lines 427-438.

⁵⁶²⁷ P-2602 Interview Transcripts, CAR-OTP-2118-9579-R01, at 9593, lines 463-479; CAR-OTP-2118-9598-R01, at 9608-10, lines 329-412.

⁵⁶²⁸ P-2232: T-075, p. 53, line 25 – p. 54, line 23.

⁵⁶²⁹ P-2232: T-075, p. 53, line 25 – p. 54, line 13.

2196. P-2658 said that Dedane was in the habit of calling Andjilo over the telephone after Andjilo left for Bouca,⁵⁶³⁰ appeared to know of Andjilo's movements,⁵⁶³¹ instructing and informing him about plans and locations.⁵⁶³²

2197. In assessing the frequency and the quality of communication that was possible amongst the various groups and their chiefs before and during their descent to Bangui, the Chamber also considered the circumstances in which such communication was taking place. For example, some witnesses have described the difficulty in accessing telephone networks in the bush. P-2251 said that there was no possibility of telephone communication in the bush because there were no networks; it was only until they reached Bangui on 5 December that people started having telephones to be able to communicate.⁵⁶³³ P-1521, a combatant in Andjilo's group, agreed that before the Bangui Attack, he did not have any communication tools, including a Thuraya.⁵⁶³⁴ P-2027, a senior FACA member [REDACTED],⁵⁶³⁵ and they were calling him from Bossangoa because that is where they could pick up a phone signal, but they had no more phone contact until after they reached Bangui.⁵⁶³⁶

2198. Evidence suggests that despite possible difficulties in finding network coverage, the chiefs continued to communicate with each other about strategic information. According to P-2602, Dedane was coordinating, he had his men guarding him and was somewhere where there was network and he was always communicating; if one in their area was victorious, one called him to inform him that one was in control of the area, but if in difficulty, one would let him know and he would call another group to come support.⁵⁶³⁷ Dedane was with them

⁵⁶³⁰ P-2658: T-135, p. 45, lines 3-15.

⁵⁶³¹ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0030, para. 116; P-2658 Corrections, CAR-OTP-2135-3476-R01, at 3486, para. 116, at 3490; P-2658: T-134, p. 49, lines 9-19. The Chamber notes the witness's source of information. According to P-2658, Dedane told their group that he was speaking with Andjilo on the phone and the witness could hear him speak to Andjilo (see P-2658 Statement, CAR-OTP-2126-0012-R02, at 0030, para. 117). P-2658 also described standing next to Dedane when he was on the telephone receiving information about the Bouca attack (see P-2658: T-135, p. 61, lines 2-9).

⁵⁶³² P-2658 Statement, CAR-OTP-2126-0012-R02, at 0030-31, para. 118.

⁵⁶³³ P-2251: T-044, p. 8, line 15 – p. 9, line 5.

⁵⁶³⁴ P-1521: T-082, p. 77, lines 16-19. See also P-0306: T-064, p. 55 lines 1-7.

⁵⁶³⁵ P-2027 Statement, CAR-OTP-2078-0059-R03, at 0076, para. 100.

⁵⁶³⁶ P-2027 Statement, CAR-OTP-2078-0059-R03, at 0076, para. 101.

⁵⁶³⁷ P-2602 Interview Transcript, CAR-OTP-2118-9598-R01, at 9602, lines 115-123.

in the bush but always where there was network coverage; they had a number of regular cell phones to communicate, [REDACTED].⁵⁶³⁸

2199. During their descent to Bangui, chiefs of the various Anti-Balaka groups communicated with each other, sometimes in person, along the way to exchange information.⁵⁶³⁹ For example, when [REDACTED], he stopped at Bogangolo to give instructions to those ‘coming from Bouca before they could continue to Bangui’, including that they were ‘not to attack Damara’ but ‘leave straight for Bangui’, as the group that was in Sibut would attack Damara; [REDACTED] those who had come from Bouca had walked for a long distance and were tired, and had among them ‘those who knew their thing very well’ and they ‘had to maintain the energy in order to attack the capital’.⁵⁶⁴⁰ P-2602 stated that they were all heading to Bangui.⁵⁶⁴¹

2200. The Chamber notes that some information about the attacks and movements was being relayed to those in Bangui.⁵⁶⁴² For example, P-1847 said that [REDACTED], would call him and give him information about Dedane’s movements and attacks that he was involved in.⁵⁶⁴³ P-1847 also received information from [REDACTED] and others.⁵⁶⁴⁴

b. Communications with Maxime Mokom

2201. Evidence shows that Maxime Mokom, who was in Zongo at the time, was keeping abreast of the situation in the CAR as it was evolving prior to December 2013.⁵⁶⁴⁵

2202. Maxime Mokom was communicating with the Anti-Balaka chiefs of the groups *before* they began descending from the Bossangoa area and Zongo.⁵⁶⁴⁶ The chiefs, including Dedane and

⁵⁶³⁸ P-2602 Interview Transcript, CAR-OTP-2118-9598-R01, at 9603-06, lines 172-269.

⁵⁶³⁹ See further paragraphs 2166-2168 above.

⁵⁶⁴⁰ P-2602 Interview Transcript, CAR-OTP-2118-9525-R01, at 9537-38, lines 403-433.

⁵⁶⁴¹ P-2602 Interview Transcript, CAR-OTP-2118-9525-R01, at 9537, lines 390-392.

⁵⁶⁴² See e.g. paragraphs 2203, 2128, 2137, 2239 below. See generally section IV.B.1.viii below.

⁵⁶⁴³ P-1847: T-023, p. 89, line 20 – p. 91, line 7, p. 92, lines 4-13. See also P-1847: T-023, p. 31, line 25 – p. 36, line 12.

⁵⁶⁴⁴ P-1847: T-023, p. 91, lines 8-14.

⁵⁶⁴⁵ P-0884: T-055, p. 17, line 13 – p. 18, line 5, p. 21, line 9 – p. 22, line 16.

⁵⁶⁴⁶ P-0446 Interview Transcripts, CAR-OTP-2059-1433-R01, at 1445, lines 459-468 (*‘on était informés’*); CAR-OTP-2059-1498-R02, at 1517, lines 706-711 (*‘peut-être c’est lui qui peut nous communiquer le nom [...]’*), at 1518, lines 740-748 (*‘c’est lui qui nous a informé’*); CAR-OTP-2059-1523-R01, at 1535, lines 424-439; P-0446: T-097, p. 60 line 6 – p. 61, line 3.

P-2269, on the other hand were relaying information to Maxime Mokom about their actions and movements before they began descending to Bangui.⁵⁶⁴⁷ Maxime Mokom put in touch FACA members from Zongo with elements in the Bossangoa region before the groups began descending to Bangui.⁵⁶⁴⁸ Maxime Mokom was also in communication with FACA members in Zongo *before* they crossed over to Bangui in advance of the Bangui Attack.⁵⁶⁴⁹ Maxime Mokom was in regular contact with the elements in the provinces, including Anti-Balaka chiefs, to guide the movement of various groups to Bangui up until 5 December 2013.⁵⁶⁵⁰

2203. Maxime Mokom continued to have regular contact with P-0884, who was in Bangui, until the Bangui Attack.⁵⁶⁵¹ P-0876 communicated with Maxime Mokom prior to 5 December 2013 about the purpose and the scope of the attack.⁵⁶⁵² Maxime Mokom was also in communication with Ngremangou prior to the Bangui Attack.⁵⁶⁵³

⁵⁶⁴⁷ See for example P-2269 Statement, CAR-OTP-2111-0336-R01, at 0343, para. 54, at 0347, paras 78-79, at 0343, para. 55; P-0966 Statement, CAR-OTP-2031-0241-R03, at 0247, para. 34. See also P-2027 Statement, CAR-OTP-2078-0059-R03, at 0075, para. 93, at 0076, para. 102, at 0083-84, paras 147-148.

⁵⁶⁴⁸ P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1063-64, paras 29-34.

⁵⁶⁴⁹ P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0302, para. 93, at 0309-10, paras 134-135; P-0992: T-092, p. 6, lines 5-8, p. 46, line 25 – p. 47, line 4; P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0051, para. 12; P-0889 Statement, CAR-OTP-2027-2290-R02, at 2294-95, paras 28-30; P-0889: T-109, p. 38, lines 20-23.

⁵⁶⁵⁰ See section IV.A.2.ii.b above. See also paragraphs 2157-2160. The Anti-Balaka leaders in contact with Maxime Mokom while they were in Zongo included Mokpem Guy-Gervais, Mazimbele, Ngaïbona Rodrigue ‘Andilo’, Ngaïbona Dieudonné (young brother of Andjilo), Dedan Danboy, Yagouzou Sylvestre, Dangba Théophile, Lebene Thierry ‘Douze Puissances’, Ouapoutou Benjamin, Mandago Alexis, Ouabiro Dan Jobrice, Zonie Alain, Konate Yvon, Beorofei Sylvain, Mahamat Hissen, Yapele Chrysostone ‘Chikichiki’, Godonam Achille, Dede Alexandre, Hyppolite Azounou Come. P-0889 knew that Maxime Mokom was in touch with them [REDACTED] (see P-0889: T-109, p. 16, line 13 – p. 17, line 24; see also T-111, p. 21, line 9 – p. 22, line 5; P-0889 Statement, CAR-OTP-2027-2290-R02, at 2295-96, paras 31-32, 34; 2304-05, para. 89; P-0889 Interview Transcript, CAR-OTP-2122-7626, at 7628, lines 42-58, at 7630, lines 132-136; P-2232: T-078, p. 23, line 19 – p. 24, line 12; P-1521: T-082, p. 76, line 16 – p. 77, line 2, p. 77, lines 4-15). In particular, P-0889 heard [REDACTED] ‘Douze Puissances’ aka Thierry Lebene, who was the first to arrive to Bangui, followed by Andjilo and then Tex Teyembe; whereas Ngoyasse Beorofei was towards Boeing and Mr Yekatom was on the south exist of the country (see P-0889 Interview Transcript, CAR-OTP-2122-7626, at 7630, lines 137-147; P-0889: T-109, p. 24, line 20 – p. 25, line 10). The Chamber notes that P-2251 who was himself at the hill said that Thierry Lebene’s group had not arrived when P-2251 got there and that Andjilo’s group was already there. See paragraphs 2166-2168 above. The Chamber finds that this inconsistency between P-0889’s and P-2251’s versions is not material.

⁵⁶⁵¹ P-0884: T-055, p. 47, lines 2-22, p. 48, lines 7-13, p. 69, lines 5-14.

⁵⁶⁵² P-0876: T-085, p. 25, line 6 – p. 30, line 11. See also P-0876: T-086, p. 39, line 6 – p. 40, line 1.

⁵⁶⁵³ P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1071, para. 82; P-2232: T-076-ENG, p. 21, lines 1-14. See also P-2232: T-076-FRA, p. 20, line 13 – p. 21, line 1 where it states ‘Le capitaine Ngrémangou était en contact régulier avec Maxime Mokom. Il était chargé de recruter les militaires qui étaient encore dans la ville de Bangui.’.

2204.P-2232's testimony suggests that there was 'constant telephone contact' between Maxime Mokom and his father and 'people in Cameroon' were informed and could 'supervise the coordination'.⁵⁶⁵⁴

2205.Having regard to the above, the Chamber finds that Maxime Mokom was closely involved in deploying Anti-Balaka elements in preparation for the Bangui Attack and he was in close communication with the Anti-Balaka chiefs during their progression towards Bangui, and coordinated their actions for the Bangui Attack.⁵⁶⁵⁵

c. Communications with Mr Ngaïssona

2206.The Prosecution argues that Mr Ngaïssona continued 'liaising' with members of 'Bozizé's inner circle and key Anti-Balaka leaders in preparing' the Bangui Attack and the Bossangoa Attack.⁵⁶⁵⁶ As regards communications attributed to Mr Ngaïssona in November-December 2013, the Prosecution points, *inter alia*, to P-1719, D30-4848, P-2673, Adrien Poussou and Facebook material. In what follows, the Chamber has assessed witness testimony concerning the contacts between Mr Ngaïssona and others involved in the preparation of the Bangui Attack.⁵⁶⁵⁷

2207.P-2232 provided detailed evidence about the connection between Maxime Mokom, on one side, and Bernard Mokom and Mr Ngaïssona, on the other side, in preparation of the Bangui Attack. In particular, during his testimony, P-2232 was asked about his previous statement according to which Bernard Mokom, Mr Ngaïssona and others such as Levy Yakété reunited in Cameroon and set up 'a [c]risis [o]ffice' to plan how to return to power.⁵⁶⁵⁸ P-2232 explained that [REDACTED] heard from Maxime Mokom that 'they [had] set up a coordination office in Cameroon' at the border area of 'Garam-Boulāi', with a view to attack

⁵⁶⁵⁴ P-2232: T-076, p. 19, line 10 – p. 20, line 11.

⁵⁶⁵⁵ In assessing Maxime Mokom's role, the Chamber has also considered the Facebook messages from his account that concern the movement of elements to Bangui. *See for example* Facebook messages, CAR-OTP-2066-3003, at 3015; CAR-OTP-2102-7677, at 7679; CAR-OTP-2066-3003, at 3059; CAR-OTP-2066-3003, at 3078, 3081-82.

⁵⁶⁵⁶ Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, paras 196-225.

⁵⁶⁵⁷ For a discussion on evidence provided by P-1719, P-2625, and P-2673, *see* sections IV.A.3, IV.A.6.iii.d.

⁵⁶⁵⁸ P-2232: T-075, p. 55, line 25 – p. 56, line 10.

but that the attack did not take place because of ‘misunderstandings between the various teams’, after which ‘they’ handed over the responsibility to Maxime Mokom in Zongo.⁵⁶⁵⁹

2208. P-2232 further explained that after Mr Ngaïssona joined Bernard Mokom in Cameroon, they set up a ‘crisis office’ together with Colonel Mboya, the presidential secretary and ‘other officers’, and a first bureau which was called FROCCA.⁵⁶⁶⁰ P-2232 also indicated that Maxime Mokom was in constant phone contact with those in Cameroon, who ‘also managed the coordination’ and supervised it with the reports they received.⁵⁶⁶¹ P-2232 specified that Maxime Mokom was in contact with his father, Bernard Mokom, [REDACTED], and always gave reports to his father.⁵⁶⁶² According to P-2232, Maxime Mokom was ‘the coordinator of operations’ but ‘they’ actually led the coordination from Cameroon.⁵⁶⁶³ Even when Mr Ngaïssona became general coordinator, ‘the father’, Bernard Mokom, was ‘adviser’ and was always next to Mr Ngaïssona.⁵⁶⁶⁴ P-2232 also indicated that ‘the people of Cameroon’ sent [REDACTED] money to Zongo so that he could procure ammunition for those on the ground, and gave him authorisation to take certain decisions.⁵⁶⁶⁵ P-2232 also indicated that the Bangui Attack was prepared with the money received from Cameroon.⁵⁶⁶⁶

2209. P-0306 seemed to be under the impression that Maxime Mokom and Ngremangou, [REDACTED] after the Bangui Attack, were ‘members of Mr Ngaïssona’s entourage’ and ‘under his authority’.⁵⁶⁶⁷ P-0306 also said that during a meeting at Mr Ngaïssona’s residence after the Bangui Attack, Mr Ngaïssona designated ‘Mokom’ as his ‘assistant’ and

⁵⁶⁵⁹ P-2232: T-075, p. 55, line 25 – p. 57, line 16; T-076, p. 8, lines 17-23. *See also* P-2232: T-078, p. 37, line 17 – p. 41, line 9.

⁵⁶⁶⁰ P-2232: T-076, p. 9, lines 4-15. The Chamber notes P-2232’s testimony that he heard Mr Ngaïssona’s name for the first time *after* the Bangui Attack when the latter introduced himself as the coordinator of the Anti-Balaka and does not give any weight to it. *See* P-2232: T-075, p. 50, line 20 – p. 53, line 1.

⁵⁶⁶¹ P-2232: T-076, p. 19, lines 10-19. P-0889 said that Maxime Mokom [REDACTED] a ‘crisis unit’ set up in Cameroon with which he was collaborating to plan the Bangui Attack. P-0889 indicated that, to his knowledge, Maxime Mokom was the only one fighting, managing the movement, giving money from his own pockets (*see* P-0889: T-109, p. 22, lines 5-16).

⁵⁶⁶² P-2232: T-076, p. 19, line 20 – p. 20, line 11. In contrast, P-0889 said that [REDACTED] (*see* P-0889: T-109, p. 21, line 5 – p. 22, line 4).

⁵⁶⁶³ P-2232: T-076, p. 19, line 20 – p. 20, line 11.

⁵⁶⁶⁴ P-2232: T-076, p. 19, line 20 – p. 20, line 11.

⁵⁶⁶⁵ P-2232: T-078, p. 39, line 5 – p. 40, line 1, p. 41, lines 3-9.

⁵⁶⁶⁶ P-2232: T-075, p. 64, lines 3-9, p. 66, line 1 – p. 68, line 8, p. 69, lines 3-25. P-0889 said that he had not heard of money being sent from Cameroon to Richard Bejouane, and that this would have been a difficult transaction in any event (*see* P-0889: T-109, p. 22, line 17 – p. 23, line 5).

⁵⁶⁶⁷ P-0306: T-064, p. 59, lines 4-14.

Ngremangou as his ‘director of cabinet’.⁵⁶⁶⁸ He described the order of command as being first Mr Ngaïssona, followed by ‘Mokom’ and then by Ngremangou.⁵⁶⁶⁹

2210.P-0306 said that it was [REDACTED] who told Andjilo ‘everything’ and seemed to think that Mr Ngaïssona was in contact with [REDACTED] and ‘Konaté’ by telephone.⁵⁶⁷⁰ When Konaté received calls or was communicating with Mr Ngaïssona, [REDACTED] was present; and when their communication ended, [REDACTED] would tell them that it was Mr Ngaïssona who was on the line; and when they arrived to Bangui, they met him and understood that the person who was issuing the orders was indeed Mr Ngaïssona; they did not meet anyone else when they arrived in Bangui.⁵⁶⁷¹

2211.The Chamber notes that ‘Levy Yakété’ wrote in November 2013 in a Facebook message that *‘on a demandé aux éléments d’aller à la frontière afin de descendre sur le terrain’*.⁵⁶⁷² Further, Didier Ouebio and Levy Yakété exchanged on 7 November 2013 with the latter suggesting that *‘les vrais hommes’* had not yet found the means *‘pour descendre sur le terrain’*, to which Didier Ouebio responded that those mentioned in Levy Yakété’s message (‘Mokom’ and Mr Ngaïssona) intended to ‘manage the military actions’ despite not being specialists in that field.⁵⁶⁷³ During his testimony, Didier Ouebio, one of the interlocutors of these messages, indicated that he had not heard about or seen Mr Ngaïssona being involved in the deployment of FACA or Anti-Balaka on the ground; Didier Ouebio testified and ‘there were rumours going around, whether it was Ngaïssona or Mokom, that they can’t manage what’s happening in the country because they’re not soldiers’; Didier Ouebio said that it was his opinion at the time that only ‘military tacticians’ could ‘manage that’.⁵⁶⁷⁴

⁵⁶⁶⁸ P-0306: T-064, p. 63, lines 10-16.

⁵⁶⁶⁹ P-0306: T-064, p. 65, lines 1-13.

⁵⁶⁷⁰ P-0306: T-064, p. 52, lines 1-22.

⁵⁶⁷¹ P-0306: T-064, p. 53, lines 5-17.

⁵⁶⁷² Facebook messages, CAR-OTP-2100-9923, at 9926 (4 November 2013, at 12:53:51); Facebook messages, CAR-OTP-2100-2994, at 3027 (7 November 2013, at 11:06:17). Item CAR-OTP-2100-2994 was put to Didier Ouebio, who confirmed that it showed messages exchanged between him and ‘Levy Yakete’ at 3027 (see D30-4679: T-299, p. 81, lines 13-22; T-301, p. 55, line 16 – p. 58, line 12).

⁵⁶⁷³ Facebook messages, CAR-OTP-2100-2994, at 3027 (7 November 2013, at 11:06:17 and 12:31:02). The item was shown to Didier Ouebio, who confirmed that it showed messages exchanged between him and ‘Levy Yakete’ at 3027 (see D30-4679: T-299, p. 81, lines 13-22; T-301, p. 55, line 16 – p. 58, line 12).

⁵⁶⁷⁴ D30-4679: T-299, p. 81, lines 4-12.

2212. The Chamber does not find Didier Ouebio's testimony credible on this aspect. Didier Ouebio's opinion that military tacticians were the only ones to manage what was happening in the country does not accord with his earlier unfiltered words on Facebook that Mokom and Mr Ngaïssona intended to manage military actions. Further, the witness's claims on this point are not borne out by other evidence.

2213. Having regard to the above, the Chamber finds that Mr Ngaïssona was communicating with Maxime Mokom in respect of the Bangui Attack.

d. Communication with Bozizé

2214. The Chamber notes that some witnesses speak of being in communication with Bozizé concerning the Bangui Attack but on the basis of their evidence, it cannot reach a conclusion on direct contacts between Bozizé and individuals on the ground.⁵⁶⁷⁵

iv. Keeping and maintaining of records or lists of elements prior to the Bangui Attack

2215. Turning to the fourth indicator of coordination, as set out below, the Chamber finds that the Anti-Balaka groups progressing to Bangui were keeping records or lists of elements during their advance from the provinces to Bangui.

2216. Jo-Brice Ouabiro Dana's evidence shows that certain groups registered names of their members and maintained lists of the members in their respective groups along their descent to Bangui, which were then communicated to their chiefs.

2217. Jo-Brice Ouabiro Dana, one of the few literate men in his group, was asked to keep the register of companies and their members, recording the names of the head and the elements of each section, and provide them to ComZone Kema, who then forwarded these lists to

⁵⁶⁷⁵ P-0965: T-061, p. 29, lines 1-20; T-062, p. 51, line 14 – p. 52, line 10; P-1847 First Statement, CAR-OTP-2061-1534, at 1558, paras 152, 155; P-0954: T-166, p. 30, line 23 – p. 34, line 13. *See also* paragraph 2170 above, paragraph 2307 below.

Maxime Mokom.⁵⁶⁷⁶ The witness specified that he knew the names of those who were in Gobere since he was the one who was responsible for drawing up the lists of companies.⁵⁶⁷⁷

2218. According to Jo-Brice Ouabiro Dana, each group had a secretary, but for the document to be properly drafted and presentable, he re-transcribed all the lists and prepared a clean copy before forwarding.⁵⁶⁷⁸ It appears from the witness's testimony that lists were more or less regularly updated as the various groups moved around.⁵⁶⁷⁹ ComZone Kema kept the list of all elements in Bossangoa and forwarded these lists to the leader, and although the witness was not present, Kema told them that once he found some coverage, he would give the names of the people.⁵⁶⁸⁰ The person responsible for communicating the lists was Dedane, but at one point the group split up and Kema would send the information to Dedane, who would send it on.⁵⁶⁸¹

2219. Jo-Brice Ouabiro Dana explained that the list of people they were recruiting as they moved ahead was given to ComZone Kema who had a network to provide that list, and the lists were forwarded to Maxime Mokom, who was still in Zongo; it was a matter of recruiting them into the army later; people who were not on one of the lists were not considered to be part of the movement.⁵⁶⁸² The witness's testimony shows that integration into the army was considered to be the reward for protecting the country,⁵⁶⁸³ while the soldiers in the movement, in case of victory, might get one rank higher.⁵⁶⁸⁴ According to the witness, the lists were drawn up on the instruction of the ComZones, and it also depended on the progression of the Anti-Balaka; those were the instructions given by the officials from Bangui and perhaps other places.⁵⁶⁸⁵ These names were to be recorded so that the true number of the Anti-Balaka moving towards Bangui could be determined; Jo-Brice Ouabiro

⁵⁶⁷⁶ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0247, para. 36, at 0248, para. 39; P-0966: T-116, p. 14, line 21 – p. 15, line 13.

⁵⁶⁷⁷ P-0966: T-116, p. 29, line 16 – p. 30, line 2.

⁵⁶⁷⁸ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0248, para. 38; P-0966: T-119, p. 4, line 17 – p. 5, line 9.

⁵⁶⁷⁹ P-0966: T-116, p. 18, lines 11-25; T-119, p. 5, line 21 – p. 8, line 23.

⁵⁶⁸⁰ P-0966: T-116, p. 18, lines 5-25; T-119, p. 9, lines 1-23.

⁵⁶⁸¹ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0248, para. 38; P-0966: T-119, p. 11, lines 2-22.

⁵⁶⁸² P-0966 Statement, CAR-OTP-2031-0241-R03, at 0248, para. 38; P-0966: T-116, p. 14, line 23 – p. 15, line 13, p. 19, lines 1-10.

⁵⁶⁸³ P-0966: T-116, p. 15, line 14 – p. 17, line 12, p. 20, line 17 – p. 21, line 5, p. 24, lines 7-16.

⁵⁶⁸⁴ P-0966: T-116, p. 19, line 11 – p. 20, line 12.

⁵⁶⁸⁵ P-0966: T-116, p. 17, line 13 – p. 18, line 4.

Dana held the list of his company and would make ‘clean’ copies after receiving lists from other people before giving it to ‘the ComZone, who found the network and made the calls’.⁵⁶⁸⁶

2220. Brice Emotion Namsio recalled a ‘list from the hinterland [...] which had been prepared by the former chief of staff Bejouane’ in which there were all the commanders and their elements but did not have any more information about this list.⁵⁶⁸⁷

v. Waiting at common locations and preparing

2221. Turning to the fifth indicator of coordination, as set out below, the Chamber finds that the Anti-Balaka groups that were moving to Bangui reassembled and waited at common locations close to Bangui and prepared for an attack. The fact that these Anti-Balaka elements and groups assembled in common locations prior to the attack was, in itself, a strong indicator of the planned nature of the Bangui Attack.

2222. The Prosecution submits that the Anti-Balaka elements that were marching south for the Bangui Attack assembled mostly behind the Boy-Rabe hill, also known as the Bas-Oubangui hill or Gbazabangui hill, but also elsewhere, including in Boeing.⁵⁶⁸⁸ It submits that civilians joining along the way were put under the command of Anti-Balaka leaders.⁵⁶⁸⁹

2223. As set out in further detail below, groups and individuals discussed above reassembled at common locations encircling Bangui before the Bangui Attack: (i) behind the hill in the north of Boy-Rabe;⁵⁶⁹⁰ (ii) on the hill close to Camp Kassai in east Bangui next to 7th arrondissement;⁵⁶⁹¹ and (iii) behind M’Poko airport and in Boeing in the west Bangui,⁵⁶⁹² and (iv) Bimbo in south of Bangui.⁵⁶⁹³

⁵⁶⁸⁶ P-0966: T-116, p. 17, line 13 – p. 18, line 4.

⁵⁶⁸⁷ P-0446: T-096, p. 44, line 9 – p. 45, line 7.

⁵⁶⁸⁸ Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, para. 214.

⁵⁶⁸⁹ Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, para. 214 *referring to* P-1521 and P-0889.

⁵⁶⁹⁰ The Chamber notes that Boy-Rabe is a neighbourhood in the 4th arrondissement in Bangui. Some of the other neighbourhoods in this arrondissement that P-0446 named are Fouh, Gobongo, Dedengue, Bafio (*see* Map, CAR-OTP-2057-0965; P-0446: T-096, p. 8, lines 15-21).

⁵⁶⁹¹ Map, CAR-OTP-2057-0965; Map, CAR-OTP-2108-0537, at 0556; Map, CAR-OTP-2126-2710.

⁵⁶⁹² Map, CAR-OTP-2057-0965; Map, CAR-OTP-2062-0666; Map, CAR-OTP-2118-9146; Map, CAR-OTP-2126-2710.

⁵⁶⁹³ Map, CAR-OTP-2057-0965; Map, CAR-OTP-2062-0666.

2224. Having regard to the agreed maps altogether,⁵⁶⁹⁴ the Chamber notes that the gatherings in these locations suggest that Bangui was effectively surrounded by elements along its perimeter in advance of the Bangui Attack.

a. Hill behind Boy-Rabe

2225. Some groups arriving from the Bossangoa area reassembled in a place called Kpata, close to Nguito, at the outskirts of north-west Bangui.⁵⁶⁹⁵ P-2251 said that when his group arrived there, Andjilo's group was already there and [REDACTED] had not yet arrived.⁵⁶⁹⁶ P-2251 said that they waited for [REDACTED] and the chiefs would go to the top of the hill and try to phone [REDACTED].⁵⁶⁹⁷ P-2251 said that, from Nguito, some went towards Camp Kassai, some went to Boy-Rabe and others went towards PK12.⁵⁶⁹⁸

2226. On the hills behind Boy-Rabe in the north-west were Andjilo,⁵⁶⁹⁹ P-1521⁵⁷⁰⁰ and Konaté.⁵⁷⁰¹ Andjilo appears in a video footage showing him in Bangui on 4 December 2013 based behind the hill, together with other elements holding firearms, and wearing *gris-gris*.⁵⁷⁰² Andjilo is shown saying that he does not want 'Arabs' or Peuhls in the CAR and that they are finished with the 'Goula'.⁵⁷⁰³ Shown this video in court, P-0306 said that the Seleka were made up of Muslims, so that is why the elements in this video are talking about 'Muslims and Mbororo', and that their goal was to drive out 'the Peuhls and the Seleka Muslims'.⁵⁷⁰⁴

⁵⁶⁹⁴ Map, CAR-OTP-2070-0268; Map, CAR-OTP-2126-2710; Map, CAR-OTP-2062-0666; Map, CAR-OTP-2057-0965.

⁵⁶⁹⁵ P-0975 Statement, CAR-OTP-2033-7885-R02, at 7890, para. 37. P-2251 marked Kpata on a map of Bangui. See P-2251 Statement, CAR-OTP-2093-0045-R01, at 0060, para. 94; Map, CAR-OTP-2093-0084.

⁵⁶⁹⁶ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0058-59, paras 82, 89. P-2251 said that it took one hour for everyone to go to Nguito from Kpata. P-2251 said that he did not remember when exactly they arrived in Nguito but it must have been a few days before 5 December 2013 (see P-2251: T-043, p. 30, lines 4-9). P-0975 said that Andjilo reached Bangui before the others (see P-0975 Statement, CAR-OTP-2033-7885-R02, at 7890, para. 38).

⁵⁶⁹⁷ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0059, para. 88.

⁵⁶⁹⁸ P-2251: T-043, p. 29, line 19 – p. 30, line 3.

⁵⁶⁹⁹ P-0306: T-064, p. 71, line 21 – p. 72, line 10; P-0446 Interview Transcript, CAR-OTP-2059-1523-R01, at 1543, lines 729-742. See also P-2232: T-075, p. 46, lines 7-11.

⁵⁷⁰⁰ P-1521: T-081, p. 37, line 23 – p. 38, line 23. See also P-2232: T-075, p. 46, lines 7-11.

⁵⁷⁰¹ P-2027 Statement, CAR-OTP-2078-0059-R03, at 0078, para. 115.

⁵⁷⁰² Video, CAR-OTP-2049-0141; P-0306: T-065, p. 20, line 13 – p. 23, line 3, p. 31, lines 13-19.

⁵⁷⁰³ Transcript, CAR-OTP-2074-1958, at 1960, lines 33, 35.

⁵⁷⁰⁴ P-0306: T-065, p. 22, line 18 – p. 23, line 3.

2227. The video also shows an element in the same group as Andjilo holding an RPG,⁵⁷⁰⁵ and saying:

Je ne porte pas cette arme sans raison. C'est à cause des choses que Djotodia est venu faire dans notre pays, cela nous a énervés. C'est pourquoi avec notre colonel, nous sommes tous en colère et nous avons décidé de venir mourir à Bangui, pour chasser les Arabes de notre pays. Nous n'avons pas besoin d'eux. C'est pour cela que nous sommes en colère, que nous avons décidé de prendre des armes et que vous nous voyez là, les journalistes.⁵⁷⁰⁶

2228. P-1521 also spoke about those gathered on this hill. P-1521 commented on a handwritten list of individuals, which he provided to the Prosecution, which he claimed to be a list of the Anti-Balaka 'leaders' whom he knew and who were in [REDACTED] all the way to after the hill.⁵⁷⁰⁷ In this list, those together under the '*colline*' include, among others, Thierry Lebene, Benjamin Ouapoutou, Kems, Richard Bejouane, Yvon Konaté, and Guy Gervais Mokpem.⁵⁷⁰⁸ Asked how many people were under each of the leaders of these 15 groups listed, P-1521 said that he did not know the exact number but the leader may have had a list of the elements and provided accordingly.⁵⁷⁰⁹

2229. P-1521 said that they arrived at the hill about three weeks before the Bangui Attack,⁵⁷¹⁰ and that there were already some persons 'from the other side' that had arrived before them.⁵⁷¹¹

⁵⁷⁰⁵ See also P-0306: T-065, p. 26, lines 13-18.

⁵⁷⁰⁶ Transcript, CAR-OTP-2074-1958, at 1962, lines 83-87. (Translation from French to English by the Registry) 'I'm not carrying this weapon for nothing. It's because of things that Djotodia has come to do in our country. That has upset us. It's why, together with our colonel, we're all angry and we've decided to come and die in Bangui, to drive the Arabs out of our country. We don't need them. That's why we're angry, why we've decided to take up arms and why you journalists see us here.'

⁵⁷⁰⁷ P-1521: T-081, p. 25, line 19 – p. 26, line 21 *referring to* List, CAR-OTP-2046-0628.

⁵⁷⁰⁸ List, CAR-OTP-2046-0628, at 0628. This document also lists Charles Ngremangou, 'Yekatom Rombot John', Wenezoui and Sylvestre Yagouzou at 'Boeing + Airport'. P-1521, asked about these individuals, said that he did not have an idea, and he did not know them at the time. P-1521 recalled a meeting with Wenezoui and Ngremangou around 8-12 December 2013 but did not see 'Rombhot'; he said that 'I didn't see Yekatom, but they talked about Rombhot. But I didn't see him at that point' and this is 'why I listed the leaders from Boeing' (see P-1521: T-081, p. 34, lines 13-17). The Chamber notes the Ngaïssona Defence's arguments concerning the probative value of this list (see footnote 3006 above). In light of the Chamber referring to this list only in the specific context of P-1521's testimony and since it has not relied on it to enter any factual conclusions, the Chamber does not consider it necessary to address these arguments further.

⁵⁷⁰⁹ P-1521: T-081, p. 28, lines 3-9 *referring to* List, CAR-OTP-2046-0628.

⁵⁷¹⁰ P-1521: T-081, p. 38, lines 9-23.

⁵⁷¹¹ P-1521: T-081, p. 37, line 23 – p. 38, line 8.

When asked if he found people who had arrived from Zongo when he got to the hill, P-1521 said that they arrived before those who came from Zongo.⁵⁷¹²

2230. P-1521 agreed that once his group was behind the hill, they waited for other elements to join the group.⁵⁷¹³ P-1521 said that they had heard that the Anti-Balaka were moving towards Bangui on foot, but they did not have contact with them.⁵⁷¹⁴ P-1521 said that they decided to be patient and wait as they had no materiel at the time;⁵⁷¹⁵ during this time, the youth heard that the Anti-Balaka were behind the hill and they started to come up to the hill to join.⁵⁷¹⁶ P-1521 said that after waiting, on 2 December 2013, they said that if the others did not come, ‘they should then decide to attack’ Bangui.⁵⁷¹⁷ Asked about the role of the FACA elements behind the hill, P-1521 said that the soldiers were like ‘advisers’ to the elements on how to advance and while there were no military instructions as such, the civilians were provided with information as to how to move about and avoid being struck by a bullet.⁵⁷¹⁸

2231. P-2251 said that, at this stage, some chiefs were able to get Kalashnikovs while other members of the groups had mostly machetes and hunting guns.⁵⁷¹⁹

2232. P-0306, when asked, agreed that members of his group threatened to return to the villages when they were behind the hill because there was a shortage of food, and they did not have anything to eat.⁵⁷²⁰

2233. Brice Emotion Namsio was among those who joined the elements behind the hill by crossing over from Zongo at the end of November 2013.⁵⁷²¹ The witness said that there were elements in ‘great numbers’, even if he himself did not have a chance to see the whole base.⁵⁷²² There, Brice Emotion Namsio met Andjilo, Gustave Yadjoungou, Konaté, Feissona, among

⁵⁷¹² P-1521: T-081, p. 38, line 24 – p. 39, line 1, p. 40, lines 12-25, p. 43, lines 2-16.

⁵⁷¹³ P-1521: T-081, p. 41, lines 5-7.

⁵⁷¹⁴ P-1521: T-081, p. 41, lines 8-20.

⁵⁷¹⁵ P-1521: T-081, p. 41, lines 8-20, p. 42, lines 1-21.

⁵⁷¹⁶ P-1521: T-081, p. 41, lines 8-20.

⁵⁷¹⁷ P-1521: T-081, p. 43, lines 2-16.

⁵⁷¹⁸ P-1521: T-081, p. 44, lines 4-17.

⁵⁷¹⁹ P-2251: T-043, p. 31, lines 10-19.

⁵⁷²⁰ P-0306: T-068, p. 66, lines 8-14.

⁵⁷²¹ P-0446: T-096, p. 32, lines 1-21, p. 34, line 9 – p. 35, line 7, p. 35, line 8 – p. 36, line 12, p. 39, lines 3-11.

⁵⁷²² P-0446: T-096, p. 35, lines 1-7, p. 44, line 9 – p. 45, line 7.

others.⁵⁷²³ Brice Emotion Namsio said that he told them that he had come to join the group and they took his telephone away; he said that there were ‘certain guidelines’ to be followed, in that one could not communicate in the way they wanted and they did not talk about the attack immediately.⁵⁷²⁴ The witness said that after getting acquainted with them and spending a few days together, they organised the attack; in his view, this was all being done ‘behind the curtains in a very secret way’.⁵⁷²⁵

2234. Brice Emotion Namsio recalled being photographed on this hill along with other elements,⁵⁷²⁶ including Richard Bejouane.⁵⁷²⁷ Describing the circumstances in which the photographs were taken, Brice Emotion Namsio said that it was Konaté who had told them about the arrival of a team of journalists that took these photographs; he said that Andjilo had refused that this team come to the base where the combatants were to be found so an order was given for some elements to move forward and this is where the pictures were taken.⁵⁷²⁸ The witness recalled Jacob Mokpem-Bionli accompanying the journalist on the hill.⁵⁷²⁹ Jacob Mokpem-Bionli recalled meeting Brice Emotion Namsio at the hill behind Boy-Rabe on 4 December 2013,⁵⁷³⁰ bringing two journalists to meet the elements there.⁵⁷³¹

⁵⁷²³ P-0446 Interview Transcript, CAR-OTP-2059-1433-R01, at 1446, lines 480-495; P-0446: T-096, p. 35, line 8 – p. 36, line 12.

⁵⁷²⁴ P-0446: T-096, p. 35, line 8 – p. 36, line 12.

⁵⁷²⁵ P-0446: T-096, p. 35, line 8 – p. 36, line 12.

⁵⁷²⁶ P-0446: T-099, p. 23, lines 10-18; Photograph, CAR-OTP-2061-4172. *See also* Photographs, CAR-OTP-2059-1696, at 0128-0130. P-0446 recognised himself in these photographs, standing left of Richard Bejouane in purple shirt the person in black jacket and Gustave Yadjoungou in black jacket. P-0446 also said that the weapons seen in this photograph were the weapons that were used by the Anti-Balaka elements at the time (*see* P-0446: T-096, p. 18 – p. 40, line 25, p. 23, lines 10-18). The Chamber also has regard to the other photographs in this series showing armed elements surrounded by vegetation (*see* Photographs, CAR-OTP-2059-1696, at 0110-27, at 0131-38). As per the metadata and the caption provided by the photographer, these pictures were taken one day before the Bangui Attack.

⁵⁷²⁷ P-0446: T-096, p. 18 – p. 40, line 25.

⁵⁷²⁸ P-0446: T-096, p. 40, lines 12-25.

⁵⁷²⁹ P-0446: T-096, p. 41, line 15 – p. 42, line 10.

⁵⁷³⁰ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0056-57, para. 43; P-0992: T-093, p. 17, line 19 – p. 18, line 9.

⁵⁷³¹ P-0992: T-093, p. 17, line 19 – p. 18, line 9; T-092, p. 36, lines 13-22.

b. Hill close to Camp Kassai

2235. Southeast from Boy-Rabe, behind Camp Kassai towards PK12, were Konaté's⁵⁷³² [REDACTED]. P-0876 described meeting [REDACTED] base behind the hill [REDACTED].⁵⁷³³

2236. P-0876 testified that two or three kilometres before arriving at [REDACTED]'s base, he saw an advance post of armed elements.⁵⁷³⁴ When he arrived at the base, those who did not have firearms were armed with machetes,⁵⁷³⁵ a majority of the elements he saw had machetes and sticks and the rest had artisanal weapons.⁵⁷³⁶ P-0876 said that, since [REDACTED] November 2013,⁵⁷³⁷ the group 'took on enormous proportions' and there had been a 'significant increase' in the number of elements stationed there; he surmised that people continued to come in from the hinterlands, on foot, on dirt tracks, through the forest as they converged on Bangui.⁵⁷³⁸

c. Gathering around the M'Poko airport and Boeing

2237. On the south and west side of Bangui, elements led by Ngremangou were present. Jean-Jacques Demafouth said that, according to the information that he had prior to the Bangui Attack, he knew that the Anti-Balaka had established a base behind the M'Poko airport which was 'managed' by Ngremangou and that, on this base, they would also train.⁵⁷³⁹ The witness said that this base was divided into two, one part reserved exclusively for FACA members and another reserved for civilians who had been 'recruited'.⁵⁷⁴⁰

2238. Sebastien Wenezoui was coordinating the attack from Boeing.⁵⁷⁴¹ On the west side of the M'Poko airport, Mr Yekatom and his elements were in Gbangba, at the southwest of Bangui,

⁵⁷³² P-1847 First Statement, CAR-OTP-2061-1534, at 1564, para. 189; P-1847: T-023, p. 34, lines 21-25.

⁵⁷³³ P-0876: T-085, p. 34, line 21 – p. 36, line 1; P-0876 Interview Transcript, CAR-OTP-2046-0324-R01, at 0336, lines 412-414.

⁵⁷³⁴ P-0876: T-085, p. 36, lines 4-15.

⁵⁷³⁵ P-0876: T-085, p. 36, lines 4-15.

⁵⁷³⁶ P-0876: T-086, p. 23, line 23 – p. 24, line 7.

⁵⁷³⁷ P-0876: T-085, p. 25, line 6 – p. 30, line 11. *See also* footnote 5765 below.

⁵⁷³⁸ P-0876: T-085, p. 34, line 21 – p. 36, line 1.

⁵⁷³⁹ P-2328: T-047, p. 56, lines 9-17.

⁵⁷⁴⁰ P-2328: T-047, p. 56, lines 9-17.

⁵⁷⁴¹ P-0446 Interview Transcript, CAR-OTP-2059-1523-R01, at 1543, lines 729-742; P-1847: T-023, p. 34, lines 21-25. *See also* P-1847 First Statement, CAR-OTP-2061-1534, at 1563, para. 182. *See also* section IV.B.2.vii below. [REDACTED]

gathering in Projet.⁵⁷⁴² P-2232 explained that Boeing was the first entrance into the bush on the Lobaye axis and named a few members of Mr Yekatom's group who were present there in Boeing on the Lobaye axis.⁵⁷⁴³

2239. On the east side of the M'Poko airport, Sylvestre Yagouzou's group was present. P-0884 said that Sylvestre Yagouzou was responsible for the other Anti-Balaka before 5 December 2013; he was more involved in the 5th arrondissement and gave P-0884 information that those elements would enter the capital and that he had already prepared all the surrounding villages about that.⁵⁷⁴⁴ According to P-0884, Yagouzou told him that his elements were already in PK26, close to the capital, explaining that PK26 is near the entrance of the capital and that there were some elements already in the 5th arrondissement who would be in a position to enter the capital by 5 December 2013.⁵⁷⁴⁵

2240. Around the same time, Dedane and his elements were at PK26, in preparation for the Bangui Attack. P-1847 stated that [REDACTED] had told him over the phone that Anti-Balaka elements had installed their base at PK26 at some point at the end of November 2013 before launching the Bangui Attack.⁵⁷⁴⁶ P-0884 said that Modibo⁵⁷⁴⁷ and his group arrived in Bangui on foot from Bossangoa before 5 December 2013 and were in PK26.⁵⁷⁴⁸

2241. [REDACTED] located in Bimbo 1, the south end of Bangui, 'around the 5th December 2013' and had come out from their Ngulanga base during the night to get there.⁵⁷⁴⁹

d. Purpose of prior reassembly

2242. The evidence shows that the purpose of this prior assembly was to rest and prepare for an upcoming attack. Some of these preparations involved pairing up of the elements from the provinces with elements from Bangui who knew the city.

⁵⁷⁴² See sections IV.B.2.ii–IV.B.2.iv below.

⁵⁷⁴³ P-2232: T-075, p. 45, lines 21–23.

⁵⁷⁴⁴ P-0884: T-056, p. 8, lines 13–18.

⁵⁷⁴⁵ P-0884: T-056-ENG, p. 8, line 19 – p. 9, line 10; T-056-FRA, p. 8, lines 5–13.

⁵⁷⁴⁶ P-1847 First Statement, CAR-OTP-2061-1534, at 1560, paras 165–167.

⁵⁷⁴⁷ See also paragraphs 1113–1115, 1133, 1140, 1324, 1437 above.

⁵⁷⁴⁸ P-0884: T-057, p. 19, line 21 – p. 20, line 24.

⁵⁷⁴⁹ [REDACTED]

2243.P-0306 said that, by this time just prior to 5 December 2013, they had already been in the bush in the suburbs of Bangui for about three weeks.⁵⁷⁵⁰ P-0306 explained that the ‘preparations’ started on 1 December and lasted until 4 December 2013 when they received instructions to enter Bangui.⁵⁷⁵¹ According to P-0975, the Anti-Balaka spent two weeks behind the Boy-Rabe hill planning the revolt, and some of the Anti-Balaka from the provinces had never been to Bangui before so they were paired up with the Anti-Balaka who knew the city.⁵⁷⁵² P-1521, who was in Andjilo’s group, said that Andjilo came from ‘up country’ but that during the Bangui Attack, he was with other people who knew the area and who knew where the Seleka were; other elements and leaders who were from Boy-Rabe also knew the situation there.⁵⁷⁵³

2244.P-1847 stated that [REDACTED] informed him between 3 and 4 December 2013 that the Anti-Balaka had ‘encircled’ the town of Bangui and were going to attack Bangui; he believed that after getting some rest and establishing their attack plans, the Anti-Balaka elements decided to launch their attack on Bangui on 5 December 2013.⁵⁷⁵⁴ P-1847, on the basis of information that he was receiving [REDACTED], thought that Mr Ngaïssona had asked the troops to rest for one week after having covered a long distance on foot.⁵⁷⁵⁵ In court, P-1847 agreed that Mr Ngaïssona had indeed told them to stop to rest before the attack, explaining that to go from Bossangoa to Bangui is almost 400 kilometres and they had done this on foot; he added that ‘Mokom’ and ‘Bozizé’ had called upon them to stop and rest and wait for some equipment and for the sun before launching the attack.⁵⁷⁵⁶

2245.Many young people from Bangui joined the Anti-Balaka while they were waiting outside Bangui.⁵⁷⁵⁷ P-0889 testified that when the elements arrived to Bangui, and despite the lack

⁵⁷⁵⁰ P-0306: T-064, p. 71, line 21 – p. 72, line 10.

⁵⁷⁵¹ P-0306: T-064, p. 71, line 21 – p. 72, line 10.

⁵⁷⁵² P-0975 Statement, CAR-OTP-2033-7885-R02, at 7890, para. 37.

⁵⁷⁵³ P-1521: T-081, p. 54, line 19 – p. 55, line 6.

⁵⁷⁵⁴ P-1847 First Statement, CAR-OTP-2061-1534, at 1560, paras 165, 167; P-1847: T-023, p. 34, lines 21-25.

⁵⁷⁵⁵ P-1847 First Statement, CAR-OTP-2061-1534, at 1560, paras 165, 167.

⁵⁷⁵⁶ P-1847: T-023, p. 92, line 20 – p. 93, line 6. *See also* Facebook messages, CAR-OTP-2100-6685, at 6740 (1 December 2013) between Levi Yakété and Rod Gallaut where the former stated that ‘the men’ were a little bit exhausted because of walking for a long time and having no food; the ‘Big Boss’ has asked them to rest a little bit (*‘Les hommes sont un peu épuisés [...] cause de la longue marche et du manque de nourritures. C’est le Big Boss qui leur a demandé de se reposer un peu’*).

⁵⁷⁵⁷ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0058, para. 83.

of weapons, many youngsters from Bangui joined them.⁵⁷⁵⁸ P-0889 stated that, according to [REDACTED], Maxime Mokom made the elements who arrived close to Bangui wait to have ‘a mass of elements’ to attack Bangui.⁵⁷⁵⁹ Alfred Legrand Ngaya stated that the youths of Boy-Rabe [REDACTED] joined the Anti-Balaka elements who gathered behind the Boy-Rabe hill and prepared to attack the Seleka.⁵⁷⁶⁰ Initially, the youth only had machetes and when they attacked the Seleka they took their firearms.⁵⁷⁶¹ The Chamber recalls P-2682, a civilian living close to the Boeing Market at the time,⁵⁷⁶² noticing that young people were no longer in the neighbourhood and that, during daytime, these people would go to the bushes and return at night.⁵⁷⁶³

vi. Number of elements estimated to be involved

2246. Turning to the sixth indicator of coordination, as set out below, the Chamber finds that several thousand Anti-Balaka elements arrived at the outskirts of Bangui prior to 5 December 2013 to participate in an impending attack.

2247. As for the number of elements who moved from the provinces to Bangui to participate in the Bangui Attack, the Chamber notes that few witnesses were able to provide estimates, and that these greatly differed from one witness to the other, ranging from ‘around a thousand’⁵⁷⁶⁴ to several thousands.⁵⁷⁶⁵

⁵⁷⁵⁸ P-0889: T-109, p. 26, lines 10-24.

⁵⁷⁵⁹ P-0889 Interview Transcript, CAR-OTP-2122-7626-R02, at 7628, lines 42-58.

⁵⁷⁶⁰ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0332, para. 53.

⁵⁷⁶¹ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0332, para. 52.

⁵⁷⁶² P-2682: T-017, p. 14, line 20 – p. 15, line 4.

⁵⁷⁶³ P-2682: T-017, p. 25, line 19 – p. 26, line 6.

⁵⁷⁶⁴ Annex 5 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0875, para. 3.

⁵⁷⁶⁵ P-0965 said that according to ‘Lieutenant Konate’, the Anti-Balaka who started in Gobere and joined forces together there amounted to 2,045 elements. P-0965 also indicated that as these elements passed from village to village, they recruited people on their way to Bangui, and that all together they amounted to 25,000 when they reached Bangui (see P-0965: T-061, p. 51, line 25 – p. 52, line 18). P-0889 stated that Andjilo could have had at least 800 elements in his group and confirmed that this could be the standard number of elements for each group coming from the provinces to Bangui; [REDACTED] however, P-0889 also thought that the leaders did not have time to count their elements because as they progressed towards Bangui more people joined their groups (see P-0889 Interview Transcript, CAR-OTP-2122-7626, at 7632, lines 229-251, at 7633-34, lines 252-302). P-0876 stated that [REDACTED] there were 500 to 600 elements, and that the second time he met him at the same location the elements amounted to 4,000 or 5,000. P-0876 testified that he did not know whether all the elements were present during that first meeting or whether the intention was ‘to create an impression’ in the second meeting, but that nonetheless there had been a significant increase in the number of elements (see P-0876: T-085, p. 34, line 21 – p. 36, line 1; P-0876 Interview Transcript, CAR-OTP-

2248. The Chamber has considered these estimates when appreciating the level of organisation and coordination it would have required of their chiefs to ensure that an attack take place as planned, in that a higher number speaks to a higher level of organisation required. In the view of the Chamber, considering the number of elements from different locations descending approximately at the same time, gathering at the same locations, preparing and being ready to attack on a specific date, demonstrates a very high level of coordination and organisation.

vii. Financing, arming and efforts to obtain weapons and ammunition along the way to Bangui

2249. Turning to the seventh indicator of coordination, as set out below, the Chamber finds that Mr Ngaïssona provided funds to Anti-Balaka elements that participated in the Bangui Attack. It finds that the Anti-Balaka groups were arming during their move from the provinces to Bangui.

2250. The Prosecution argues that Mr Ngaïssona was involved in financing and arming Anti-Balaka elements in October 2013,⁵⁷⁶⁶ and, from November 2013 onwards, financing the Anti-Balaka elements from Cameroon and Zongo to arrive in Bangui for the Bangui Attack.⁵⁷⁶⁷ The Prosecution submits that Mr Ngaïssona ‘promised financial support’ for the Bangui Attack.⁵⁷⁶⁸

2251. The Ngaïssona Defence submits that Mr Ngaïssona did not provide the group of Anti-Balaka that were descending from Gobere to Bangui with weapons and ammunition,⁵⁷⁶⁹ nor those coming from Zongo.⁵⁷⁷⁰

2252. The evidence discussed below shows how the Anti-Balaka elements were armed and how some of the weapons and ammunitions were obtained prior to the Bangui Attack. It indicates

2046-0324, at 0336, lines 412-414). P-1521 spoke of about 2,000 people on the Bouca-Damara axis when he joined Andjilo’s group close to Damara but was ‘unsure’ about the numbers and thought 2,000 seemed ‘a high number’ (see P-1521: T-081, p. 14, line 13 – p. 15, line 2, p. 30, lines 2-20, p. 33, lines 1-11).

⁵⁷⁶⁶ Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, paras 182-191.

⁵⁷⁶⁷ Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, paras 205-212.

⁵⁷⁶⁸ Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, paras 247-249, 253.

⁵⁷⁶⁹ Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, paras 491, 495, 497 *referring, inter alia*, to P-1521, P-2658, P-2673, P-2556.

⁵⁷⁷⁰ Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, paras 504-506.

generally that the Anti-Balaka were armed with hunting rifles, machetes, and sticks, while only some had firearms like AK-47s. Most witnesses acknowledged how well-armed the Seleka were and how the Anti-Balaka did not have sophisticated or sufficient weaponry but had the support of their *gris-gris*.⁵⁷⁷¹

2253. The evidence shows that Anti-Balaka elements procured weapons abandoned by or taken from the Seleka following their encounters with them while some FACA members fought with their own weapons.⁵⁷⁷²

a. Weapons obtained from the ‘Ndress cemetery’

2254. The Chamber has considered P-0965’s claims that suggest that the day just before the Bangui Attack, certain elements obtained weapons and ammunition hidden at the Ndress cemetery and used them during the Bangui Attack.⁵⁷⁷³ The Chamber finds that the evidence does not support these claims. In particular, [REDACTED] did not confirm P-0965’s account.⁵⁷⁷⁴

b. Support by Maxime Mokom

2255. There is evidence suggesting that Maxime Mokom facilitated access to artisanal ammunition to the Anti-Balaka elements prior to the Bangui Attack.

2256. P-0889 said that the majority of the Anti-Balaka carried artisanal hunting weapons, and that few of them had automatic weapons,⁵⁷⁷⁵ and this is why Maxime Mokom provided them with hunting ammunition.⁵⁷⁷⁶ P-0889 stated that while in Zongo, Maxime Mokom bought hunting ammunition which he sent to the field.⁵⁷⁷⁷ P-0889 explained that the Anti-Balaka in the provinces had hunting rifles but did not have ammunition, so Mokom bought ammunition

⁵⁷⁷¹ See e.g. P-0306, who said that while the Seleka were better equipped, his group was courageous and had the support of their traditional amulets (P-0306: T-068, p. 65, lines 15-21).

⁵⁷⁷² See e.g. P-0306: T-064, p. 72, line 11 – p. 73, line 24; T-068, p. 16, line 2 – p. 17, line 2; P-2269 Statement, CAR-OTP-2111-0336-R01, at 0345, para. 67; P-0965: T-061, p. 25, line 2 – p. 26, line 20; P-2251 Statement, CAR-OTP-2093-0045-R01, at 0060, para. 95; P-0889 Interview Transcript, CAR-OTP-2122-8002, at 8013, lines 394-432; P-0889: T-109, p. 23, line 21 – p. 24, line 9; P-2027 Statement, CAR-OTP-2078-0059-R03, at 0085, para. 159.

⁵⁷⁷³ P-0965: T-063, p. 21, line 9 – p. 22, line 6; T-061, p. 25, line 2 – p. 26, line 10.

⁵⁷⁷⁴ [REDACTED]. See also P-1521: T-082, p. 75, lines 2-8; T-084, p. 16, lines 13-20.

⁵⁷⁷⁵ P-0889 Interview Transcript, CAR-OTP-2122-8002-R02, at 8012, lines 376-393.

⁵⁷⁷⁶ P-0889 Interview Transcript, CAR-OTP-2122-8002-R02, at 8012, lines 376-393.

⁵⁷⁷⁷ P-0889 Statement, CAR-OTP-2027-2290-R02, at 2296, para. 35.

in Zongo and sent them by boat.⁵⁷⁷⁸ At least once, [REDACTED] Maxime Mokom sending a packet of ammunition to Bangui before the attack on 5 December 2013.⁵⁷⁷⁹ P-0889 did not know with what money these ammunitions were bought,⁵⁷⁸⁰ or whether the chiefs on the ground also received money.⁵⁷⁸¹ P-0889 also said that Maxime Mokom would send phone credit (*recharges de communication*) to those on the ground.⁵⁷⁸²

2257.P-0884 said that, according to the information he had, Maxime Mokom supplied the ammunition; there were some military who had fled together with their weapons; for some of the incidents, when they killed Seleka, they took the weapons, but P-0884 did not know who supplied the weapons.⁵⁷⁸³ P-0884 did not know anything about the war weapons, but Maxime Mokom called him in relation to the homemade weapons and he bought ammunition from Zongo, giving them to the women to take them to the field.⁵⁷⁸⁴ P-0884 did not recall when Maxime Mokom called him.⁵⁷⁸⁵

2258.P-1847, who was receiving information from '[REDACTED]' at the time, said that Maxime Mokom bought artisanal cartridges for the Anti-Balaka coming from Bossangoa and heading towards the periphery of Bangui.⁵⁷⁸⁶ P-1847 also stated that [REDACTED] frequently called Bernard Mokom and Marcelin to ask them for money to buy ammunition and small gas canisters before 'the attack'.⁵⁷⁸⁷ P-1847 also indicated that 'Marcelin' sent the Anti-Balaka

⁵⁷⁷⁸ P-0889 Statement, CAR-OTP-2027-2290-R02, at 2296, para. 35.

⁵⁷⁷⁹ P-0889 Interview Transcript, CAR-OTP-2122-8002-R02, at 8011, lines 353-354, at 8012, lines 357-375. The Chamber notes that P-0889 had mentioned in his statement that Maxime Mokom had sent ammunition 'two times', including one time through a person called Bienvenu Namguende to bring them to the field so that the chiefs could share them before the attack on 5 December 2013 (see P-0889 Statement, CAR-OTP-2027-2290-R02, at 2296, para. 35). The Prosecution pointed to CDR to show contacts between Maxime Mokom and [REDACTED] between 2 and 5 December 2013 (see Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, para. 235, n. 474 *referring to* CAR-OTP-2054-1480). The Chamber notes that P-0889 explained in his interview that while he had said that Maxime Mokom sent ammunition 'two times', it was only one time that [REDACTED] Maxime Mokom send a packet of ammunition.

⁵⁷⁸⁰ P-0889 Statement, CAR-OTP-2027-2290-R02, at 2296, para. 35. P-0889 also said that Maxime Mokom never mentioned [REDACTED] that there was any help coming from Cameroon and considered himself to be 'alone' in managing the 'movement' (see P-0889: T-109, p. 22, lines 5-16).

⁵⁷⁸¹ P-0889 Interview Transcript, CAR-OTP-2122-8002-R02, at 8011, lines 343-352.

⁵⁷⁸² P-0889 Interview Transcript, CAR-OTP-2122-8002-R02, at 8011, lines 343-352.

⁵⁷⁸³ P-0884: T-055, p. 69, lines 15-25.

⁵⁷⁸⁴ P-0884: T-055, p. 70, lines 1-10. P-1847 said that Maxime Mokom would buy hunting ammunition which he would send to a woman who would then take them to Bossangoa in preparation (see P-1847: T-023, p. 33, lines 15-22).

⁵⁷⁸⁵ P-0884: T-055, p. 70, line 11 – p. 71, line 8.

⁵⁷⁸⁶ P-1847 First Statement, CAR-OTP-2061-1534, at 1558, para. 150.

⁵⁷⁸⁷ P-1847 First Statement, CAR-OTP-2061-1534, at 1560, para. 168.

money from Douala through [REDACTED] using Express Union or via a person to whom [REDACTED] gave the money to.⁵⁷⁸⁸ P-1847 indicated that ‘Marcelin’ confirmed [REDACTED] every time the Anti-Balaka received money from [REDACTED], but that he did not know who transported the money to Bangui.⁵⁷⁸⁹

2259. P-2232 said that, during the time before the Bangui Attack, Mr Ngaïssona and ‘Mokom father’ were in Cameroon at that time, and Maxime Mokom received money from Cameroon and the money came in the name of ‘Mr Cameroonian, *Cameroonais*’, but that P-2232 did not know who was sending him the money.⁵⁷⁹⁰ P-2232 said that this money was used to buy hunting ammunition and medication as supplies for those on the ground.⁵⁷⁹¹ P-2232 said that [REDACTED] had mortgaged his house and the ‘individual who was in charge of the armoury was the one who provided the supplies’.⁵⁷⁹² P-2232 said that it was with the money received from Cameroon that the ‘attack of 5 December was prepared’.⁵⁷⁹³ P-2232 said, in the same vein, that he had ‘never heard mention of Mr Ngaïssona’s name’ as regards ‘anything that happened before 5 December’.⁵⁷⁹⁴

2260. P-2232 said that [REDACTED] was in communication with those in Cameroon because ‘the money was still coming from their side there to make it possible for him to procure ammunition and send it to the ground’ and ‘there were decisions that he took after authorisations from Cameroon’.⁵⁷⁹⁵ P-2232 said that reports of how the money was being used were given by [REDACTED] over the telephone.⁵⁷⁹⁶ P-2232, when asked who was authorising these activities, said that the name of the sender was a ‘Cameroonian name’ and [REDACTED] the name of the person to whom he was reporting.⁵⁷⁹⁷

⁵⁷⁸⁸ P-1847 First Statement, CAR-OTP-2061-1534, at 1560, para. 168.

⁵⁷⁸⁹ P-1847 First Statement, CAR-OTP-2061-1534, at 1560-61, para. 169.

⁵⁷⁹⁰ P-2232: T-075, p. 50, line 19 – p. 52, line 2; T-078, p. 42, lines 2-6.

⁵⁷⁹¹ P-2232: T-075, p. 50, line 19 – p. 52, line 2.

⁵⁷⁹² P-2232: T-075, p. 50, line 19 – p. 52, line 2.

⁵⁷⁹³ P-2232: T-075, p. 50, line 19 – p. 52, line 2.

⁵⁷⁹⁴ P-2232: T-075, p. 50, line 19 – p. 52, line 2.

⁵⁷⁹⁵ P-2232: T-078, p. 40, line 13 – p. 41, line 9.

⁵⁷⁹⁶ P-2232: T-078, p. 41, line 18 – p. 42, line 6.

⁵⁷⁹⁷ P-2232: T-078, p. 42, lines 2-6.

c. Support by Mr Ngaïssona regarding materiel

2261. The Prosecution submits that Mr Ngaïssona promised financial support for the Bangui Attack.⁵⁷⁹⁸

2262. As outlined below, the evidence suggests that some Anti-Balaka elements considered that they had been promised materiel by Mr Ngaïssona before the Bangui Attack.

2263. P-0306 said that Andjilo⁵⁷⁹⁹ was promised that once they arrived in Bangui [REDACTED] would provide them with ammunition, but [REDACTED] with equipment came to Bangui.⁵⁸⁰⁰ P-0306 said that they waited for the war materiel ‘behind the hill’ for about a month.⁵⁸⁰¹ It was supposed to be brought from [REDACTED].⁵⁸⁰² They were then asked to ‘go down to Bangui in order to receive the material [sic] that was going to be brought [REDACTED]’.⁵⁸⁰³ The Chamber further notes that Brice Emotion Namsio had not heard of Mr Ngaïssona sending hunting ammunition to Andjilo behind the hill.⁵⁸⁰⁴

2264. Similarly, P-2658 said that he had heard Dedane’s elements talking about Mr Ngaïssona providing them with weapons but he did not see the weapons with his own eyes,⁵⁸⁰⁵ and later clarified that what he had heard was that Mr Ngaïssona ‘would’ provide them with weapons but had not done it yet.⁵⁸⁰⁶ P-2658, asked how he knew that Dedane got news from Mr Ngaïssona, said that he got information through Dedane’s elements because those elements said they were waiting for the materiel.⁵⁸⁰⁷

2265. P-2658 said that personally, when he was with these elements however, he never saw any provisions; they talked about it, but he never saw any weapons being provided; he also did not know how they were going to receive these weapons.⁵⁸⁰⁸ P-2658 said that he heard them

⁵⁷⁹⁸ Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, paras 247-249 *referring to* P-0992.

⁵⁷⁹⁹ [REDACTED]

⁵⁸⁰⁰ P-0306: T-068, p. 17, lines 3-16.

⁵⁸⁰¹ P-0306: T-064, p. 69, line 20 – p. 70, line 21.

⁵⁸⁰² P-0306: T-064, p. 69, line 20 – p. 70, line 21.

⁵⁸⁰³ P-0306: T-064, p. 69, line 20 – p. 70, line 21.

⁵⁸⁰⁴ P-0446: T-097, p. 63, lines 9-13.

⁵⁸⁰⁵ P-2658: T-134, p. 60, lines 8-19.

⁵⁸⁰⁶ P-2658: T-134, p. 60, lines 20-23. *See also* P-2658: T-134, p. 62, line 22 – p. 63, line 2.

⁵⁸⁰⁷ P-2658: T-134, p. 61, lines 9-14.

⁵⁸⁰⁸ P-2658: T-134, p. 61, lines 15-24.

communicate about ammunition and that there were promises made that Mr Ngaïssona would provide ammunition but did not know how.⁵⁸⁰⁹ P-2658 said that he himself did not see distribution or the providing of ammunition or weapons.⁵⁸¹⁰

2266. P-2658, when asked, clarified that these elements did not say that it was Mr Ngaïssona who had made these promises but only that these elements said that Mr Ngaïssona would provide them with materiel.⁵⁸¹¹ Relatedly, P-2658 said that he did not know if Dedane or other Anti-Balaka elements were communicating with Mr Ngaïssona because he did not stay close to Dedane when they were in Bossangoa [REDACTED].⁵⁸¹²

d. Financial support by Mr Ngaïssona

2267. As regards financial support by Mr Ngaïssona during this period, the Chamber received evidence that Mr Ngaïssona provided money to elements in Zongo and in the Bossangoa area during their move towards Bangui before 5 December 2013.⁵⁸¹³

2268. P-2556 said generally that Mr Ngaïssona was providing food and weapons to elements in the Bossangoa and Benzambe area, but placed this in time after Mr Ngaïssona became coordinator.⁵⁸¹⁴ According to P-2841, it was [REDACTED] who told him that Mr Ngaïssona was sending food and money to Zongo.⁵⁸¹⁵

2269. The Chamber has regard to Brice Emotion Namsio's evidence that Mr Ngaïssona provided him with money, through Alfred Legrand Ngaya, for rent during his time in Zongo.⁵⁸¹⁶ In court, Brice Emotion Namsio agreed that he had contact with Mr Ngaïssona through Alfred Legrand Ngaya to secure money for his rent while he was in Zongo.⁵⁸¹⁷

⁵⁸⁰⁹ P-2658: T-134, p. 61, lines 15-24, p. 62, line 15 – p. 63, line 2.

⁵⁸¹⁰ P-2658: T-134, p. 61, lines 15-24.

⁵⁸¹¹ P-2658: T-134, p. 62, line 22 – p. 63, line 2.

⁵⁸¹² P-2658 Statement, CAR-OTP-2126-0012-R02, at 0037, paras 165-166; P-2658 Corrections, CAR-OTP-2135-3476-R01, at 3489, paras 165-166; P-2658: T-134, p. 50, lines 17-22.

⁵⁸¹³ For prior financial contribution by Mr Ngaïssona, see paragraphs 827-889 above.

⁵⁸¹⁴ P-2556 Statement, CAR-OTP-2112-1300-R01, at 1313, paras 98-102. See also P-2556: T-146, p. 39, line 10 – p. 42, line 4.

⁵⁸¹⁵ P-2841: T-029, p. 42, line 11 – p. 43, line 2. See also paragraphs 876-888 above.

⁵⁸¹⁶ P-0446 Interview Transcript, CAR-OTP-2105-0572-R01, at 0587-90, lines 483-597.

⁵⁸¹⁷ P-0446: T-096, p. 17, line 5 – p. 20, line 1, p. 21, lines 2-7. The Chamber notes that the exact timing of these calls concerning the rent is uncertain. P-0446's testimony suggests that these calls may have taken place anywhere between

2270. Jacob Mokpem-Bionli made similar claims of Mr Ngaïssona providing money to elements through Alfred Legrand Ngaya.⁵⁸¹⁸ Jacob Mokpem-Bionli said that Mr Ngaïssona sent money through Alfred Legrand Ngaya to provide food for elements that did not have anything to eat but not to buy arms or weapons.⁵⁸¹⁹ The witness also said that, before Mr Ngaïssona returned to Bangui in early 2014, Brice Emotion Namsio and Dieudonne Ndomate asked Mr Ngaïssona to assist them before the offensive of 5 December 2013.⁵⁸²⁰ Jacob Mokpem-Bionli seemed to first suggest that the money was received before 5 December 2013.⁵⁸²¹ When later asked about the timing of such provisions, the witness said that there was a difference between asking for money and receiving it and that it was ‘after 5 December’ that money started to ‘fall into the hands’ of Alfred Legrand Ngaya.⁵⁸²²

2271. P-0876 seemed unaware of Mr Ngaïssona’s involvement with the Anti-Balaka at all and did not have any information about Mr Ngaïssona funding the Anti-Balaka movement.⁵⁸²³

2272. Based on the above and having regard to its conclusions on Mr Ngaïssona’s financial contributions prior to this period,⁵⁸²⁴ the Chamber concludes that Mr Ngaïssona provided financial support to certain elements of the Anti-Balaka movement that later on participated in the Bangui Attack.

e. Ammunition in Maggi Cube boxes

2273. The Chamber has further considered P-2673’s evidence suggesting that Mr Ngaïssona must have sent money and ammunition to Bangui before the attack.

2274. P-2673 said that money and hunting ammunition in ‘Cube Maggi boxes’ was sent to Bangui and it reached before the Bangui Attack.⁵⁸²⁵ P-2673, when talking about why the Bangui Attack did not take place on 1 December as initially planned, said that they were waiting for

early September 2013 (when P-0446 moved to Zongo) to end-November 2013 (when P-0446 crossed back to Bangui). See also paragraphs 955, 969 above.

⁵⁸¹⁸ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0056-57, paras 39, 46.

⁵⁸¹⁹ P-0992: T-092, p. 29, line 14 – p. 32, line 15.

⁵⁸²⁰ P-0992: T-092, p. 34, line 17 – p. 37, line 1.

⁵⁸²¹ P-0992: T-092, p. 36, line 23 – p. 37, line 1.

⁵⁸²² P-0992: T-093-ENG, p. 30, lines 4-20; T-093-FRA, p. 29, line 25 – p. 30, line 16.

⁵⁸²³ P-0876: T-088, p. 49, lines 2-22.

⁵⁸²⁴ See paragraphs 827-889 above.

⁵⁸²⁵ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6451, para. 102.

munition and the resources in order to launch the attack.⁵⁸²⁶ When asked who was going to give the munition before the Bangui Attack, P-2673 said that he did not know and could not confirm whether the munition ‘must come from [Mr] Ngaïssona’ but he received this information from [REDACTED] who was in contact ‘with these people’.⁵⁸²⁷

2275. However, Brice Emotion Namsio said that he had not heard anyone say that Mr Ngaïssona gave orders or money to Anti-Balaka elements behind the hill,⁵⁸²⁸ or that Mr Ngaïssona was involved in the organisation of the attack on 5 December.⁵⁸²⁹ The witness said that he did not know how the elements gathered behind the hill received ammunitions and weapons because he was not with them when they had come to Bangui and was not part of that group.⁵⁸³⁰ Brice Emotion Namsio, asked about P-2673’s evidence concerning ‘Maggi boxes’ said that he had not heard of the Anti-Balaka elements behind the hill receiving ammunition from Cameroon in such boxes.⁵⁸³¹ The Chamber further notes that Jo-Brice Ouabiro Dana also had not heard about seeing hunting ammunition received in small Maggi cube boxes.⁵⁸³²

2276. The Chamber considers that Brice Emotion Namsio not having heard of ammunition in such boxes does not negate their existence. Indeed, there were many groups and individuals on the hill at the time. However, despite the specificity of P-2673’s claims, the Chamber notes that they are solely based on the information that he received from [REDACTED]. The Chamber finds that such claims are insufficient for it to infer that Mr Ngaïssona ‘must’ have provided money and hunting ammunition in Maggi Cube boxes prior to the Bangui Attack.

2277. Lastly, in this respect, the Chamber has considered the evidence by Alfred Legrand Ngaya, who was not one of the elements or chiefs participating in the Bangui Attack. Alfred Legrand Ngaya said that the elements had been told to ‘go to certain areas where they would be given arms’, which is ‘how they got them to move until they reached behind the Bazoubangui hill,

⁵⁸²⁶ P-2673: T-041, p. 52, lines 2-9.

⁵⁸²⁷ P-2673: T-041, p. 52, lines 10-14.

⁵⁸²⁸ P-0446: T-097, p. 61, line 23 – p. 62, line 23.

⁵⁸²⁹ P-0446: T-097, p. 71, line 25 – p. 72, line 3.

⁵⁸³⁰ P-0446: T-096, p. 34, lines 3-8.

⁵⁸³¹ P-0446: T-097, p. 62, line 25 – p. 63, line 8.

⁵⁸³² P-0966: T-117, p. 14, line 22 – p. 15, line 10 (saying that they used ammunition sent by Dedane from Bossangoa and that he received ammunition but whether it was stored somewhere or whether it came in a ‘magic cup box’ is something he could not say).

by continuing to promise them weapons’, which they never received.⁵⁸³³ The witness indicated that on 5 December, when they went down from the Bazoubangui hill to attack the Seleka, they only carried machetes and sticks.⁵⁸³⁴ Alfred Legrand Ngaya also said that ‘they’ were told that they were invulnerable because of their *gris-gris* and fetishes but ‘many were killed before the seat of the National Assembly’.⁵⁸³⁵

2278. Having regard to the above, the Chamber is unable to conclude that Mr Ngaïssona provided ammunition in Maggi cube boxes to the Anti-Balaka elements during their movement to Bangui for the Bangui Attack.⁵⁸³⁶

viii. Circulation of information, prior to 5 December 2013, about an impending attack

2279. Turning to the eighth indicator of coordination, as set out below, the Chamber finds that individuals in certain circles knew that an attack on Bangui was to take place in the beginning of December 2013.⁵⁸³⁷

2280. Specifically, P-0884, [REDACTED] within the Anti-Balaka,⁵⁸³⁸ testified that about two days before 1 December 2013, Maxime Mokom called him on the phone and told him that he was going to Bangui, that ‘the men were on their way’ and that an attack was supposed to occur on 1 December 2013.⁵⁸³⁹ P-0884 detailed that when ‘Mokom’ called him, he told him that some of the men who were on their way were at Boali, others at PK26, that they (‘we’)

⁵⁸³³ P-0808: T-070, p. 33, line 6 – p. 34, line 12.

⁵⁸³⁴ P-0808: T-070, p. 34, lines 1-12. *See also* P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0023, para. 68, where Alfred Legrand Ngaya stated that the Sangaris promised them weapons which never materialised and that on 5 December, the Anti-Balaka came out with no weapons, only with sticks, and many died in front of the National Assembly.

⁵⁸³⁵ P-0808: T-070, p. 34, lines 1-12.

⁵⁸³⁶ *See also* paragraphs 828-889 above.

⁵⁸³⁷ The Chamber notes that D30-4720 was questioned about the alleged public knowledge that Bozizé organised supporters to attack Bangui, stated that she knew nothing about such public knowledge (*see* D30-4720: T-281, p. 38, lines 13-19). Having regard to what other witnesses have said about the information circulating in various circles, as discussed herein, the Chamber does not consider material the difference between the respective opinions of D30-4720 and other witnesses on what was public knowledge at the time.

⁵⁸³⁸ P-0884: T-054, p. 14, lines 8-13; p. 15, lines 17-22.

⁵⁸³⁹ P-0884: T-055, p. 47, lines 2-11, p. 48, lines 2-6; P-0884: T-056, p. 4, lines 3-6. P-0884 was unsure of the exact date that this exchange occurred.

should remain calm, and that ‘the Anti-Balaka were on their way to liberate us’.⁵⁸⁴⁰ P-0884 was also in contact with Mr Ngaïssona around this time.⁵⁸⁴¹

2281. P-0884 explained that, according to Maxime Mokom, the attack was supposed to take place on 1 December 2013 but that he postponed the attack because of the national celebrations of 1 December 2013 – information which he received only from Maxime Mokom and from no one else.⁵⁸⁴² P-0884 indicated that this is why they had to wait until 5 December to launch their ‘definitive operation’ on the capital.⁵⁸⁴³

2282. The evidence also shows that the initial plan was to attack on 1 December 2013, and that this was later changed to 5 December 2013. P-1847 spoke about his discussions with a certain ‘[REDACTED]’, who talked about ‘Rambhot’, whom he did not know, who was also coordinating the activities from PK9 to M’Poko as they prepared the attack on Bangui.⁵⁸⁴⁴ P-1847 said that their objective was to attack on 1 December.⁵⁸⁴⁵

2283. P-2841, [REDACTED],⁵⁸⁴⁶ said that [REDACTED] the national holiday celebrations for 1 December 2013, but they heard about possible attacks on Bangui as early as 29 to 30 November 2013, so it was decided that the celebrations would be cancelled that year.⁵⁸⁴⁷ P-2841 said that there was a ‘sort of a pre-attack fever in the air’, noting that the Seleka were everywhere, waiting for something to happen.⁵⁸⁴⁸ P-2841 recalled being warned on the evening of 4 December 2013 by a [REDACTED] friend who was following the movements of the Anti-Balaka to be careful and ‘that it could be bad’.⁵⁸⁴⁹ P-2841 lived in Bangui at the time [REDACTED].⁵⁸⁵⁰

⁵⁸⁴⁰ P-0884: T-055, p. 48, lines 21-24.

⁵⁸⁴¹ See also paragraphs 897, 911, 938, 2128 above.

⁵⁸⁴² P-0884: T-056, p. 3, line 11 – p. 4, line 2.

⁵⁸⁴³ P-0884: T-055, p. 49, lines 23-25.

⁵⁸⁴⁴ P-1847: T-023, p. 35, lines 1-10.

⁵⁸⁴⁵ P-1847: T-023, p. 35, lines 1-12. The information P-1847 had about the attack came from [REDACTED]. P-1847 said that going by Mokom’s orders, ‘they left and went through a number of villages, heading towards Bangui, in preparation for the attack on Bangui’; then there was the attack of 5 December in which many civilian and Anti-Balaka lives were lost (see P-1847: T-023, p. 91, lines 8-14).

⁵⁸⁴⁶ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4241, para. 16.

⁵⁸⁴⁷ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4243, para. 30.

⁵⁸⁴⁸ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4243, para. 30.

⁵⁸⁴⁹ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4243, para. 30.

⁵⁸⁵⁰ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4243, para. 30.

2284. Jean-Jacques Demafouth testified that he knew about the attack on Bangui before it happened.⁵⁸⁵¹ At the time, he was advisor for security, had his old intelligence network, and had also infiltrated the Anti-Balaka network because they were beginning to encircle Bangui, PK12, on the hills surrounding Bangui, and Mbaïki, in Bimbo, at Cattin, Boeing, 7th arrondissement.⁵⁸⁵² He personally started getting worried and wondered what was happening in the country.⁵⁸⁵³ Jean-Jacques Demafouth said that there were people who were said to be ‘Anti-Balaka leaders’ [REDACTED] whom the witness thought to be one of the leaders in Bangui at the time.⁵⁸⁵⁴ The witness had seen them give a press conference at the Ledger hotel talking on behalf of a ‘revolutionary organisation that was about to arrive’.⁵⁸⁵⁵ [REDACTED] later told the witness that these were the ‘Anti-Balaka’, told him about sites in PK12, and gave him names of some leaders, of FACA who were in the movement.⁵⁸⁵⁶

2285. Jean-Jacques Demafouth said that, while the Sangaris had not yet arrived in Bangui at the time, there was an intelligence service in the French embassy and the witness knew people working for it, all of whom confirmed it, saying something was in the making, they were waiting for orders from the people in Cameroon to take action, but that it should not go beyond 10 December 2013, they had already ‘fixed the date’.⁵⁸⁵⁷ According to Jean-Jacques Demafouth, Michel Djotodia’s intelligence service also knew because some clashes and skirmishes had already taken place between Anti-Balaka and Seleka, so Seleka was preparing as well to face this attack.⁵⁸⁵⁸

2286. Adrien Poussou also said that the festivities for the Independence Day on 1 December 2013 were cancelled because they knew there was going to be an attack, from information given by people close to François Bozizé, among them the phone call that the witness had with Mr Ngaïssona.⁵⁸⁵⁹ Adrien Poussou, during a phone call with the ‘minister for *équipements*’

⁵⁸⁵¹ P-2328: T-047, p. 54, line 23 – p. 55, line 3.

⁵⁸⁵² P-2328: T-047, p. 55, lines 4-15.

⁵⁸⁵³ P-2328: T-047, p. 55, lines 4-18.

⁵⁸⁵⁴ P-2328: T-047, p. 55, lines 4-22.

⁵⁸⁵⁵ P-2328: T-047, p. 55, line 4 – p. 56, line 1. The witness appeared to place this press conference prior to the arrival of the Sangaris in Bangui (see p. 56, lines 2-8).

⁵⁸⁵⁶ P-2328: T-047, p. 55, line 4 – p. 56, line 1.

⁵⁸⁵⁷ P-2328: T-047-ENG, p. 55, line 4 – p. 56, line 8; see also P-2328: T-047-FRA, p. 58, lines 16-22.

⁵⁸⁵⁸ P-2328: T-047, p. 55, line 4 – p. 56, line 12.

⁵⁸⁵⁹ P-2625: T-193, p. 48, line 13 – p. 49, line 14. See also paragraph 2129 above.

Crepin Mboli-Goumba, was told that the intelligence service also had this type of information and this phone call just ‘comforted’ the minister ‘in his belief that this could be true’.⁵⁸⁶⁰

2287.P-0889, [REDACTED] in Zongo during the Bangui Attack, said that the latter wanted the attack to take place on 1 December 2013, but because Djotodia sensed that something was going to happen and cancelled the national celebrations for that day, the security measures were at their maximum and ‘Mokom’ changed the date to 5 December 2013.⁵⁸⁶¹

2288.P-0884 said that ‘[e]veryone was aware of what was going to happen’ and the preparation was not something ‘secret’; he recalled that even Djotodia was aware and had an intelligence service and this is why Djotodia decreed the postponing of the celebration of 1 December.⁵⁸⁶² P-0884 recalled Djotodia making a statement about that celebration because of the preparation of the attack.⁵⁸⁶³ P-2673, a FACA member and [REDACTED],⁵⁸⁶⁴ who was not in Bangui on 5 December 2013, said that he was aware of ‘what was going to happen’; P-2673 learnt it from [REDACTED] that ‘they prepared this so that it could take place on 5 December 2013’.⁵⁸⁶⁵ P-2673 stated that ‘everybody’ knew about this ‘planned attack on Bangui’ and they knew about it through [REDACTED].⁵⁸⁶⁶ P-2673 stated that the plan was to attack Bangui on 1 December 2013, but in the end, they waited until 5 December.⁵⁸⁶⁷

2289.P-1847 stated that someone from the team of ‘Lieutenant Konate’ confirmed to him the imminence of the Bangui Attack over the telephone.⁵⁸⁶⁸

⁵⁸⁶⁰ P-2625, T-193, p. 49, line 18 – p. 50, line 7.

⁵⁸⁶¹ P-0889 Statement, CAR-OTP-2027-2290-R02, at 2297, paras 39-40.

⁵⁸⁶² P-0884: T-056, p. 4, line 7 – p. 5, line 8.

⁵⁸⁶³ P-0884: T-056, p. 5, lines 1-8.

⁵⁸⁶⁴ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6437, paras 14-15; P-2673: T-042, p. 62, line 5 – p. 63, line 7.

⁵⁸⁶⁵ P-2673: T-041, p. 49, lines 6-15.

⁵⁸⁶⁶ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6461, para. 174.

⁵⁸⁶⁷ P-2673 Statement, CAR-OTP-2127-6435-R01, at 6461, para. 174. *See also* paragraph 2170 above.

⁵⁸⁶⁸ P-1847 First Statement, CAR-OTP-2061-1534, at 1561, para. 173.

2290. The Chamber notes the Facebook exchanges from end-November 2013 to early December 2013 showing messages relating to an impending attack, referring to a ‘final strategy’ and ‘final assault’.⁵⁸⁶⁹

2291. P-0974 recalled that when the Anti-Balaka were ‘progressing towards Bangui’ they attacked a number of localities and information on those attacks was broadcast over the radio and RFI talked about that progression ‘all the way to Bangui’.⁵⁸⁷⁰

2292. The Chamber has also considered that the various ‘chiefs’ of the different Anti-Balaka groups that were advancing towards Bangui at the time were also generally aware of the expected timing of the Bangui Attack,⁵⁸⁷¹ despite the postponement. Jacob Mokpem-Bionli, who had met Brice Emotion Namsio on 4 December 2013 behind Boy-Rabe at the hill,⁵⁸⁷² said that he was not informed then that there was going to be an attack but received a call from Alfred Legrand Ngaya on 5 December 2013 at about 04:30 telling him that the Anti-Balaka were ‘coming down’.⁵⁸⁷³

2293. In light of this, while the Chamber cannot reach a conclusion on the exact reason the Bangui Attack appears to have been postponed from 1 to 5 December 2013, there is no doubt that information about an imminent attack on Bangui was circulating at various organisational levels within the Anti-Balaka.

2294. This was also true of certain circles outside the Anti-Balaka. In this regard, the Chamber has considered evidence from witnesses, who were not part of the Anti-Balaka circles, that showed that ‘rumours’ about an impending attack by the Anti-Balaka were circulating in

⁵⁸⁶⁹ Facebook messages, CAR-OTP-2101-9735, at 9807; P-2328: T-050, p. 11, line 4 – p. 12, line 12. P-2841, referring to [REDACTED], stated that ‘*l’assaut final*’ refers to the attack on Bangui; people were preparing themselves for this and then nothing happened (see P-2841 Statement, CAR-OTP-2127-4238-R01, at 4254, para. 91; see also Facebook messages, CAR-OTP-2102-9862, at 9865-66 (30 November 2013)); P-2841: T-029, p. 12, lines 14-23. See further Facebook messages, CAR-OTP-2131-5407, at 5508 (4 December 2013); D30-4679: T-299, p. 87, line 24 – p. 88, line 12; T-301, p. 45, lines 4-9; T-300, p. 40, line 13 – p. 42, line 9.

⁵⁸⁷⁰ P-0974: T-243, p. 17, lines 3-14.

⁵⁸⁷¹ See paragraphs 2225-2245 below. [REDACTED] It does not change the Chamber’s appreciation that there was a common understanding within the various Anti-Balaka groups on when the Bangui Attack would be carried out.

⁵⁸⁷² See paragraph 2234 above.

⁵⁸⁷³ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0058, para. 52; P-0992: T-092, p. 49, line 12 – p. 50, line 9.

Bangui. To the Chamber, this depicted the prevailing sentiment, particularly amongst the Muslim population.

2295. Alfred Legrand Ngaya stated that, in November-December 2013, they started hearing that people were mobilising all over the country and moving towards Bangui using the cattle routes.⁵⁸⁷⁴

2296. P-2682, [REDACTED],⁵⁸⁷⁵ described how rumours about an attack, and concerns for their safety, grew in the days immediately prior to the Bangui Attack. P-2682 testified that when they were in Boeing, ‘they’ kept hearing about the ‘Anti-Balaka’ who were going to ‘chase away the Muslims’, but they did not pay much attention to it.⁵⁸⁷⁶ She said that, after hearing that the ‘Anti-Balaka’ had ‘gone into the bushes’ and were preparing to attack the Muslims, she asked her husband whether he had heard what was being said, to which he said that they should not believe such type of information; but those rumours kept circulating, and at one point ‘they’ realised that the young people were no longer in the neighbourhood and that, during the daytime, these people would go to the bushes and return at night.⁵⁸⁷⁷

2297. P-2682 also said that, at some point, when the Muslim women went to the market, the Christian women would tell them, ‘You, you are going to leave us very soon. You are going to leave the country very soon and we are no longer going to see you’, so she started becoming concerned and talked to her husband, who told her that nothing was going to happen and that they should not believe that information.⁵⁸⁷⁸

2298. P-2682 said that a lady told her, ‘Look, you have to be careful. I have heard this information circulating. You have to inform your husband so that he can flee’, and that her mother said, ‘You have to be careful. If it is possible you should go to PK5 and come and sell in the market before going back every day’.⁵⁸⁷⁹ P-2682 indicated that her husband did not take this information seriously and she told him that she could no longer stay ‘there’ in Boeing, that

⁵⁸⁷⁴ P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0331, para. 50.

⁵⁸⁷⁵ [REDACTED]

⁵⁸⁷⁶ P-2682: T-017, p. 25, line 19 – p. 28, line 5.

⁵⁸⁷⁷ P-2682: T-017, p. 25, line 19 – p. 28, line 5.

⁵⁸⁷⁸ P-2682: T-017, p. 26, lines 7-12.

⁵⁸⁷⁹ P-2682: T-017, p. 26, lines 13-19.

she would go to PK5 with the children and come back if nothing happened.⁵⁸⁸⁰ P-2682 confirmed that she left for PK5 as she was concerned because of what the Christian women said and because her mother heard threatening utterances and insisted she sought refuge.⁵⁸⁸¹

2299.P-2472, a Muslim civilian living [REDACTED] in Bangui on the day of the Bangui Attack,⁵⁸⁸² stated that the non-Muslim population living in PK5 had left the district before the attack on 5 December 2013.⁵⁸⁸³ When he arrived at the Ali Babolo Mosque on the morning of 5 December 2013, he noticed that none of their Muslim neighbours were there anymore.⁵⁸⁸⁴ P-2472 believed they had been informed about the attack in advance and that the attack had been carefully prepared in many churches ahead of time.⁵⁸⁸⁵

2300.Salehou Ndiaye, the imam of the Boeing Mosque at the time, stated that about three or four days before the Bangui Attack, he saw palm tree branches in front of Christian houses.⁵⁸⁸⁶ He stated that, at the time, he did not take much notice of it because palm tree branches were often seen during Christian festivities or when someone had died.⁵⁸⁸⁷ After the Bangui Attack, however, he learnt from Muslims at PK5 that Christians had been warned of the impending attack by the Anti-Balaka and were told to place these branches in front of their houses to indicate that they were Christian houses.⁵⁸⁸⁸

2301.P-2472 noticed the palm leaves for ‘about a week after’ the Bangui Attack in front of the houses of non-Muslims located around PK5; he stated having heard from the self-defence groups in PK5 who obtained information from the Anti-Balaka they captured that the palm leaves were put there as a sign to the Anti-Balaka so that they would not attack these houses.⁵⁸⁸⁹

⁵⁸⁸⁰ P-2682: T-017, p. 26, lines 13-19.

⁵⁸⁸¹ P-2682: T-018, p. 32, lines 6-25.

⁵⁸⁸² P-2472 Statement, CAR-OTP-2110-0355-R01, at 0358, paras 16, 18.

⁵⁸⁸³ P-2472 Statement, CAR-OTP-2110-0355-R01, at 0361, para. 33.

⁵⁸⁸⁴ P-2472 Statement, CAR-OTP-2110-0355-R01, at 0361, para. 33.

⁵⁸⁸⁵ P-2472 Statement, CAR-OTP-2110-0355-R01, at 0361, para. 33.

⁵⁸⁸⁶ P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0763, para. 33; P-1528 Second Statement, CAR-OTP-2121-2831-R01, at 2834, para. 19.

⁵⁸⁸⁷ P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0763, para. 33; P-1528: T-178, p. 27, line 16 – p. 28, line 12; T-179, p. 49, lines 2-8.

⁵⁸⁸⁸ P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0763, para. 33; P-1528 Second Statement, CAR-OTP-2121-2831-R01, at 2834, para. 19; P-1528: T-179, p. 47, line 18 – p. 48, line 12.

⁵⁸⁸⁹ P-2472 Statement, CAR-OTP-2110-0355-R01, at 0361, para. 33.

2302. Fredo Giscard Baboue said that at the time of the Anti-Balaka arrival in Bangui, the Muslims and Islamised Central Africans had already fled Cité Jean XXIII 2 because they had heard they would arrive and were afraid of reprisals – the witness did not know what they were thinking, but thought this was the reason they left.⁵⁸⁹⁰

2303. The placing of palm leaves in front of Christian houses for the ‘Anti-Balaka’ to be able to identify non-Muslim and Christian houses has also been mentioned by other witnesses in the context of other locations.⁵⁸⁹¹

2304. In conclusion, the Chamber finds that news of an impending Bangui Attack was accessible to Mr Ngaïssona and Mr Yekatom at least a few days prior to it.⁵⁸⁹²

ix. The order to attack Bangui on 5 December 2013

2305. Turning to the ninth indicator of coordination, as set out below, the Chamber notes that, depending on their relative position, different witnesses had different versions of who gave the order that launched the Bangui Attack.

2306. P-1521, [REDACTED],⁵⁸⁹³ said that it was the ‘ComZones’, ‘leaders’ behind the hill that decided to attack because there were ‘a lot of people in the movement’ and the Seleka would suspect them if they stayed behind the hill; he suggested that there were more Anti-Balaka coming but they did not come and they had waited in vain.⁵⁸⁹⁴ P-1521 also thought that the decision to go down from the hill on 5 December was taken by ‘unanimity’.⁵⁸⁹⁵

2307. As per P-0965, on 2 December 2013, Bozizé called Andjilo, [REDACTED] and during this phone conversation, Bozizé asked that the elements take the arms so that they could launch

⁵⁸⁹⁰ P-1530 Statement, CAR-OTP-2054-0249-R02, at 0251-52, para. 14.

⁵⁸⁹¹ See for example P-2325 Statement, CAR-OTP-2100-2386-R02, at 2391, para. 23 (Berberati); P-1964 Statement, CAR-OTP-2094-1755-R02, at 1758-1759, paras 27, 34 (Guen); P-2393 Statement, CAR-OTP-2108-0140-R03, at 0161-0162, paras 107-112 (Carnot) cf. P-2556 Statement, CAR-OTP-2112-1300-R01, at 1321, para. 162. Witnesses also talked about it in relation to the houses in Mbaïki (see P-1595 Statement, CAR-OTP-2104-0274-R02, at 0293, para. 101; P-1595: T-106, p. 16, lines 2-17; P-2041 Statement, CAR-OTP-2104-0003-R02, at 0014, para. 60; P-2389 Statement, CAR-OTP-2104-0033-R03, at 0042, para. 52).

⁵⁸⁹² See further paragraphs 2119-2120 below.

⁵⁸⁹³ P-1521: T-081, p. 50, lines 1-12.

⁵⁸⁹⁴ P-1521: T-081, p. 52, lines 8-15.

⁵⁸⁹⁵ P-1521: T-081, p. 55, lines 7-12.

the combat.⁵⁸⁹⁶ P-0965 said that instructions from Bozizé would be conveyed by Konaté to the elements and the chiefs.⁵⁸⁹⁷

2308. P-0876, who did not himself participate in the Bangui Attack, stated that he could not confirm that the attack was launched under Konaté's command upon Bozizé's instructions; P-0876 nonetheless believed that the attack had been ordered by Bozizé and referred to an intercepted phone conversation that he believed actually took place between Bozizé calling from Nairobi and Konaté, in which Bozizé blamed Konaté for the failure of their mission; P-0876 stated that a week earlier, Bozizé had publicly stated on RFI that he had nothing to do with the Anti-Balaka movement.⁵⁸⁹⁸

2309. P-0306 assumed that it was Mr Ngaïssona, who issued the orders to attack Bangui. P-0306 said that it was [REDACTED] and [REDACTED] who gave them the order to attack on 5 December 2013, and that this order came from 'the supreme authority'.⁵⁸⁹⁹ These orders were 'to go all the way to *Quatrième*, to Gobongo and to various other neighbourhoods in Bangui and to attack the Seleka'.⁵⁹⁰⁰ P-0306 said that he knew that the orders came from 'the authority', Mr Ngaïssona, because he called when they were all assembled together.⁵⁹⁰¹ Moreover, Konaté, who was 'the chief of operations', told Andjilo when the preparations were taking place that Konaté regularly provided reports on what was happening to Mr Ngaïssona.⁵⁹⁰²

2310. The Ngaïssona Defence argues that P-0306's account lacks credibility on this aspect as he was 'remarkably vague' in his description of events and 'kept going back' to Mr Ngaïssona's subsequent role as national coordinator to validate his claims; *inter alia*, it points out that P-0306 changed his version concerning [REDACTED].⁵⁹⁰³ Similarly, it submits that P-0965's

⁵⁸⁹⁶ P-0965 Interview Transcript, CAR-OTP-2046-0055-R02, at 0064, line 323, at 0065, line 368.

⁵⁸⁹⁷ P-0965 Interview Transcript, CAR-OTP-2046-0166-R01 at 0170, lines 125-140, at 0171-73, lines 174-208; *see also* P-0965 Interview Transcript, CAR-OTP-2046-0195-R01 at 0210, lines 510-512. P-0965: T-061, p. 29, line 25 – p. 30, line 18; P-0965: T-063, p. 24, line 15 – p. 25, line 5.

⁵⁸⁹⁸ P-0876 Interview Transcript, CAR-OTP-2046-0530-R02, at 0549, lines 645-668. *See further* Audio, CAR-OTP-2000-0603; Transcript, CAR-OTP-2060-0616; Translation, CAR-OTP-2060-0663.

⁵⁸⁹⁹ P-0306: T-065, p. 13, line 25 – p. 14, line 14.

⁵⁹⁰⁰ P-0306: T-065, p. 13, line 25 – p. 14, line 14.

⁵⁹⁰¹ P-0306: T-065, p. 14, line 15 – p. 15, line 4.

⁵⁹⁰² P-0306: T-065, p. 15, lines 5-25. [REDACTED]

⁵⁹⁰³ Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, para. 526.

claims in this regard should also be dismissed as ‘entirely unreliable’, arguing that P-0965 could not have been aware of any instructions ahead of 5 December and it is implausible that he would have overheard Konaté ‘loudly reporting operational details’.⁵⁹⁰⁴

2311. Brice Emotion Namsio considered ‘Mokom’ to be ‘the coordinator of operations’, whereas Andjilo, Konaté and some other ‘*responsables*’ dispatched the groups for the attacks.⁵⁹⁰⁵ During his testimony, the witness indicated that he met Maxime Mokom in Zongo, and that Maxime Mokom was the one who said that Andjilo and the others had got to the hill.⁵⁹⁰⁶ Brice Emotion Namsio said that Maxime Mokom was ‘the operations coordinator’, the one who would call and provide information to the people behind the hill, the ‘only’ person who issued orders and coordinated before and after the attack.⁵⁹⁰⁷ The witness also testified that he followed ‘from beginning to end’ Maxime Mokom, ‘who was coordinating’.⁵⁹⁰⁸

2312. When confronted with P-0306’s evidence according to which the Anti-Balaka regrouped behind the hills following Mr Ngaïssona’s orders, Brice Emotion Namsio indicated that when he was in Zongo, the person they called coordinator, and who coordinated, was Maxime Mokom.⁵⁹⁰⁹ He also said that during that time, it was Maxime Mokom who called Andjilo to talk.⁵⁹¹⁰ The witness agreed that when he was behind the hill, no one told him that Mr Ngaïssona gave orders or money to the Anti-Balaka elements there.⁵⁹¹¹

2313. P-0889, who was [REDACTED] in Zongo, said that Maxime Mokom gave the order to launch the attack once all the elements were positioned close to Bangui.⁵⁹¹²

2314. P-2841 said generally that he received information that the Anti-Balaka were told to follow instructions and progressively advance towards Bangui and surround the town.⁵⁹¹³ P-2841 did not know who gave the Anti-Balaka these instructions; everyone knew who the Anti-

⁵⁹⁰⁴ Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, para. 527.

⁵⁹⁰⁵ P-0446 Interview Transcript, CAR-OTP-2059-1672-R02, at 1693, lines 772-779.

⁵⁹⁰⁶ P-0446: T-096, p. 32, lines 1-21.

⁵⁹⁰⁷ P-0446: T-096, p. 32, line 22 – p. 33, line 13.

⁵⁹⁰⁸ P-0446: T-096, p. 42, lines 11-24.

⁵⁹⁰⁹ P-0446: T-097, p. 60, line 7 – p. 61, line 3. Brice Emotion Namsio indicated that Maxime Mokom was ‘the coordinator of operations during that time’.

⁵⁹¹⁰ P-0446: T-097, p. 60, line 7 – p. 61, line 3.

⁵⁹¹¹ P-0446: T-097, p. 61, line 23 – p. 62, line 23.

⁵⁹¹² P-0889 Interview Transcript, CAR-OTP-2122-7626-R02, at 7629, lines 85-113.

⁵⁹¹³ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4273, para. 196.

Balaka leaders were, such as ‘Maxime M[okom], D[ouze Puissances] and A[ndjilo]’, but he could not say exactly who was giving the orders; in the run-up to the final attack on Bangui, information was not circulating as much so as not to be picked up by ‘the enemy’.⁵⁹¹⁴ P-2841 confirmed having heard about attacks in villages around Bossangoa, Bogangolo, Bouca, Benzambé – these were serious atrocities committed by both Seleka and Anti-Balaka; according to P-2841, obviously those in Zongo and Cameroon would have known about these attacks and atrocities as they were in contact with the Anti-Balaka, but P-2841 did not know who gave the orders.⁵⁹¹⁵

2315. Having regard to this, the Chamber does not rely on P-0306’s claims that it was Mr Ngaïssona who gave the orders to launch the Bangui Attack. Further, the Chamber considers that there may have been communications between Andjilo and someone from the Bozizé family. However, without more, P-0306’s and P-0965’s evidence do not show that François Bozizé gave the final order to launch the Bangui Attack.

2316. The evidence thus far overwhelmingly suggests that Maxime Mokom was in regular contact with the chiefs on the ground.⁵⁹¹⁶ Relying on Brice Emotion Namsio and P-0889’s evidence, as discussed above, the Chamber finds that Maxime Mokom relayed the orders to launch the Bangui Attack.

x. Goal of the Bangui Attack

2317. Turning to the tenth indicator of coordination, as set out below, the Chamber finds that the Anti-Balaka participating in the Bangui Attack shared the same goal, which was to target Seleka positions in Bangui with a view to ‘getting rid of Djotodia’ and ‘chasing out the Seleka’, which included systematic targeting of Muslim civilians.⁵⁹¹⁷

2318. The Prosecution submits that the Anti-Balaka’s objective for the Bangui Attack was ‘to take control of the capital, to remove Djotodia in order to regain power, and to attack the Muslim civilian population, which they perceived as collectively responsible for, complicit with,

⁵⁹¹⁴ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4273, para. 197.

⁵⁹¹⁵ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4275, para. 208.

⁵⁹¹⁶ See section IV.B.1.iii.b above.

⁵⁹¹⁷ See also section IV.A.5 above, section IV.C.1.iii below.

and/or supportive of the Seleka.⁵⁹¹⁸ The Yekatom Defence submits that insider witnesses were ‘effectively unanimous’ that the ‘broader 5th December Operation’ targeted Seleka positions and many of these witnesses insisted that the objective of the ‘anti-balaka’ was not to target or take revenge on Muslim civilians.⁵⁹¹⁹

2319.P-2251 stated that his group’s goal was to ‘drive out the Seleka from [REDACTED]’.⁵⁹²⁰ P-0306 indicated that the instructions they received were to attack the Seleka at their different positions or bases, that was their target.⁵⁹²¹ P-0306 said that the aim was to ‘retake the town of Bangui in that day’,⁵⁹²² and that the Seleka were easy to identify because they wore military uniforms and carried arms, while the Anti-Balaka dressed in civilian clothing.⁵⁹²³

2320.P-2232 indicated that the goal of the Bangui Attack was to capture Bangui and drive out Djotodia from power, and that otherwise ‘they would not have displaced all the elements from all villages and converged them on Bangui’.⁵⁹²⁴ The essential thing was to achieve the objective, which was to chase the Seleka from power, all attacks were aimed at chasing Seleka out of power so as to take their place.⁵⁹²⁵

2321.Brice Emotion Namsio stated that as the Anti-Balaka spokespersons, his and Konaté’s role during the attack was to put pressure on Djotodia to resign.⁵⁹²⁶ The witness stated that the goal of the attack on Bangui was not to seize the power but to push Djotodia to resign or at least to change the way he ruled the country instead of killing his own people.⁵⁹²⁷

2322.Nicolas Tiangaye, asked as former prime minister what he understood the goal of the Anti-Balaka attack to be, said that its objective was to overthrow the Seleka regime because they attacked locations where ‘Djotodia was present and the base of the Seleka’; to him, it was

⁵⁹¹⁸ Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, para. 544 *referring to* P-0291, P-0966, P-2269, P-0992, P-0306, and audio-visual material.

⁵⁹¹⁹ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 362.

⁵⁹²⁰ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0060, para. 98.

⁵⁹²¹ P-0306: T-065, p. 17, line 23 – p. 18, line 9.

⁵⁹²² P-0306: T-065, p. 18, line 18 – p. 19, line 3.

⁵⁹²³ P-0306: T-065, p. 18, lines 10-17.

⁵⁹²⁴ P-2232: T-075, p. 69, line 3 – p. 70, line 6.

⁵⁹²⁵ P-2232: T-075, p. 60, lines 15-22.

⁵⁹²⁶ P-0446 Interview Transcript, CAR-OTP-2059-1433 at 1450, lines 644-653.

⁵⁹²⁷ P-0446 Interview Transcript, CAR-OTP-2059-1433 at 1447, lines 537-550.

‘obvious’ that it was an attempt to take over the strategic locations and ‘put an end to Djotodia’s regime and of the Seleka’.⁵⁹²⁸

2323. Those who did not participate in the Bangui Attack also understood the objective in similar terms. For example, P-0889 stated that Maxime Mokom wanted to attack Bangui to chase out the Seleka and overthrow Michel Djotodia’s regime with the ultimate purpose of reinstating the institutional order and having Bozizé return to power.⁵⁹²⁹ Jacob Mokpem-Bionli stated that the intention or the motive of the attack was to get rid of Djotodia and his people and bring Bozizé back; the witness could not tell whether Bozizé was aware of this, this was a military affair so people like Ngaïkosset were the ones aware of this.⁵⁹³⁰ P-0876 agreed with the Yekatom Defence counsel’s proposition that the 5 December attack had ‘a military objective’ which was ‘to dislodge Djotodia and his mercenaries’.⁵⁹³¹ Further, he indicated that the 5 December attack was ‘one mean amongst many to bring about an end to the Seleka regime’, and that for people who knew how to handle weapons, ‘that target was imperative’.⁵⁹³²

2324. P-1847 stated that ‘their’ (the Anti-Balaka’s) main mission was to progress to encircle the town of Bangui in order to attack the Seleka’s positions, and that their ultimate goal was the reversal of the Seleka regime.⁵⁹³³ At the same time, however, P-1847 stated that in his view, the actions and exactions of the Anti-Balaka as a whole targeted the Muslim populations of the CAR, whom they considered accomplices of the Seleka.⁵⁹³⁴

2325. In the view of the Chamber, this aspect of targeting the Muslim population of the CAR is also reflected in the views of those that participated in the Bangui Attack and in how the attack unfolded.⁵⁹³⁵

⁵⁹²⁸ P-0291: T-051, p. 63, lines 15-22.

⁵⁹²⁹ P-0889 Interview Transcript, CAR-OTP-2122-7626, at 7628, lines 60-70.

⁵⁹³⁰ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0059, para. 58; P-0992: T-093, p. 42, lines 10-12, 18-22.

⁵⁹³¹ P-0876: T-086, p. 19, lines 10-12.

⁵⁹³² P-0876: T-088, p. 11, line 19 – p. 12, line 9.

⁵⁹³³ P-1847 First Statement, CAR-OTP-2061-1534, at 1559, paras 158-159.

⁵⁹³⁴ P-1847 First Statement, CAR-OTP-2061-1534, at 1569, para. 224.

⁵⁹³⁵ See sections IV.B.1.xiii–IV.B.1.xiv below.

2326.P-1521 said that the goal was to attack the Seleka elements' positions with a view to acquiring some weapons and ammunitions, and not to attack the Muslim community.⁵⁹³⁶ However, when commenting about the 'modus operandi' of the Bangui Attack, P-1521 said that they adopted 'guerrilla warfare' and used 'ambushes' to attack the Seleka, following which, 'the Seleka would then attack the population because, according to Seleka, the population were complicit with the Anti-Balaka' and 'so whenever something happened of that nature, it would be total carnage on the population when the Seleka would arrive'.⁵⁹³⁷

2327.In a video, presumably shot prior to Djotodia's resignation, Sylvestre Yagouzou is shown demanding Djotodia to resign within 24 hours, saying that if he resigns, he will save the lives of Central African Muslims; if Djotodia does not resign, 'we will carry out a massacre'; he said that Djotodia has brought in mercenaries to kill Central Africans, and this is why they are revolting ('*il démissionne pour sauver la vie des peuples centrafricaines musulmanes [phon]*', '*s'il ne démissionne pas, nous on va faire le massacre*', '*il a amené des ... des mercenaires, des djihadistes, pour tuer les Centrafricains [...] c'est par rapport à ça que nous nous révoltons*').⁵⁹³⁸

xi. Common leaders

2328.Turning to the eleventh indicator of coordination, as set out below, the Chamber finds that various Anti-Balaka groups that participated in the Bangui Attack had common leaders, who coordinated their actions and instructed them.

2329.The Prosecution submits that the Anti-Balaka attacked simultaneously from different directions, with some under the orders of FACA members or non-commissioned officers like '[Mr] Yekatom, Konaté, Ngremangou, Bawa', and others under '*de facto commanders*' like 'Olivier Feissona, Andjilo, Lebene, Mazimbele'.⁵⁹³⁹

2330.From the evidence discussed thus far, the names of certain chiefs have appeared consistently in respect of the Anti-Balaka descending from the Bossangoa area into Bangui, namely,

⁵⁹³⁶ P-1521: T-082, p. 82, line 17 – p. 83, line 11, T-083, p. 3, line 22 – p. 4, line 10.

⁵⁹³⁷ P-1521: T-082, p. 84, line 20 – p. 85, line 7.

⁵⁹³⁸ Video, CAR-OTP-2065-5468; Transcript, CAR-OTP-2122-2303, at 2305, lines 22-32.

⁵⁹³⁹ Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, para. 547.

Thierry Lebene, Dedane, Andjilo and Konaté to name a few.⁵⁹⁴⁰ Similarly, Ngremangou, Sebastien Wenezoui, and Mr Yekatom appear to have been mentioned from those Anti-Balaka groups close to the M’Poko airport.⁵⁹⁴¹

2331. Hereinbelow, the Chamber has examined the evidence concerning Konaté and Ngremangou who are named by witnesses to have coordinated actions of several groups.

a. Konaté

2332. Those who were part of the groups coming from the north, particularly elements in Andjilo’s group, recognised Konaté as one of the ‘chief of operations’ and place him as one of those executing the Bangui Attack.

2333. P-0306 considered Konaté as ‘the chief of operations’ and as someone who told Andjilo when the preparations were taking place, and that he regularly provided reports on what was happening to Mr Ngaïssona.⁵⁹⁴² P-0306 said that Konaté took Andjilo and his group to Bangui and remained with them until before the Bangui Attack.⁵⁹⁴³ [REDACTED].⁵⁹⁴⁴

2334. P-0965 indicated that Konaté, who had worked under Bozizé’s regime and was an experienced military man, was ‘the one who defined the plans’ and who would ‘group together all the group leaders and issue instructions’.⁵⁹⁴⁵ P-0965 said that Konaté was in contact with François and Francis Bozizé, Mr Ngaïssona and Steve Yambete because they funded the group and had the means to finance it.⁵⁹⁴⁶ P-0965 said that [REDACTED] and Mr Ngaïssona would call before the latter returned to Bangui regularly through telephone to convey messages and get reports.⁵⁹⁴⁷ P-0965, asked about the content of these messages, said that the instruction conveyed ‘before 5 December’ was ‘for the leaders to ensure that the

⁵⁹⁴⁰ See also P-1847 First Statement, CAR-OTP-2061-1534, at 1562-63, para. 189.

⁵⁹⁴¹ See also sections IV.B.2.iv–IV.B.2.vii below.

⁵⁹⁴² P-0306: T-065, p. 15, lines 5-25.

⁵⁹⁴³ P-0306: T-067, p. 32, lines 8-24.

⁵⁹⁴⁴ P-0306: T-067, p. 32, line 25 – p. 33, line 13. See also p. 33, lines 14-17. [REDACTED] See also paragraphs 206-218 above. See further paragraphs 2307-2315 above.

⁵⁹⁴⁵ P-0965: T-061, p. 17, lines 3-10.

⁵⁹⁴⁶ P-0965: T-061, p. 18, lines 1-7.

⁵⁹⁴⁷ P-0965: T-061, p. 29, line 25 – p. 30, line 4.

elements behaved properly, that they would not panic on hearing gunshots, but that they should act as courageous fighters in order to win battles'.⁵⁹⁴⁸

2335.P-1521 said that Konaté was not 'a member of the coordination, but he was part of the coordination' and 'a leader', 'he was the one in command'.⁵⁹⁴⁹ P-1521 said that Konaté's section was made up entirely of soldiers but they came as a group and initially it was not easy for them because the 'Anti-Balaka civilians' did not want to accept them because they thought they were traitors for having fled the Seleka but after a while they explained that they had the same goal, namely to 'kick out Seleka with its band of mercenaries' and this is how the civilians ultimately accepted them and advanced together towards the Gbazabangui hill before 5 December 2013.⁵⁹⁵⁰

2336.Joachim Kokaté indicated that at the end of February 2014, he met Konaté at the prime minister's cabinet and Konaté explained to him that he was one of the leaders of the Anti-Balaka who fought on the ground on 5 December 2013, but he did not give details as regards the planning of the operations.⁵⁹⁵¹

2337.The Chamber notes that P-0876 had not met Konaté until after the Bangui Attack and did not meet him when he visited the Anti-Balaka groups prior to the Bangui Attack,⁵⁹⁵² however, this has not diminished the Chamber's appreciation of Konaté's role.

b. Ngremangou

2338.Witnesses have also spoken to Ngremangou's role as one of the persons coordinating the groups arriving from the south of Bangui. In assessing his role, the Chamber also has regard to the findings above and below.⁵⁹⁵³

⁵⁹⁴⁸ P-0965: T-061, p. 29, line 25 – p. 30, line 18.

⁵⁹⁴⁹ P-1521: T-081, p. 23, line 22 – p. 24, line 4 *referring to* List, CAR-OTP-2068-0118.

⁵⁹⁵⁰ P-1521: T-081, p. 26, line 22 – p. 27, line 11.

⁵⁹⁵¹ P-0801: T-034, p. 68, line 3 – p. 70, line 17.

⁵⁹⁵² P-0876 Interview Transcript, CAR-OTP-2046-0427-R01, at 0443-44, lines 566-604.

⁵⁹⁵³ See section IV.B.1.ii.c above, section IV.B.2.vii below.

2339. The evidence suggests that individuals, in particular, P-0876, Mr Yekatom,⁵⁹⁵⁴ and P-0884 were in communication with Ngremangou prior to the Bangui Attack.

2340. P-0884, asked whether he was in contact with Ngremangou in the period leading up to the 5 December attack, said that it was not only by telephone [REDACTED]; they received the same information and sometimes Ngremangou gave P-0884 information on the ‘attack of 5 December’.⁵⁹⁵⁵

2341. P-2232 indicated that Ngremangou was one of the members of the coordination, he was in regular contact with Maxime Mokom and was responsible of ‘recruiting soldiers’ in Bangui,⁵⁹⁵⁶ and that his role entailed ‘bringing together all the soldiers who were part of the Anti-Balaka movement’.⁵⁹⁵⁷ P-0954 described Ngremangou as ‘the big boss’ because he had the connection with Bozizé and, according to what P-0954 heard from Ngremangou’s ‘men’, received money from Bozizé.⁵⁹⁵⁸ During this testimony, P-0954 further indicated that Ngremangou received orders from Bozizé.⁵⁹⁵⁹

2342. The Chamber notes in particular P-0876’s interview with the Prosecution in which he stated that the ‘Boeing group’ went to talk to Ngremangou to confront him about the attack; they told him that they should have been informed about it.⁵⁹⁶⁰

xii. Assignment of specific locations and time to attack in advance

2343. Turning to the twelfth indicator of coordination, as set out below, the Chamber finds that, on 4 December 2013, Anti-Balaka groups that reassembled close to Bangui prior to the Bangui Attack were each assigned a specific target within Bangui and instructed to begin the attack on the respective targets at 05:00 on 5 December 2013.

⁵⁹⁵⁴ See paragraphs 2507-2509 below.

⁵⁹⁵⁵ P-0884: T-056, p. 6, line 19 – p. 7, line 10.

⁵⁹⁵⁶ P-2232: T-076, p. 21, lines 1-14.

⁵⁹⁵⁷ P-2232: T-076, p. 42, line 24 – p. 43, line 4.

⁵⁹⁵⁸ P-0954 Statement CAR-OTP-2048-0171-R03, at 0177, para. 37.

⁵⁹⁵⁹ P-0954: T-166, p. 27, line 12 – p. 28, line 3.

⁵⁹⁶⁰ P-0876 Interview Transcript, CAR-OTP-2046-0427-R01, at 0442, lines 535-548; *see also* at 0448, lines 733-746 where P-0876 stated that the Kamezoulai and Mr Yekatom were not implicated in the Bangui Attack. *See further* paragraphs 256-265 above, paragraph 2506 below.

2344. The Prosecution submits that the various Anti-Balaka groups were to attack in specific areas in Bangui and aim for predefined objectives.⁵⁹⁶¹ The Prosecution submits that the Anti-Balaka attacked multiple targets ‘including Camp Kassai (a Seleka base), Camp de Roux, the Fire Brigade Camp, the National Assembly, the Protestant Youth Center, and containers located behind the Air France offices, where the Seleka tortured and killed prisoners’.⁵⁹⁶²

2345. The evidence shows that various Anti-Balaka chiefs gathered on 4 December 2013, the evening before the attack to plan the specifics, i.e. time of the attack, locations to attack, and distribution of elements into groups.

2346. Brice Emotion Namsio said that in the evening of 4 December 2013, the elements and the chiefs, himself included, ‘rallied’ behind the hill ‘together in the evening and the teams were shared’.⁵⁹⁶³ The witness said that the teams were divided up because each chief with their team was supposed to go and attack a specific position.⁵⁹⁶⁴ P-0306 said that each group, including his group, had to attack a specific Seleka position in the town.⁵⁹⁶⁵ Brice Emotion Namsio explained they did not reveal at what time the attack would take place as they were afraid of a leak.⁵⁹⁶⁶ P-0965 indicated that a battle plan was drawn up during a meeting between the ComZones which he did not attend.⁵⁹⁶⁷

2347. P-1521, [REDACTED],⁵⁹⁶⁸ [REDACTED] said that the leaders decided this ‘unanimously’.⁵⁹⁶⁹ P-1521, asked who took the decision in relation to the directions to take for the attack, said that before 5 December, there was no ‘chain of command’ as such and everybody had their own elements and if there were decisions taken, it was by consensus.⁵⁹⁷⁰

2348. Certain chiefs gave a speech in preparation on the night before the Bangui Attack. Brice Emotion Namsio said that during this gathering in the evening before the attack, and

⁵⁹⁶¹ Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, para. 546.

⁵⁹⁶² Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, para. 547.

⁵⁹⁶³ P-0446 Interview Transcript, CAR-OTP-2059-1672-R02, at 1689-93, lines 634-779; T-096, p. 45, lines 8-24.

⁵⁹⁶⁴ P-0446: T-096, p. 48, line 18 – p. 49, line 18; P-0446 Interview Transcript, CAR-OTP-2059-1696-R01, at 1697-99, lines 31-92.

⁵⁹⁶⁵ P-0306: T-065, p. 12, line 20 – p. 13, line 12.

⁵⁹⁶⁶ P-0446 Interview Transcript, CAR-OTP-2059-1696-R01, at 1699, lines 86-92.

⁵⁹⁶⁷ P-0965 Interview Transcript, CAR-OTP-2046-0166-R01, at 0169, lines 100-107.

⁵⁹⁶⁸ P-1521: T-081, p. 53, lines 9-10.

⁵⁹⁶⁹ P-1521: T-081, p. 52, line 24 – p. 53, line 8, p. 55, lines 7-12.

⁵⁹⁷⁰ P-1521: T-081, p. 51, lines 17-22.

‘Konate’ and Andjilo took the floor and said that they needed to attack.⁵⁹⁷¹ P-0965 mentioned that Andjilo reassembled everyone on 4 December 2013 around 20:00 prior to the Bangui Attack, to say that they would attack from 05:00 in the morning, asking his troops ‘not to be afraid to go ahead and fire’ and to ‘kill the enemy’.⁵⁹⁷² P-2251 stated that on the night of 4 December 2013, there was a ‘night vigil’ in the bush behind the hill, which included a big light, dancing and songs of praise and about how they would defend their country.⁵⁹⁷³ P-2251 stated that their ‘chiefs’ were with them, dancing and singing of victory, shouting that they would ‘push the Seleka out’ and that ‘the Christian God will help’ them.⁵⁹⁷⁴ P-2251 stated that people did not drink alcohol or take drugs but just prayed to God to protect them and, at about 02:00 on 5 December, they stopped dancing and started praying before departing.⁵⁹⁷⁵

2349. P-2251 did not know what the chiefs discussed amongst themselves, but P-2251’s chief came to them and told them which path they would take during the attack; the chief told them that when the attack started, the elements should be ready to bang pots and shout ‘Seleka get out, Seleka get out!’ and were told to fire in the air with their hunting rifles.⁵⁹⁷⁶ P-0567 stated that from what he learned later about this attack, it was clear that it was well-coordinated and the targeted locations were well designated in advance; P-0567 believed that the targets were not individuals but rather specific locations.⁵⁹⁷⁷

2350. The evidence shows that the groups and locations were divided as follows: (i) Konaté and Feissona would lead the attack Camp Kassai;⁵⁹⁷⁸ (ii) ‘Bawa’ would attack the National

⁵⁹⁷¹ P-0446: T-096, p. 45, lines 8-24; P-0446 Interview Transcript, CAR-OTP-2059-1696-R01, at 1697-99, lines 31-92.

⁵⁹⁷² P-0965 Interview Transcript, CAR-OTP-2046-0166-R01, at 0171, lines 161-173.

⁵⁹⁷³ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0059, para. 90.

⁵⁹⁷⁴ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0059, para. 90.

⁵⁹⁷⁵ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0059, para. 90.

⁵⁹⁷⁶ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0059, para. 89.

⁵⁹⁷⁷ P-0567 Statement, CAR-OTP-2059-0084-R04, at 0090, para. 34. P-2328 also learnt about the attack later and had a similar impression that the attack took place from several fronts, particularly from the ‘Bazubangui hills’, from the 7th arrondissement, and Boeing, which is also shown by the evidence discussed below (*see also* P-2328: T-047, p. 63, line 15 – p. 64, line 20).

⁵⁹⁷⁸ P-0446 Interview Transcripts, CAR-OTP-2059-1672-R02, at 1689, lines 634-638; CAR-OTP-2059-1696-R01, at 1700, lines 115-121.

Assembly because the Seleka were in the *Sapeurs Pompiers* base;⁵⁹⁷⁹ and (iii) Andjilo would lead the attack in the 4th arrondissement near the Marabena roundabout;⁵⁹⁸⁰ (iii) other teams, including that of Mr Yekatom, would attack around PK9 and towards KM5.⁵⁹⁸¹

2351. These targets corresponded to the Seleka bases in Bangui at the time. Jacob Mokpem-Bionli mentioned the following Seleka bases: (i) ‘the Barthélémy Boganda lycée’,⁵⁹⁸² next to the National Assembly, across from 36 Villas; (ii) the Boy-Rabe base, ‘virtually in front of the concession’; (iii) the base ‘going to the Ndress graveyard’; (iv) a small group of Seleka elements based around Mr Ngaïssona’s warehouse towards Camp Kassai,⁵⁹⁸³ ‘but they were not inside, just in front’.⁵⁹⁸⁴ P-1521, [REDACTED],⁵⁹⁸⁵ said that there were Seleka bases at PK12, so some groups would try to attack them at ‘36 Villas’ and ‘Gobongo’; these locations were chosen because Seleka elements were based in the areas that they targeted.⁵⁹⁸⁶ P-1521, asked how it was decided that the group should attack from three different directions, said that the aim was to see where the Seleka elements were and to find out where the Seleka positions were; they thought they would go where the Seleka were and get some materiel.⁵⁹⁸⁷ P-0876 explains that he later heard that the Anti-Balaka’s plan was to target several Seleka positions at the same time: Camp Kassai, the *Sapeurs-Pompiers* base, the camp Béal, the base in Don Bosco near the airport, among others.⁵⁹⁸⁸

⁵⁹⁷⁹ P-0446: T-096, p. 45, lines 8-24; P-0446 Interview Transcript, CAR-OTP-2059-1672-R02, at 1690, lines 661-666, at 1694, line 813. As per P-2232, Sami Bawa had crossed over to Bangui from Zongo following Maxime Mokom’s instructions (see P-2232: T-075, p. 44, line 19 – p. 46, line 21).

⁵⁹⁸⁰ P-0446 Interview Transcript, CAR-OTP-2059-1672-R02, at 1689, lines 641-657. P-0965 considered that Andjilo’s group’s objective was to take the palace because if they did not take the palace, the battle was not yet won (*‘les gens d’Andjilo c’est une équipe choc, une équipe des résistants, et leur l’objectif à eux c’était de prendre le Palais, parce que même si on arrive à prendre la radio, on prend l’aéroport, mais si on ne prend pas le Palais, on n’a pas gagné la bataille encore.’*) (see P-0965 Interview Transcript, CAR-OTP-2046-0166-R01, at 0173, lines 232-236).

⁵⁹⁸¹ P-0446: T-096-ENG, p. 45, lines 8-24; see also T-096-FRA, p. 50, line 11 – p. 51, line 17 (*‘Il y en a ceux qui ... qui vont attaquer vers le PK 9, il y a aussi d’autres équipes qui « va » aussi attaquer vers... derrière le KM 5, c’est-à-dire à partir de Boeing pour aller vers le KM 5.’*) (Mr Yekatom ‘va conduire le KM 5 en allant vers le PK 9, sortie sud-ouest de la ville de Bangui’); P-0446 Interview Transcript, CAR-OTP-2059-1672-R02, at 1690-92, lines 659-700, 733-737, 757-767. See also section IV.B.3.i.a below.

⁵⁹⁸² See also P-0446: T-099, p. 3, line 19 – p. 4, line 12.

⁵⁹⁸³ See also P-0446: T-099, p. 4, lines 4-12.

⁵⁹⁸⁴ P-0992: T-095, p. 36, line 8 – p. 38, line 11.

⁵⁹⁸⁵ P-1521: T-081, p. 52, line 24 – p. 53, line 2.

⁵⁹⁸⁶ P-1521: T-081, p. 43, lines 17-25; T-082, p. 82, line 3 – p. 83, line 11.

⁵⁹⁸⁷ P-1521: T-081, p. 51, lines 11-16.

⁵⁹⁸⁸ P-0876 Interview Transcripts, CAR-OTP-2046-0324-R01, at 0327, lines 111-119; CAR-OTP-2046-0427-R01, at 0437-38, lines 351-368, at 0443, lines 555-559.

2352. The evidence shows that the attack was to begin between 04:00 and 05:00 on 5 December 2013. For those that were on the hills behind Bangui, this meant that the descent had to begin in time to reach Bangui at the designated time. P-0306 said that they stayed on the back side of the hills in Bangui until 5 December 2013 when they received the decision to enter Bangui.⁵⁹⁸⁹ P-0306 indicated that the ‘programme’ or ‘plan’ to attack Bangui on 5 December was set up from 1 to 3 December 2013,⁵⁹⁹⁰ but it was on 4 December that ‘everybody came down’ to attack Bangui.⁵⁹⁹¹ P-0306 said that on 5 December 2013, after receiving instructions to enter Bangui, they took up the ‘light weapons’ they had taken from the Seleka and entered Bangui very early in the morning.⁵⁹⁹² According to P-0975, the Anti-Balaka group posted on Boy-Rabe hill entered Bangui at 04:00 on 5 December 2013.⁵⁹⁹³ P-0965 also said that the attack started at 04:00 in the morning of 5 December.⁵⁹⁹⁴ Brice Emotion Namsio, who was on the hill behind Boy-Rabe on 4 December 2013,⁵⁹⁹⁵ stated that the elements left their base around midnight to come down to Bangui, and that it was a two-hours walk; the attack took place in the early morning, it had been decided that the attack would start at 05:00.⁵⁹⁹⁶

2353. The Chamber has noted the routes adopted for the attack that were in keeping with the pre-decided locations and targets. The Anti-Balaka coming in from the north proceeded in three main directions: towards PK12 (direction northwest), towards 4th arrondissement (direction south), and Camp Kassai (direction southeast).

2354. P-2251 and P-1521 annotated maps showing the routes taken by the Anti-Balaka elements that were attacking from the northern side of Bangui. P-2251 marked a map with (i) the route that his group took from Nguito; (ii) the route that [REDACTED] group took through the 4th

⁵⁹⁸⁹ P-0306: T-064, p. 69, line 20 – p. 70, line 21.

⁵⁹⁹⁰ P-0306: T-065, p. 12, lines 12-19.

⁵⁹⁹¹ P-0306: T-065, p. 12, lines 12-19.

⁵⁹⁹² P-0306: T-064, p. 69, line 20 – p. 70, line 21.

⁵⁹⁹³ P-0975 Statement, CAR-OTP-2033-7885-R02, at 7891, para. 39.

⁵⁹⁹⁴ P-0965: T-063, p. 21, lines 14-19.

⁵⁹⁹⁵ P-0446: T-096, p. 39, line 12 – p. 40, line 25 *referring to* Photograph, CAR-OTP-2075-0074, at 0128 dated 4 December 2013.

⁵⁹⁹⁶ P-0876 Interview Transcripts, CAR-OTP-2059-1672-R02, at 1693, lines 801-805; CAR-OTP-2059-1696-R01, at 1700, lines 133-138.

arrondissement in Bangui, [REDACTED];⁵⁹⁹⁷ (iii) the route that the group who went to Camp Kassai took over the hill; (iv) the route of the group that attacked PK10 and PK12 leaving from Kpata.⁵⁹⁹⁸ P-2251 thought that these targets - notably Boy-Rabe, Camp Kassai and PK12 - were picked because they were informed that this were where 'the Seleka were harassing population'.⁵⁹⁹⁹ P-1521 also annotated a map showing the 'plan' of the Bangui Attack,⁶⁰⁰⁰ that mirrors the main directions taken by the different groups that day. P-1521 described one group going directly to 4th arrondissement and another to Camp Kassai toward Camp de Roux, and the third going to PK12,⁶⁰⁰¹ said that 'these three directions' were the ones they needed to attack; he added that everyone was to engage 'where they can fight' and that it was 'all a bit mixed up'.⁶⁰⁰²

2355. P-0889, who was [REDACTED] in Zongo [REDACTED], said that the 'first group' of the 7th arrondissement took Camp Kassai and arrived at Ngaragba central prison, until Camp de Roux;⁶⁰⁰³ the 'second group' left from Boy-Rabe and took the National Assembly through Fidel Obourou military camp (in front of the Seleka camp at Camp Beal) and took *Sapeurs Pompiers* camp.⁶⁰⁰⁴ P-1847 stated that the Bangui Attack started towards the northern part of Bangui, specifically towards the National Assembly, the 4th arrondissement up to the city centre of Bangui.⁶⁰⁰⁵

2356. The Chamber notes that the attack was carried out as planned. P-1521, [REDACTED],⁶⁰⁰⁶ said that one group went to Camp Kassai and Camp de Roux because there were Seleka elements; another group in the middle went straight to Lyceé Boganda in the 4th

⁵⁹⁹⁷ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0059, para. 93; Map (annotated by P-2251), CAR-OTP-2093-0084.

⁵⁹⁹⁸ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0060, para. 94; Map (annotated by P-2251), CAR-OTP-2093-0084.

⁵⁹⁹⁹ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0058, para. 85.

⁶⁰⁰⁰ P-1521: T-081, p. 48, line 19 – p. 49, line 13 *referring to* Map (annotated by P-1521), CAR-OTP-2046-0629.

⁶⁰⁰¹ P-1521: T-081, p. 48, line 19 – p. 49, line 13, p. 50, line 15 – p. 51, line 2, p. 64, line 22 – p. 65, line 15. *See also* P-0306, who said that they went down to the main roads, and that they attacked the Seleka in Ouango, Kassai, and Gobongo (P-0306: T-065, p. 13, lines 15-24). P-0306 initially mentioned Cattin but clarified later in his testimony, that he did not think he had mentioned Cattin, which was not a military base nor a Seleka base (*see* P-0306: T-066, p. 10, lines 1-15).

⁶⁰⁰² P-1521: T-081, p. 50, line 15 – p. 51, line 2.

⁶⁰⁰³ P-0889 Statement, CAR-OTP-2027-2290-R02, at 2297, para. 41.

⁶⁰⁰⁴ P-0889 Statement, CAR-OTP-2027-2290-R02, at 2297, para. 42.

⁶⁰⁰⁵ P-1847 First Statement, CAR-OTP-2061-1534, at 1564, para. 189.

⁶⁰⁰⁶ [REDACTED]

arrondissement because some Seleka elements were based opposite to the school; from the northern exist at the gendarmerie at PK12, there were also some Seleka elements based there, as well as in '36 Villas and the neighbourhood opposite the lycée Boganda'.⁶⁰⁰⁷

2357. The Anti-Balaka attacked in PK12. P-2269 stated that Dedane was at the Lycée Gobongo after PK12, went to Marabena and to Miskine.⁶⁰⁰⁸ P-1521 said that Kems was in the group that went to PK12 and died in Galabadja.⁶⁰⁰⁹

2358. The Anti-Balaka attacked in the 4th arrondissement, in particular, close to Lycée Boganda and the National Assembly. Jacob Mokpem-Bionli stated one Anti-Balaka team went past Lycée Boganda and another through Boy-Rabe.⁶⁰¹⁰

2359. Andjilo 'had to deal' with the 4th arrondissement.⁶⁰¹¹ P-0965, as 'an ordinary element' on 5 December 2013 did not have a weapon,⁶⁰¹² but he was part of the attack on Bangui at the start of the day when they attacked Boy-Rabe.⁶⁰¹³ [REDACTED] Andjilo's group that went to '36 Villas' and opposite the Hotel Ledger.⁶⁰¹⁴ P-2269 also went to Boy-Rabe, [REDACTED], because it was near the 'colline', in case they needed to retreat.⁶⁰¹⁵ According to Alfred Legrand Ngaya, on 5 December 2013, they came down from the Bazoubangui hill in one column and went through the Boy-Rabe neighbourhood to attack the Seleka, carrying machetes and sticks.⁶⁰¹⁶ Fredo Giscard Baboue described the Anti-Balaka entering neighbourhood Cité Jean XXIII 2 on 5 December 2013.⁶⁰¹⁷ The witness

⁶⁰⁰⁷ P-1521: T-082, p. 82, lines 3-13.

⁶⁰⁰⁸ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0346, para. 76. The Chamber notes that P-1521 said that Dedane went to Bangui after 5 December 2013 and does not find it credible (see P-1521: T-081, p. 51, lines 8-10; see also paragraphs 338-347 above).

⁶⁰⁰⁹ P-1521: T-081, p. 51, lines 4-10.

⁶⁰¹⁰ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0059, para. 53.

⁶⁰¹¹ P-0306: T-065, p. 28, lines 14-25, p. 37, lines 2-17; P-0965: T-062, p. 65, lines 8-13.

⁶⁰¹² P-0965: T-062, p. 61, line 15 – p. 62, line 7.

⁶⁰¹³ P-0965: T-062, p. 65, lines 1-7.

⁶⁰¹⁴ P-1521: T-081, p. 50, lines 1-12.

⁶⁰¹⁵ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0347, paras 81-82, at 0348, para. 93.

⁶⁰¹⁶ P-0808: T-070, p. 34, lines 1-12. The Chamber notes that while according to the English version of the transcript, Alfred Legrand Ngaya indicated that 'they' went through the neighbourhood 'to attack the Muslims of the Seleka', the French version of the transcripts reads as follows: '*ils ont traversé le quartier [...] pour aller attaquer les éléments de la Séléka*' (T-070-FRA, p. 38, lines 5-18).

⁶⁰¹⁷ P-1530 Statement, CAR-OTP-2054-0249-R02, at 0251, para. 12.

called them ‘bandits’ and not soldiers because had they been soldiers, they would have liberated the population, yet they also looted.⁶⁰¹⁸

2360.P-2251 said that [REDACTED] were with his group for the attack, as they made their way to [REDACTED].⁶⁰¹⁹ P-1521 explained that there was a Seleka base opposite Lycée Barthelemy Boganda and a military post opposite Hotel Ledger, and that [REDACTED].⁶⁰²⁰ Brice Emotion Namsio’s group, with more than 50 elements, went by the Barthelemy Boganda high school, near the National Assembly in the 4th arrondissement,⁶⁰²¹ and did not go further than the National Assembly.⁶⁰²² According to Brice Emotion Namsio, the person responsible for the group was Bawa;⁶⁰²³ there was another group that attacked the *Sapeurs Pompiers* base.⁶⁰²⁴

2361.P-2251 did not know what was happening with any of the other groups who had taken different routes that night, as he was not in communication with them and did not have a phone.⁶⁰²⁵ P-0884, who was in [REDACTED], outlined that there were clashes at the National Assembly at Mamika, they were attacking all Seleka positions, Seleka military bases; the National Assembly, the palace is in the middle of the town, Mamika is closer to PK5 and is a military base; there was a camp of firefighters in front of the palace of the National Assembly.⁶⁰²⁶

2362.The Anti-Balaka also attacked Camp Kassai. Witnesses who participated in the Bangui Attack placed Konaté as the one who led the attack on Camp Kassai,⁶⁰²⁷ along with

⁶⁰¹⁸ P-1530 Statement, CAR-OTP-2054-0249-R02, at 0251, para. 12.

⁶⁰¹⁹ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0060, para. 97. *See also* P-0966 Statement, CAR-OTP-2031-0241-R03, at 0253, para. 71.

⁶⁰²⁰ P-1521: T-081, p. 54, lines 6-15.

⁶⁰²¹ P-0446 Interview Transcript, CAR-OTP-2059-1672 at 1693, lines 793-806, at 1688-89, lines 614-631.

⁶⁰²² P-0446 Interview Transcript, CAR-OTP-2059-1672 at 1694, lines 810-819.

⁶⁰²³ P-0446 Interview Transcript, CAR-OTP-2059-1672 at 1693, lines 793-806.

⁶⁰²⁴ P-0446 Interview Transcript, CAR-OTP-2059-1672 at 1694, lines 807-19.

⁶⁰²⁵ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0060, para. 98.

⁶⁰²⁶ P-0884: T-056, p. 10, line 18 – p. 11, line 5.

⁶⁰²⁷ P-0306: T-065, p. 28, lines 14-25, p. 37, lines 2-17; P-1521: T-081, p. 50, lines 1-12, p. 64, line 22 – p. 65, line 15; P-0975 Statement, CAR-OTP-2033-7885-R02, at 7891, para. 39; P-2251 Statement, CAR-OTP-2093-0045-R01, at 0077, para. 208. *See also* P-1847 First Statement, CAR-OTP-2061-1534, at 1564, para. 189. P-0876, who did not participate in the Bangui Attack, deduced that [REDACTED] group attacked Camp Kassai because they were based on the hills behind Camp Kassai and could not imagine any other group attacking Camp Kassai where Seleka had ‘heavily armed individuals’ (*see* P-0876: P-085, p. 39, lines 5-16).

Denamganai.⁶⁰²⁸ P-0567 stated that later on while working [REDACTED] in the UN COI, he found out that on 5 December 2013, the Anti-Balaka attacked the Camp Kassai where the Seleka were training new recruits; the UN COI received information indicating that there could have been as many as 180 recruits in Camp Kassai at the time; they also attacked other areas of Bangui such as the national assembly and the Boy-Rabe and Fohu districts.⁶⁰²⁹

2363. Other witnesses who did not participate in the attack spoke of an attack on Camp de Roux but the Chamber has received very little evidence on what happened there.⁶⁰³⁰ Jacob Mokpem-Bionli said that the target also included Camp de Roux because Djotodia used to go there regularly with his elements; this limb of the attack was led by Ngaïkosset and ‘Lt Herve’.⁶⁰³¹ Alfred Legrand Ngaya stated that on 5 December 2013, Konaté, a FACA member, and his men attacked Bangui from the Kasai area and attempted to take control of Camp de Roux and the radio station, but failed; the youth armed with sticks and machetes clashed with the Seleka in front of the parliament and the Anti-Balaka were ‘slaughtered’.⁶⁰³²

xiii. Unfolding of the attack and retreat

2364. Turning to the thirteenth indicator of coordination, as set out below, the Chamber finds that the Bangui Attack was carried out as planned, with the instructions to start at 05:00 on 5 December 2013, resulting in clashes between the Anti-Balaka and the Seleka in several locations in Bangui, with the Anti-Balaka beginning to retreat around 10:00 the same day.

2365. The Prosecution submits that at around 10:00, the Anti-Balaka withdrew in face of the Seleka, notably behind the Bas-Oubangui hill, located behind the Boy-Rabe neighbourhood.⁶⁰³³

⁶⁰²⁸ P-2232: T-079, p. 16, lines 4-6.

⁶⁰²⁹ P-0567 Statement, CAR-OTP-2059-0084-R04, at 0090, para. 33, at 0101, para. 112.

⁶⁰³⁰ P-0884: T-056, p. 10, line 18 – p. 11, line 5.

⁶⁰³¹ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0059, para. 55.

⁶⁰³² P-0808 First Statement, CAR-OTP-2025-0324-R05, at 0332, para. 56.

⁶⁰³³ Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, para. 547.

2366. Below, the Chamber has assessed how the attack was carried out in northern Bangui by the Anti-Balaka, as well as in Boeing and Cattin where Mr Yekatom's group was involved that day.⁶⁰³⁴

2367. As regards how the attack unfolded in northern Bangui, the Chamber notes that P-0889 was [REDACTED] the position of the elements on the ground.⁶⁰³⁵ P-0889 recalled that during the Bangui Attack, the Anti-Balaka managed to take over the National Assembly and a military field where the Seleka were, close to the National Assembly, known as *Sapeurs Pompiers*.⁶⁰³⁶ P-0889 recalled [REDACTED], mentioning that they were advancing well and had taken over Bangui, and that they would then take over the palace, [REDACTED].⁶⁰³⁷

2368. P-0975 stated that the group of Anti-Balaka posted on Boy-Rabe hill entered Bangui at 04:00 on 5 December 2013.⁶⁰³⁸ P-0975 stated that they used the same tactics in Bangui as they used in the provinces; they searched for the Seleka and would be informed by informants on the phone of where the Seleka were; it was a 'revolution' and they ('we') needed to be informed; and it was Richard Bejouane that was in charge of such communications.⁶⁰³⁹

2369. P-0889 recalled that around 09:00, 10:00 or 11:00, things changed and the elements could not take over the palace, and started suffering many human losses, following which [REDACTED] asked them to retreat because they did not have the necessary means to fight the Seleka.⁶⁰⁴⁰ P-0889 recalled that they did not really have automatic weapons, but traditional ones, and agreed that the lack of ammunition and equipment prompted the Anti-Balaka to retreat during the Bangui Attack.⁶⁰⁴¹

2370. This is also reflected in the evidence received by the Chamber from those that were on the ground at the time.

⁶⁰³⁴ For Boeing and Cattin, see sections IV.B.3.i – IV.B.4 below.

⁶⁰³⁵ P-0889 Interview Transcript, CAR-OTP-2122-7626-R02, at 7638, lines 452-489, at 7639, lines 492-510.

⁶⁰³⁶ P-0889 Interview Transcript, CAR-OTP-2122-7626-R02, at 7638, lines 452-489, at 7639, lines 492-510.

⁶⁰³⁷ P-0889 Interview Transcript, CAR-OTP-2122-7626-R02, at 7638, lines 452-489, at 7639, lines 492-510.

⁶⁰³⁸ P-0975 Statement, CAR-OTP-2033-7885-R02, at 7891, para. 39.

⁶⁰³⁹ P-0975 Statement, CAR-OTP-2033-7885-R02, at 7891, para. 40.

⁶⁰⁴⁰ P-0889 Interview Transcript, CAR-OTP-2122-7626-R02, at 7638, lines 452-489, at 7639, lines 492-510.

⁶⁰⁴¹ P-0889: T-109, p. 24, lines 16-19. See also P-0446: T-099, p. 21, lines 5-15.

2371.P-0975 stated that at 10:00 on 5 December 2013, [REDACTED] when they retreated to Boy-Rabe.⁶⁰⁴² Brice Emotion Namsio agreed that around 10:00 the attack was considered as ‘ended’ and the attack itself did not last, given the resources that the Anti-Balaka had in their possession and given the arsenal used by the Seleka; in the witness’s opinion, ‘the Balaka could not do anything so the Balaka decided to avoid a bloodbath so that the effects should not fall once again on other people’.⁶⁰⁴³ The witness, commenting on a photograph of what appear to be dead Anti-Balaka in front of the National Assembly, said that many Anti-Balaka used sticks and all of this happened after the reprisals were carried out by the tank battalions of the ‘firefighters’ brigade’.⁶⁰⁴⁴

2372.P-2251 stated that a lot of people from his group were killed or injured during the Bangui Attack and that it was very difficult; [REDACTED] the Seleka attacked them ‘seriously’, after which he managed to ‘escape’ [REDACTED].⁶⁰⁴⁵ P-2251 agreed that on 5 December 2013, his group was so disorganised and ill-equipped and they did not have military equipment for the fighting, except for hunting rifles and pots, while, on the other hand, the Seleka had heavy weaponry and military vehicles so they could not really face up to them; he thought that since the Anti-Balaka had a strategy of making noise with pots and pans, they were able to ‘succeed’ and said that the Anti-Balaka were fighting while retreating and that is why there were many people that were injured and even killed.⁶⁰⁴⁶

2373.P-2251 said that the Seleka had blocked the main road which leads to [REDACTED], so when they got to [REDACTED] they fled through the neighbourhood to [REDACTED]. P-2251 continued [REDACTED], from where somebody led him to the hill, and he eventually ended up on a hill [REDACTED].⁶⁰⁴⁷

⁶⁰⁴² P-0975 Statement, CAR-OTP-2033-7885-R02, at 7891, para. 41.

⁶⁰⁴³ P-0446: T-099, p. 20, line 22 – p. 21, line 4.

⁶⁰⁴⁴ P-0446: T-099, p. 23, line 25 – p. 24, line 19 *referring to* Photographs, CAR-OTP-2061-4291; CAR-OTP-2061-4293. *See also* Metadata, CAR-OTP-2075-0074, at 0141, 0143 showing that these photographs were taken on 6 December 2013. *See also* Metadata, CAR-OTP-2061-2154, at 2155; Metadata, CAR-OTP-2061-2166, at 2167. The caption by the author on the former photograph states that it contains bodies of Anti-Balaka in a street in Bangui following a day of violence during which they attacked Bangui in several places. The caption on the latter photograph states that it shows a ‘dozen bodies’ of Anti-Balaka elements laying down in ‘front of the National Assembly’. *See also* P-0992: T-095, p. 46, line 2 – p. 47, line 2.

⁶⁰⁴⁵ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0060, para. 98.

⁶⁰⁴⁶ P-2251: T-044, p. 10, line 19 – p. 11, line 3.

⁶⁰⁴⁷ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0060, para. 99.

2374. The Chamber notes P-2251's account of the retreat of the various groups after the attack. P-2251 stated that Andjilo's group retreated to Cité Jean XXIII, whereas the group that had gone to Camp Kassai and PK12 retreated to Kpata.⁶⁰⁴⁸ P-2251 himself first retreated to the bush in [REDACTED] and 'refused to attack the Seleka again', feeling 'very scared' and stated that it was difficult to fight someone who holds a gun with a simple machete.⁶⁰⁴⁹

2375. P-1521 considered that the Bangui Attack had 'failed' and described it as '[w]e came down on the 5th, we had problems of ammunition, then we went back up the hill' and then decided that 'we would use the guerilla war tactics with the purpose of getting supplies on the ground'.⁶⁰⁵⁰ P-1521 said that, after the 'failed attack of 5 December', all the Anti-Balaka returned to the hill; thereafter, those who were in Bangui began to progressively go down to their various localities; once an individual got back to their neighbourhood, they would become the zone commander or area commander for their neighbourhood; those from the provinces who did not know the city were bound to obey or follow those who were in Bangui in order to live along with them; he said that they lost a lot of people and many people were killed, so the combatants were a 'bit frustrated' and tried to hide while others disarmed and went to displaced persons' locations.⁶⁰⁵¹

2376. The Chamber notes that those that did not participate in the attack themselves,⁶⁰⁵² also recounted similar occurrences with the attack starting at 04:00 with the Anti-Balaka retreating, followed by attacks on civilians.

2377. P-0889 stated that when the Bangui Attack started on 5 December 2013, it was still dark.⁶⁰⁵³ He was in Zongo, sleeping, and he woke up when he heard 'heavy weapons' around 05:00 or 06:00 in the morning.⁶⁰⁵⁴ P-0876 spoke of 'explosions everywhere in the 7th arrondissement' at the time and hearing gunshots at around 04:00-05:00 on that day,

⁶⁰⁴⁸ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0060, para. 100.

⁶⁰⁴⁹ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0061, para. 101.

⁶⁰⁵⁰ P-1521: T-081, p. 43, lines 17-25, p. 68, lines 9-11.

⁶⁰⁵¹ P-1521: T-081, p. 68, line 12 – p. 69, line 7.

⁶⁰⁵² See for example P-0954 Statement, CAR-OTP-2048-0171-R03, at 0176, paras 33-34; P-1858 Statement, CAR-OTP-2063-0050-R04, at 0057, paras 41, 45; P-1858: T-185, p. 10, line 3 - p. 11, line 9; P-2251 Statement, CAR-OTP-2093-0045-R01, at 0059, para. 92.

⁶⁰⁵³ P-0889 Interview Transcript, CAR-OTP-2122-7626-R02, at 7637, lines 411-424.

⁶⁰⁵⁴ P-0889 Interview Transcript, CAR-OTP-2122-7626-R02, at 7637, lines 411-424, 438-442.

[REDACTED].⁶⁰⁵⁵ P-0954 stated that on 5 December 2013, they heard gunshots around Boy-Rabe, Camp Kassai and ‘other places’.⁶⁰⁵⁶ P-0954 described it as ‘heavy fighting’.⁶⁰⁵⁷

2378. Jacob Mokpem-Bionli, who was in Boy-Rabe during Bangui Attack, stated that they lost a lot of young people, but the Seleka also lost a lot of people because they had been taken by surprise.⁶⁰⁵⁸

2379. Michel Ningando, a priest who worked in Bossangoa and was in Bangui that day, stated that the Anti-Balaka attacked Bangui on 5 December 2013 at 04:00.⁶⁰⁵⁹ The witness had fled from [REDACTED] to Gobongo before 5 December 2013 because of the threat of Muslims attacking neighbourhoods near PK5 and was there when he started hearing noise; he went to ‘St Jean Church’ in Kalabadja when the gunshots got worse; there were many people with injuries, some big, most of them men.⁶⁰⁶⁰ Later that morning, Michel Ningando heard some Anti-Balaka walking next to the church saying ‘*I mou kodro awe*’, meaning ‘this is it we took over the country’, after which they heard the Seleka vehicles and realised the Anti-Balaka had been defeated.⁶⁰⁶¹

2380. P-0974 stated that during the 5 December 2013 attack by the Anti-Balaka in Bangui, he was at his home [REDACTED]; at 04:00, he heard detonations and did not know what was going on; later he went to find out at the main road and learned Anti-Balaka had entered Bangui and later he saw the Anti-Balaka retreating from the town; people started fleeing in all directions and to refugee sites – that is when P-0974 decided to join the Anti-Balaka.⁶⁰⁶²

2381. P-2841 left his compound at 05:00 or 06:00, when it was light, and ‘could see the Anti-Balaka withdrawing towards the northern neighbourhoods’;⁶⁰⁶³ the Seleka were able to ‘take back the town’.⁶⁰⁶⁴

⁶⁰⁵⁵ P-0876: T-085, p. 36, line 24 – p. 38, p. 4; P-0954 Statement CAR-OTP-2048-0171-R03, at 0176, para. 34.

⁶⁰⁵⁶ P-0954 Statement, CAR-OTP-2048-0171-R03, at 0176, para. 34.

⁶⁰⁵⁷ P-0954 Statement, CAR-OTP-2048-0171-R03, at 0176, para. 34.

⁶⁰⁵⁸ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0058-59, paras 52-53.

⁶⁰⁵⁹ P-2652 Statement, CAR-OTP-2126-0175-R01, at 0184, para. 49.

⁶⁰⁶⁰ P-2652 Statement, CAR-OTP-2126-0175-R01, at 0184-85, para. 50.

⁶⁰⁶¹ P-2652 Statement, CAR-OTP-2126-0175-R01, at 0185, para. 51.

⁶⁰⁶² P-0974 Statement, CAR-OTP-2058-0165-R01, at 0172, para. 47.

⁶⁰⁶³ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4244, para. 31.

⁶⁰⁶⁴ P-2841 Statement, CAR-OTP-2127-4238-R01, at 4244, para. 31.

2382.P-1962 stated that on 5 December 2013, [REDACTED] in PK5 in the morning and heard detonations and saw people fleeing – Muslims wearing uniforms (Seleka) started shooting at the population, and later he heard that the Seleka were also shooting in Kpetene, Bea-Rex, Cattin, and Mamadou Mbaïki.⁶⁰⁶⁵ He fled to his house in [REDACTED], but his wife and children had already fled [REDACTED]; when P-1962 later went back to his shop, it had been burned down.⁶⁰⁶⁶ P-1962 himself did not see any Anti-Balaka on 5 December 2013, he heard that they were around Boy-Rabe.⁶⁰⁶⁷

2383.P-2353 stated that he heard on the radio about the fighting between the Anti-Balaka and the Seleka in Bangui on 5 December 2013, and that there were deaths on both sides, civilians killed as well as fighters.⁶⁰⁶⁸ A friend of P-2353 who lived in PK5-Bangui gave P-2353 general information about what was happening in Bangui.⁶⁰⁶⁹ There was combat in KM5, but it was not serious; P-2353 called his friend who said that the situation was volatile; in the city there was a lot of fighting and many dead bodies were transferred to the ‘Ali Babourou’; people in PK10 were also killed and the bodies were moved to PK5 mosque; this is what his friend told P-2353.⁶⁰⁷⁰

2384.P-2389, a Muslim civilian, stated that on 5 December 2013, at around 05:00, his friend from [REDACTED] neighbourhood called him and told him that he could hear gunshots in the centre of Bangui.⁶⁰⁷¹ P-2389’s friend said that the Muslims in Combattant were attacked by the Anti-Balaka, but that PK5 and Miskine had not been attacked yet, noting that ‘the Anti-Balaka’ were ‘attempting to overthrow’ the government and if they succeeded, ‘the Muslim community would pay’.⁶⁰⁷² P-2389’s friend warned him to pack his possessions and move his family to a safe location, to keep his money on him and to leave [REDACTED] with his friends so that he could leave quickly if necessary.⁶⁰⁷³

⁶⁰⁶⁵ P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0040, para. 6.

⁶⁰⁶⁶ P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0040, para. 6.

⁶⁰⁶⁷ P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0040, para. 7.

⁶⁰⁶⁸ P-2353 Statement, CAR-OTP-2100-0226-R03, at 0231-32, para. 33.

⁶⁰⁶⁹ P-2353 Statement, CAR-OTP-2100-0226-R03, at 0231-32, para. 33.

⁶⁰⁷⁰ P-2353: T-161, p. 51, lines 6-20.

⁶⁰⁷¹ P-2389 Statement, CAR-OTP-2104-0033-R03, at 0038, para. 32.

⁶⁰⁷² P-2389 Statement, CAR-OTP-2104-0033-R03, at 0038, para. 32.

⁶⁰⁷³ P-2389 Statement, CAR-OTP-2104-0033-R03, at 0038, para. 32.

xiv. Aftermath and retaliation by the Seleka

2385. Lastly, in this respect, the Chamber has considered the aftermath of the Bangui Attack, following the Anti-Balaka retreat.

2386. P-2251 stayed near [REDACTED] until 6 December 2013 fearing Seleka shots,⁶⁰⁷⁴ following which he hid in [REDACTED] in Bangui.⁶⁰⁷⁵ P-2251 stated that the Seleka counter-attacked by ‘targeting people’ in [REDACTED].⁶⁰⁷⁶ P-2251 stayed in hiding in the days following the Bangui Attack but remained in [REDACTED].⁶⁰⁷⁷

2387. P-2251 said that he saw that the Seleka were shooting and killing without making any distinctions.⁶⁰⁷⁸ P-2251 said that in Boy-Rabe, he saw the Seleka committing a lot of crimes and PK12 also suffered a lot from these crimes.⁶⁰⁷⁹ P-2251 indicated that he had ‘heard it said’ that on 5, 6 and 7 December the Seleka attacked and shot in Boeing and Cattin ‘without any distinctions’, including at people who sought refuge at the airport site, despite the fact that the Sangaris forces were protecting these people.⁶⁰⁸⁰

2388. Adrien Poussou explained that after the 5 December 2013 attack, ‘the different Anti-Balaka factions were systematically attacking [...] our fellow Muslim citizens’ and everything ‘seemed to show that there was a plan to liquidate the Muslims’, in response to the violence ‘committed by the Seleka’; there were also calls for partition in certain Seleka factions.⁶⁰⁸¹

2389. P-2353 heard through telephone contact with friends and relatives in Bangui that in the days after 5 December 2013, the Anti-Balaka started killing Muslims trapped in areas such as Boeing, PK12, PK5; it seemed to be getting worse each day, Muslims were unable to move, and no longer able to trade, it seemed as though Christians were still able to move; P-2353 heard this from people who travelled on the local buses moving between Mbaïki and outer

⁶⁰⁷⁴ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0061, para. 101; P-2251: T-044, p. 11, lines 15-21.

⁶⁰⁷⁵ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0061, paras 103, 105.

⁶⁰⁷⁶ P-2251 Statement, CAR-OTP-2093-0045-R01, at 0061, para. 104.

⁶⁰⁷⁷ P-2251: T-043, p. 39, lines 1-24.

⁶⁰⁷⁸ P-2251: T-044, p. 11, line 22 – p. 12, line 3.

⁶⁰⁷⁹ P-2251: T-044, p. 12, lines 4-8.

⁶⁰⁸⁰ P-2251: T-044, p. 12, lines 9-16.

⁶⁰⁸¹ P-2625: T-190, p. 29, line 20 – p. 31, line 1, p. 32, lines 1-15 *referring to* Report, CAR-OTP-2123-0430 authored by the witness.

villages.⁶⁰⁸² When P-2353 was in Bangui on 9 December 2013, there was chaos everywhere, the ‘temperature’ was not right, it felt very tense; he saw many Christians at the Fatima church near PK5, afraid of Seleka reprisals.⁶⁰⁸³

2390. Brice Emotion Namsio agreed that when the Bangui Attack happened, the Seleka elements in the ‘firefighters barracks’ came to the 4th arrondissement Bangui ‘for reprisals’.⁶⁰⁸⁴

2391. According to Fredo Giscard Baboue, a Bangui inhabitant, when the Anti-Balaka arrived they first fought the Seleka, but later spread into the neighbourhood with their *gris-gris* and systematically looted all houses of ‘Arabs’ (referring to Muslims and Islamised Central Africans); there were only maybe three or four houses of Muslims in Cité Jean XXIII 2 which were all looted; they belonged not to Seleka, but to civilians.⁶⁰⁸⁵

2392. Jacob Mokpem-Bionli, who was in Boy-Rabe, stated that civilians were also killed in Bangui and that the Anti-Balaka targeted anyone they saw wearing ‘a long *boubou*’ because they identified the person as a Muslim.⁶⁰⁸⁶ The witness said that, in Miskine, the Anti-Balaka razed the mosque to the ground and then started destroying all the Muslim buildings, not only were the houses destroyed but people were also killed.⁶⁰⁸⁷

2393. Catherine Samba-Panza, the mayor of Bangui at the time, said that she was not in Bangui when the Anti-Balaka entered the city on 5 December 2013; she returned a few days later when she learned that the Anti-Balaka had begun attacking the Seleka and Muslim population; that is when she discovered ‘the horrors’ that had occurred ever since 5 December 2013 until the day she arrived; leaving the airport to get to her home, it was ‘unimaginable’ what she saw and experienced; the Seleka had ‘attacked civilians’, the ‘Anti-Balaka forces had attacked the Seleka’; it was ‘revenge, retaliation, murders everywhere’; the witness was ‘utterly shocked’ by what she saw.⁶⁰⁸⁸

⁶⁰⁸² P-2353 Statement, CAR-OTP-2100-0226-R03, at 0232, para. 34.

⁶⁰⁸³ P-2353 Statement, CAR-OTP-2100-0226-R03, at 0232, para. 35; P-2353: T-161, p. 10, lines 7-24.

⁶⁰⁸⁴ P-0446: T-099, p. 17, lines 6-22, p. 18, line 24 – p. 19, line 20.

⁶⁰⁸⁵ P-1530 Statement, CAR-OTP-2054-0249-R02, at 0251, para. 13.

⁶⁰⁸⁶ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0058, para. 52, at 0060, para. 61.

⁶⁰⁸⁷ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0060, para. 62.

⁶⁰⁸⁸ P-0952: T-249, p. 10, lines 1-11.

xv. Conclusion

2394. Having regard to the conclusions for each of these indicators, the Chamber finds that the Bangui Attack was highly coordinated. Furthermore, having regard to its conclusions on the Bossangoa Attack,⁶⁰⁸⁹ the Chamber finds that the Bangui Attack and the Bossangoa Attack assessed together also reflect a similarly high level of coordination with each other.

2395. Before turning to the arguments by the Defence challenging the coordinated nature of the attack, the Chamber recalls some of its conclusions based on the evidence thusfar. The Chamber found that a plan encompassing the Bangui Attack existed as of 30 November 2013. The Anti-Balaka elements from the provinces that had been moving towards Bangui were mobilised by their chiefs to arrive in Bangui prior to 5 December 2013. These comprised of both FACA members and civilians and more joined as the groups moved towards Bangui. During this time, the various Anti-Balaka chiefs of these groups remained in regular contact amongst each other to share information, materiel, and elements. A significant number of these chiefs were in contact with Maxime Mokom directly over the phone. Some Anti-Balaka groups started keeping track of the elements within their groups by maintaining lists that were shared with their chiefs. By the end of November 2013, the Anti-Balaka groups started gathering around the perimeter of Bangui in preparation for the Bangui Attack.

2396. The gathering occurred in a manner permitting the Anti-Balaka elements to be able to enter Bangui from the north, north-east, south-west and south. While the exact number of elements at this stage of the events is not known, it ranged in the thousands. Information about an impending attack began to circulate as early as end-November 2013 and initially, the Bangui Attack was planned for 1 December 2013, but this was postponed to 5 December 2013. Meanwhile, an attack took place in Boali on 3 December 2013, which was reported in the news. Between 1-5 December 2013, the Anti-Balaka elements, along with their chiefs, prepared, planned, and decided on specific locations to target in Bangui. These locations corresponded to known Seleka bases. Elements from the provinces were paired with those

⁶⁰⁸⁹ See section IV.C below.

that were familiar with the neighbourhoods in Bangui to be able to find their way. The purpose of the attack shared among the elements was to ‘get rid’ of the Seleka.

2397. The Anti-Balaka elements gathered together and completed their final preparations in the night of 4 December 2013 to begin the attack from all directions to enter Bangui by 5:00 on 5 December 2013. They then carried out the attack along pre-decided routes, reaching the target locations and starting the offence at the same time. The Seleka repelled the attack successfully, forcing the Anti-Balaka to retreat within a few hours.

2398. The Chamber further recalls that later that day, on 5 December 2013, FROCCA issued a radio statement in relation to the attack on Bangui, referring to it as ‘*[l]e rétablissement de l’ordre fonctionnel*’ and stating that the Anti-Balaka ‘*sont des Centrafricains pour aller libérer leur pays des jougs des djihadistes venus du D[arfour], du T[chad], du S[oudan]*’.⁶⁰⁹⁰

2399. The Chamber finds that these attacks were highly coordinated despite claims of certain witnesses that the various Anti-Balaka groups were independent, and came from ‘everywhere’, not knowing each other, and did not have a political aim or agenda.⁶⁰⁹¹

2400. First, the Chamber draws a distinction between (i) the coordinated nature of the Bangui Attack; (ii) the coordination of the Anti-Balaka as a movement; and (iii) the ‘national coordination’ setup formally in the months after the Bangui Attack.

2401. The Chamber grants that the existence of an underlying cohesive (or coordinated) movement of political ideology could have positively demonstrated a coordinated attack. The reverse is not true. A political movement lacking in coordination does not demonstrate that individuals and groups cannot actualise coordinated action. Nonetheless, the Chamber has considered the rhetoric of how uncoordinated the Anti-Balaka were as a movement prior to the Bangui Attack, but it did not change the Chamber’s conclusions that the attack itself was coordinated.

⁶⁰⁹⁰ See paragraph 1293 above.

⁶⁰⁹¹ See for example P-0876: T-086, p. 15, lines 16-24 ; p. 74, lines 10-17 ; T-088, p. 13, line 16 – p. 15, line 11; p. 17, lines 1-20, p. 19, lines 18-22; T-089, p. 16, lines 9-20, p. 19, line 18 – p. 20, line 17, p. 22, line 21 – p. 24, line 2; P-0808: T-070, p. 35, line 13 – p. 36, line 1.

2402. Second, in the Chamber's view, some level of self-organisation within groups of civilians, or with the involvement of FACA members, is not mutually exclusive to there being an overarching coordination at a 'higher' level, political or otherwise. While the evidence does point to civilians self-organising in the provinces, there is a wealth of evidence showing that, at least as of November 2013, these civilians, together with FACA members, had been actively mobilised in preparation for an attack on Bangui. Indeed, a combined reading of the evidence in light of the Defence's arguments demonstrates that the purported self-led movement by civilians in the provinces was in fact channelled into common action by placing on it a common task.

2403. Third, the Chamber notes that even P-0876, who claimed to there being 'no coordination' for the Bangui Attack in absolute terms also admitted to there being some organisation. P-0876 said that the Bangui Attack was 'organised only by one group', led by Konaté, and 'not by all the Anti-Balaka groups'.⁶⁰⁹²

2404. In this regard, the Chamber notes that P-0876 also appeared to be drawing a distinction between the coordination of the Anti-Balaka as a group and the coordinated nature of the Bangui Attack. In his interview with the Prosecution, P-0876 said that he supposed that the Bangui Attack was planned because spontaneity was excluded from the moment there were five targets attacked at the same hour in the morning.⁶⁰⁹³ P-0876 explained in terms that the Chamber finds fitting in this context:

Il y a trop de coïncidences. C'est pourquoi je suppose que ça a été planifié quelque part. [...] Bon, si on disait: « Bon, un groupe a attaqué le matin vers 8 heures et d'autres ont été attaqués vers 11 heures [phon.] », là, on peut dire que : « Bon, peut... peut-être ça a suivi celui-là [phon.], ils ont vu que ça attaquait là-bas, on peut attaquer ici. » Mais c'était le même jour, à la même heure, ils ont commencé tout...⁶⁰⁹⁴

⁶⁰⁹² P-0876: T-089, p. 23, line 16 – p. 24, line 2. See also P-0876 Interview Transcript, CAR-OTP-2046-0427, at 0442, lines 517-526 ('ils on dû planifier'), at 0443, lines 550-561 ('les cibles, trois ou quatre cibles, comme ça, attaquées dans la même soirée, c'est pas spontané'), at 0447, lines 706-709 ('C'est pas un truc du hasard. On peut pas soulever ... au même moment, poser le même acte à des points différents ...et on est quatre-vingt à le faire. C'est impossible que ça soit quand même quelque chose de spontané. C'est coordonné').

⁶⁰⁹³ P-0865 Interview Transcript, CAR-OTP-2046-0427-R01, at 0448, lines 750-753.

⁶⁰⁹⁴ P-0865 Interview Transcript, CAR-OTP-2046-0427-R01, at 0448, lines 755-760. (Translation from French to English by the Registry) 'it was that there were too many coincidences. That's why I assume it had been planned

2405. Fourth, in the view of the Chamber, coordination is not a function of singular command, as suggested by P-0876, neither is it prefaced on strict military hierarchy or political leadership. By its very definition, ‘coordination’ implies different elements that are organised to work together by one or more entities. In this respect, the Chamber has considered several indicia based on mutual assistance, cooperation, communication, and implementation within an overarching goal – all of which are shown to exist on the facts and prior to the Bangui Attack. Therefore, in the view of the Chamber, the setting up of the Anti-Balaka national coordination formally only after 5 December 2013 did not mean that the Bangui Attack was not coordinated.

2406. Lastly in this respect, the Chamber considers that the coordinated nature of the Bangui Attack was not premised on its success. The Chamber finds that, on the basis of the totality of the evidence discussed above, the manner in which the Bangui Attack was organised and carried out was highly coordinated. In this instance, even a failure to overpower the Seleka spoke to the unachieved yet common goals and targets.

2. Involvement of Mr Yekatom

Mr Yekatom’s group coordinated with other Anti-Balaka groups to participate in the attack on Bangui on 5 December 2013. In the months leading up to this attack, Mr Yekatom and his group armed and trained in the bush. The movement of Mr Yekatom’s group in the bush, when superimposed onto those from other groups who proceeded towards Bangui along the same time frame, shows that this coordination had begun well before November 2013.

In the afternoon of 4 December 2013, Mr Yekatom chose some of his elements and instructed them to move towards Bangui. The same day, the group arrived in Projet, situated near the M’Poko airport in Bangui. Mr Yekatom’s instructions to his elements concerning the attack on 5 December 2013 were to fight the Seleka and included targeting sectors where ‘Muslims’ were to be found. Mr Yekatom’s instructions were understood by the elements to accept that Muslim civilians would be killed as a result of the fighting based on his elements not having been trained or instructed to apply the principle of distinction during combat and bearing strong anti-Muslim sentiment and feelings of vengeance against the Seleka.

2407. The Prosecution submits that, for the Bangui Attack, Mr Yekatom and his group moved from Kalangoi to Gbangba, and then to Projet, located near the Bangui Airport, on 4 December

somehow. [...] Well, if you said: “Well, one group attacked at around 8:00 in the morning and others were attacked at around 11:00”, then you could say that: “Well, per... perhaps this one followed that one, they saw there was an attack over there, we can attack here”. But it was at the same time, on the same day, they started all...’

2013.⁶⁰⁹⁵ It submits that many Anti-Balaka, including those from Bossangoa, Bossembélé, Yaloké, and Boy-Rabe, had gathered at Projet.⁶⁰⁹⁶ The Prosecution alleges that Mr Yekatom agreed with the leaders of other Anti-Balaka groups, including ‘Konate’ and Andjilo, on how they would carry out the attack; and that this was in conjunction with Maxime Mokom.⁶⁰⁹⁷ The Prosecution alleges that Mr Yekatom was in contact with ‘M[okom], K[onaté] and N[gremangou]’ in the days leading up to the attack and also in communication with Ngremangou during its execution.⁶⁰⁹⁸

2408. The Yekatom Defence submits that, at the end of November 2013, Mr Yekatom was contacted by Ngremangou, ‘who requested that he assist the latter and a handful of Bangui-based FACA who planned to attack the Seleka in PK5 from their position in Boeing’.⁶⁰⁹⁹ It argues that, Mr Yekatom, ‘duty-bound to accede’ to this request, left the bush with ‘approximately 20’ elements from his group ‘for the sole purpose of combatting the Seleka in Bangui’.⁶¹⁰⁰

2409. In light of the above, the Chamber has first assessed the advance of Mr Yekatom’s group before the Bangui Attack, to later assess whether it may have been in coordination with other groups that were circling Bangui at the time.

2410. In its findings below, the Chamber has relied on P-1339’s firsthand account as [REDACTED] in Mr Yekatom’s group at the time,⁶¹⁰¹ as well as the evidence provided by Brice Emotion Namsio, P-0884, P-0889 and audio-visual evidence.

⁶⁰⁹⁵ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 546.

⁶⁰⁹⁶ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 546.

⁶⁰⁹⁷ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 546.

⁶⁰⁹⁸ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 546.

⁶⁰⁹⁹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 355.

⁶¹⁰⁰ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 355.

⁶¹⁰¹ The Chamber notes that while the Yekatom Defence does not contest that P-1339 was a member of Mr Yekatom’s group, it contests P-1339’s credibility and the reliability of his evidence (see Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 106-135). In this regard, the Chamber recalls its assessment of P-1339’s overall credibility and notes that it generally found P-1339 reliable on the Bangui Attack (see paragraphs 330-337). To the extent that there were specific contradictions or inconsistencies in his account, the Chamber has addressed them herein. The Chamber further notes that P-2475 also claimed to have been part of Mr Yekatom’s group and participating in the Bangui Attack with them. The Chamber found P-2475 unreliable and has not considered his evidence on the Bangui Attack (see paragraphs 506-520 above).

i. Mr Yekatom's presence in Zongo and contacts with Maxime Mokom

2411. The evidence shows that, at some point during the Seleka regime, Mr Yekatom crossed over to Zongo where he remained until the latter half of 2013.⁶¹⁰² The Chamber has regard to a video showing Mr Yekatom in a military uniform talking to the camera explaining how he came to start 'their movement':⁶¹⁰³

[...] j'étais parti en banque pour aller prendre mon salaire, et il m'avait arrêté, et j'avais pris fuite pour traverser à Z[ongo]. [...] Et c'est de là-bas qu'on avait des idées de démarrer notre mouvement, par rapport à l'exaction des militaires.⁶¹⁰⁴

2412. Mr Yekatom, asked if the 'movement' began in Zaire, said that it began 'here', in the CAR.⁶¹⁰⁵ Mr Yekatom explained that, in his group, there were majority military and some young recruits that had been chased away by Michel Djotodia.⁶¹⁰⁶

2413. P-0884 knew that Mr Yekatom was in Zongo and had been detained and subsequently released, after which he crossed over to the CAR and met up with his comrades in arms, following which they began to organise themselves.⁶¹⁰⁷ Vivien Beina recalled his brother, Habib Beina, was also in Zongo at the same time and joined Mr Yekatom's group because he wanted to fight the Seleka,⁶¹⁰⁸ as was Cœur de Lion.⁶¹⁰⁹ The witness said that members of Mr Yekatom's group crossed and became 'committed together with their brothers in arms' and some civilians, and 'reorganised themselves' to fight the Seleka.⁶¹¹⁰

2414. The Prosecution submits that Maxime Mokom liaised with Mr Yekatom regarding the deployment of the latter's elements from Gbangba to Projet in preparation for the Bangui

⁶¹⁰² See also paragraphs 952, 978-988 above.

⁶¹⁰³ Video, CAR-OTP-2065-0716, at 00:00:00-00:02:00. See also Video, CAR-OTP-2118-0415, at 00:54:22-00:54:59 (regarding this video, the Chamber notes its observations in paragraph 988, n. 2562 above); Video, CAR-OTP-2065-2404, at 00:02:00-00:03:48.

⁶¹⁰⁴ Transcript, CAR-OTP-2122-2292, at 2294, lines 24-27. See also Translation, CAR-OTP-2127-4410, at 4432, lines 760-770; Translation, CAR-OTP-2127-3644, at 3648, lines 70-77; P-1558 Statement, CAR-OTP-2105-0195-R01, at 0200, para. 25.

⁶¹⁰⁵ Transcript, CAR-OTP-2122-2292, at 2294, lines 28-29. On the question of what this 'movement' referred to, see also paragraphs 987-988 above.

⁶¹⁰⁶ Transcript, CAR-OTP-2122-2292, at 2294, lines 32-36.

⁶¹⁰⁷ P-0884: T-055, p. 76, line 25 – p. 77, line 13. P-2232 also recalled Mr Yekatom's arrest by the Seleka and subsequent release. See P-2232: T-075, p. 34, line 16 – p. 35, line 16, p. 37, lines 17-24, p. 38, lines 2-24. See also P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1070, para. 73.

⁶¹⁰⁸ P-0888: T-120, p. 22, lines 3-15, p. 27, lines 15-22.

⁶¹⁰⁹ P-0888: T-120, p. 29, lines 14-18.

⁶¹¹⁰ P-0888: T-120, p. 29, lines 5-13.

Attack, pointing, *inter alia*, to CDR showing ‘at least 25 contacts between 25 November 2013 and 4 December 2013’.⁶¹¹¹

2415. The testimonial evidence suggests that while witnesses that were in Zongo recall having heard Mr Yekatom’s name there, they did not know if there was direct contact between him and Maxime Mokom when they were both in Zongo.

2416. P-1339 recalled [REDACTED] Mr Yekatom and Bodios [REDACTED].⁶¹¹² P-1339 [REDACTED] Maxime Mokom in Zongo and knew that Maxime Mokom had a meeting with ‘the soldiers’ creating a plan to go back to the CAR and to ‘meet up behind the mountain and take their vengeance’.⁶¹¹³ P-1339 said that it was only after [REDACTED] ‘met up in the bush’ that they ‘started to prepare the plan’.⁶¹¹⁴ P-1339 said that Mr Yekatom crossed over to the CAR and set up operations in the bush.⁶¹¹⁵ P-1339 said that it was [REDACTED] Mr Yekatom setting up in the bush.⁶¹¹⁶

2417. P-1339 said that Mr Yekatom and Maxime Mokom had been in touch before the former crossed over to the CAR but did not know what they had talked about.⁶¹¹⁷

2418. The Chamber accepts P-1339’s evidence that Mr Yekatom’s group was arming in November 2013 prior to the Bangui Attack, referring to two occasions at which members of Mr Yekatom’s group received weapons prior to the Bangui Attack.⁶¹¹⁸

⁶¹¹¹ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, paras 227, 239-240.

⁶¹¹² P-1339: T-158, p. 71, line 19 – p. 72, line 24.

⁶¹¹³ P-1339: T-151, p. 24, lines 7-14. The Chamber notes that P-1339 thought that it was on the day of the Bangui Attack that Maxime Mokom and ‘Lieutenant Herve’ came back to take part in the attack. Only part of this is borne out by evidence – Maxime Mokom is shown to have returned *after* the Bangui Attack (see paragraph 972 above).

⁶¹¹⁴ P-1339: T-151, p. 24, lines 15-23.

⁶¹¹⁵ P-1339: T-151, p. 25, line 21 – p. 26, line 5.

⁶¹¹⁶ P-1339: T-151, p. 25, line 23 – p. 26, line 5; T-158, p. 5, line 11 – p. 6, line 8.

⁶¹¹⁷ P-1339: T-152, p. 49, line 21 – p. 51, line 3.

⁶¹¹⁸ P-1339: T-152, p. 37, line 9 – p. 38, line 6, p. 48, line 6 – p. 51, line 8, p. 54, line 8 – p. 55, line 1, p. 56, line 7 – p. 57, line 12; T-158, p. 48, line 20 – p. 49, line 4, p. 53, lines 8-21; T-159, p. 12, line 11 – p. 13, line 5, p. 16, lines 1-11. The Chamber notes the Yekatom Defence’s arguments that P-1339’s testimony on the ‘procurement of weapons was fraught with contradictions that he was unable to reconcile’, ‘strongly’ indicating that P-1339 ‘fabricated this portion of his account to such an extent that the Chamber cannot rely on it to support any material findings’ (see [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 129). Having assessed P-1339’s testimony holistically in light of the purported inconsistencies raised by the Yekatom Defence in court, the Chamber considers that P-1339 appeared to be contradicting himself on the number of trips, persons who accompanied him, how the weapons were paid for, and when they were obtained. These inconsistencies were minor and, in any event, not such

2419.P-2232, who was in Zongo himself, recalled Mr Yekatom and Habib Beina being there.⁶¹¹⁹

The Chamber has considered P-2232's source of knowledge when assessing his evidence concerning the link between Maxime Mokom and Mr Yekatom. P-2232 was not aware of a link or a relationship between Maxime Mokom and Mr Yekatom prior to their time in Zongo but acknowledged that they were both 'liberators', supporting François Bozizé when he took power in 2003.⁶¹²⁰ At the time, P-2232 did not know Mr Yekatom, who was constantly with Cœur de Lion and 'Satan', and so it was not possible for P-2232 to know with whom Mr Yekatom discussed.⁶¹²¹ P-2232 heard afterwards [REDACTED] that Mr Yekatom, Cœur de Lion, and Satan had left Zongo through Libenge to Mongoumba, and he later heard that they were in Mongoumba and from there went to Boeing behind the airport.⁶¹²²

2420.Thierry Tribunal Ndokobanda said that Mr Yekatom came to Zongo for 'three or four days', after which he heard that the latter had appeared at Mbaïki and Mongoumba forming a group.⁶¹²³ The witness did not know more of Mr Yekatom's activities or who he was in contact with in Zongo; and stated that Maxime Mokom never mentioned that they were in contact.⁶¹²⁴

2421.P-0884 denied discussing what Mr Yekatom was doing with Maxime Mokom and said that Maxime Mokom never talked to him about Mr Yekatom; according to P-0884, Maxime Mokom was at the origin of Mr Yekatom's arrest by the Congolese authorities,⁶¹²⁵ and from what P-0884 got to know later, there was a misunderstanding between Mr Yekatom and Maxime Mokom.⁶¹²⁶ P-0884 said it was clear that Maxime Mokom and Mr Yekatom were both in Zongo and knew each other 'very well'.⁶¹²⁷

that rendered his account on this aspect wholly unreliable. The Chamber found P-1339's account that these trips to procure weapons indeed took place before 5 December 2013, involved members of Mr Yekatom's group, and resulted in weapons being obtained for the group, which he unequivocally maintained in court, credible.

⁶¹¹⁹ P-2232: T-075, p. 33, line 6 – p. 34, line 4.

⁶¹²⁰ P-2232: T-075, p. 37, lines 8-17. [REDACTED]

⁶¹²¹ P-2232: T-075, p. 39, lines 6-12.

⁶¹²² P-2232: T-075, p. 39, line 23 – p. 40, line 7.

⁶¹²³ P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1070, para. 73.

⁶¹²⁴ P-1172 Second Statement, CAR-OTP-2082-1058-R03, at 1070, para. 73.

⁶¹²⁵ P-0884: T-055, p. 77, lines 14-20.

⁶¹²⁶ P-0884: T-055, p. 77, line 14 – p. 78, line 1.

⁶¹²⁷ P-0884: T-055, p. 78, lines 2-11.

2422. P-0889 stated that he only found out about Mr Yekatom after the Bangui Attack.⁶¹²⁸ P-0889 said that before the Bangui Attack, he ‘never’ saw Mr Yekatom with Maxime Mokom, nor did he hear them talk to each other.⁶¹²⁹ P-0889 said that he himself only met Mr Yekatom when the latter started his political career; P-0889 said that he first heard about Mr Yekatom in the context of [REDACTED] who was with Mr Yekatom and who would report to Maxime Mokom about Mr Yekatom’s location.⁶¹³⁰ [REDACTED].⁶¹³¹

2423. P-0889 stated that [REDACTED] who would report about Mr Yekatom’s location and movement of his elements; [REDACTED] that Mr Yekatom had left to go to Yamwara with a majority of his elements because he did not want to follow Mokom’s orders, and then left Yamwara to go the PK9-Mbaïki axis.⁶¹³² P-0889 also stated that a few days before the Bangui Attack, [REDACTED] Mr Yekatom was refusing to attack.⁶¹³³ In court, P-0889 testified that Maxime Mokom asked people to help out in other villages and Florent Kema refused, just like Mr Yekatom ‘would refuse’.⁶¹³⁴

2424. In evaluating P-0889’s evidence concerning the refusal by Florent Kema and Mr Yekatom of Maxime Mokom’s instructions, the Chamber has considered the source of his knowledge and the fact that he was himself not on the ground and was speaking of his own impressions [REDACTED], and in the case of Mr Yekatom, with a certain ‘[REDACTED]’. Having regard to P-0889’s testimony, regardless of what he understood [REDACTED], it is clear to the Chamber, from the evidence discussed above, that Maxime Mokom was receiving reports about Mr Yekatom’s actions prior to the Bangui Attack and afterwards.⁶¹³⁵

2425. Therefore, while Mr Yekatom also crossed over from Zongo, like some of the other elements discussed above,⁶¹³⁶ the Chamber cannot conclude that it was on Maxime Mokom’s instruction or otherwise facilitated by him. The Chamber considers that Mr Yekatom and

⁶¹²⁸ P-0889 Interview Transcript, CAR-OTP-2122-7684-R02, at 7692, lines 280-306.

⁶¹²⁹ P-0889 Interview Transcripts, CAR-OTP-2122-7626-R02, at 7630-31, lines 153-184; CAR-OTP-2122-8002-R02, at 8033, lines 1140-1142.

⁶¹³⁰ P-0889 Interview Transcript, CAR-OTP-2122-8036-R02, at 8043-45, lines 241-301.

⁶¹³¹ P-0889 Interview Transcript, CAR-OTP-2122-8036-R02, at 8045, lines 282-301.

⁶¹³² P-0889 Interview Transcript, CAR-OTP-2122-7626, at 7630-31, lines 153-184.

⁶¹³³ P-0889 Interview Transcript, CAR-OTP-2122-7626, at 7631-32, lines 188-225.

⁶¹³⁴ P-0889: T-111, p. 19, line 14 – p. 20, line 25.

⁶¹³⁵ See further paragraphs 2473-2474 below.

⁶¹³⁶ See also paragraphs 952, 2473-960, 2186-2191 above.

Maxime Mokom may have been in contact during their time prior to the Bangui Attack. While the Chamber notes the Prosecution argument concerning the CDR between the numbers attributed to Mr Yekatom and Maxime Mokom, it cannot conclude anything about the actual contents of these calls and whether any exchanges indeed took place.

2426. The Chamber also considers that Mr Yekatom's return to the CAR, grouping in locations close to Bangui, and arming prior to the Bangui Attack is similar to many other FACA members, some of whom have testified.⁶¹³⁷ Based on the evidence discussed above, the Chamber also considers that Maxime Mokom was receiving reports about Mr Yekatom's actions prior to the Bangui Attack.

ii. Mr Yekatom's instructions to the elements in Gbangba

2427. The evidence shows that, after having crossed over from Zongo, Mr Yekatom established a base in Gbangba in the CAR.⁶¹³⁸

2428. Witnesses who were not in Mr Yekatom's group at the time, testified generally knowing about Mr Yekatom's move from Zongo to Bangui through the bush. In this regard, the Chamber notes that P-0884 only saw Mr Yekatom around 5 December 2013,⁶¹³⁹ and said that before that day, word was going around about Mr Yekatom's 'return'; in December 2013, P-0884 got to see and know Mr Yekatom and to understand that he was the one who had created the group around Pissa in a bid to move 'on Bangui'.⁶¹⁴⁰ P-2232 thought that Mr Yekatom crossed over from Zongo and began fighting in smaller villages before reaching Bangui, where he set himself up behind the airport in the Boeing neighbourhood.⁶¹⁴¹ From his interactions with Mr Yekatom, P-0954 seemed to think that Mr Yekatom had four firearms in his house in Cattin, 'started attacking Muslims in small villages' and took weapons from them, which was his way to grow.⁶¹⁴²

⁶¹³⁷ See paragraphs 2186-2190 above. See also section IV.A.2.ii.

⁶¹³⁸ For location of Gbangba, see footnote 6207 below.

⁶¹³⁹ P-0884: T-055, p. 73, lines 2-9.

⁶¹⁴⁰ P-0884: T-055, p. 73, lines 10-17.

⁶¹⁴¹ P-2232: T-075, p. 40, line 18 – p. 41, line 5.

⁶¹⁴² P-0954 Statement, CAR-OTP-2048-0171-R03, at 0184, para. 78.

2429. In audio-visual evidence before the Chamber, Mr Yekatom said that he had been in the bush for approximately seven months.⁶¹⁴³ In another video, Mr Yekatom explained that he had gathered around ‘1,500’ elements, a majority of them trained military that Michel Djotodia did not want to work with and that could not stay just like this.⁶¹⁴⁴

2430. Further, Mr Yekatom is seen in a video explaining that it was from ‘this location’ that they ‘departed for action’, pointing out the bases, training and sleeping locations, referring to military training and also preparing and training the youth.⁶¹⁴⁵ P-1339, who [REDACTED] that joined Mr Yekatom’s group [REDACTED],⁶¹⁴⁶ stayed in the group [REDACTED],⁶¹⁴⁷ and recognised the location in this video as Gbangba.⁶¹⁴⁸ P-1339 did not know the date on which this video was shot but recognised ‘Habib, Ouandjio and Momokama’, apart from Mr Yekatom.⁶¹⁴⁹

2431. In this video, Mr Yekatom refers to a first, second and third base, and P-1339 commented on this saying that these were all in Gbangba, and that gradually elements joined them in the group and ultimately, they ‘ended up with several bases’.⁶¹⁵⁰

2432. Evidence shows that elements in Mr Yekatom’s group were trained during their stay in the bush. P-1339 said that the soldiers among them would show the others how to use weapons and each section head would train the elements under their command.⁶¹⁵¹ P-1339 himself

⁶¹⁴³ Video, CAR-OTP-2065-2404, at 00:02:00-00:03:48; Translation, CAR-OTP-2127-3644, at 3648, lines 70-77.

⁶¹⁴⁴ Video, CAR-OTP-2065-0716, at 00:00:00-00:02:00; Transcript, CAR-OTP-2122-2292, at 2294, lines 32-36.

⁶¹⁴⁵ Video, CAR-OTP-2065-0951; Transcript, CAR-OTP-2122-2297, at 2299, lines 3-24.

⁶¹⁴⁶ P-1339: T-151, p. 35, lines 15-18, p. 36, lines 11-13; T-160, p. 38, line 17 – p. 39, line 16; [REDACTED].

⁶¹⁴⁷ P-1339: T-158, p. 9, lines 6-14, p. 12, lines 1-12; T-159, p. 1-17; T-160, p. 46, lines 5-16.

⁶¹⁴⁸ P-1339: T-155, p. 50, line 18 – p. 52, line 10 *referring to* Video, CAR-OTP-2065-0951.

⁶¹⁴⁹ P-1339: T-155, p. 52, lines 11-14; T-158, p. 12, line 13 – p. 13, line 8.

⁶¹⁵⁰ P-1339: T-155, p. 52, line 15 – p. 53, line 2, p. 54, lines 3-14. *See also* Videos, CAR-OTP-2065-0991; CAR-OTP-2065-0995; CAR-OTP-2065-1003; CAR-OTP-2065-1007; CAR-OTP-2065-1015; CAR-OTP-2065-1019; CAR-OTP-2065-1023; CAR-OTP-2065-1027. The Chamber reiterates that there is no indication on the record of when these videos were filmed. However, the Chamber has assessed these videos together, in light of what Mr Yekatom said in a related video that this was the ‘location’ from which they ‘departed for action’. The Chamber further notes that some of these videos show Cœur de Lion pointing out the various parts of the base with thatched huts and shelters in the bush (*see* Video, CAR-OTP-2065-0951; Transcript, CAR-OTP-2122-2297, at 2299, lines 3-24; *see also* Transcript, CAR-OTP-2107-1543, at 1544, lines 5-6).

⁶¹⁵¹ P-1339: T-151, p. 47, lines 3-8, p. 48, lines 4-14, p. 50, lines 5-13.

was similarly trained.⁶¹⁵² P-1339 said that they had two weapons that were used for training, a rifle and a ‘Kalashnikov with a folding butt’.⁶¹⁵³

2433. Having regard to the evidence discussed above, the Chamber finds that Mr Yekatom and his group armed and trained in the bush in the months leading up to the attack on Bangui on 5 December 2013.

2434. The Yekatom Defence submits that Mr Yekatom’s group was specifically ordered and trained to distinguish between combatants and civilians/non-combatants in their operations, including while the group was based in Boeing.⁶¹⁵⁴

2435. On the contrary, the Chamber notes that while P-1339 acknowledged that he did not know what the purpose of the training was, he himself noted, in the same vein, that people that joined the group were motivated by revenge, and even the leaders who commanded the troops had the ‘same desire for revenge’.⁶¹⁵⁵

2436. P-1339, when shown his prior statement, recalled and accepted that Cœur de Lion, Habib Beina, Max Maidanda, Bodios Brawe were among those that trained elements in the bush.⁶¹⁵⁶

2437. P-1339 agreed that, as part of the training, they would receive the instruction to ‘kill all Muslims because all Muslims were Seleka’.⁶¹⁵⁷ As regards instructions on the treatment of the ‘enemy’, P-1339 said that the instruction was to kill the enemy, and if ‘Muslims’ were captured, they could not ‘get away’, they would be ‘executed right there on the spot’; when the elements were able to catch a Muslim or a Seleka, they could not ‘just let him go’, they would ‘neutralise him’, meaning ‘take him somewhere and kill him’.⁶¹⁵⁸ P-1339 added that ‘if there was no witness, they would kill them right there and there would be no accounting

⁶¹⁵² P-1339: T-151, p. 47, lines 15-22 .

⁶¹⁵³ P-1339: T-151, p. 48, lines 4-14; T-152, p. 4, lines 2-11.

⁶¹⁵⁴ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 369.

⁶¹⁵⁵ P-1339: T-152, p. 4, lines 18-21, p. 15, lines 10-15.

⁶¹⁵⁶ P-1339: T-151, p. 50, lines 5-13.

⁶¹⁵⁷ P-1339: T-152, p. 16, lines 18-24, p. 18, lines 13-17. *See also* P-1339: T-152, p. 11, lines 11-17, where P-1339 said that people thought that ‘all Muslims were Seleka members’.

⁶¹⁵⁸ P-1339: T-152, p. 10, line 12 – p. 11, line 10.

for that to anyone'.⁶¹⁵⁹ P-1339 said that these instructions would come from Mr Yekatom, Cœur de Lion, and Habib Beina.⁶¹⁶⁰

2438. P-1339 said that in the afternoon of 4 December 2013, while based in Gbangba, [REDACTED] gathered all the elements following Mr Yekatom's order.⁶¹⁶¹ At this gathering, Mr Yekatom gave a speech in the presence of Habib Beina and Cœur de Lion,⁶¹⁶² and ordered elements to 'cross over'.⁶¹⁶³ P-1339 went to the toilet when the speech was being given and therefore appeared to have heard only parts of it,⁶¹⁶⁴ and joined the group before they crossed over.⁶¹⁶⁵

2439. P-1339 said that 'they' (referring to the leaders) informed them that on the following day they would leave to head towards Bangui, and they would 'fight the Seleka elements' and 'fight the Muslims'.⁶¹⁶⁶ P-1339 said that they were also told to take away all the mobile phones of the elements so that they could not alert their relatives in the various neighbourhoods.⁶¹⁶⁷

2440. As regards the remaining part of Mr Yekatom's speech, the Chamber notes that P-1339 clarified his evidence insofar as it concerned (i) the destruction of Muslim property; and (ii) treatment of Muslim women and children. As discussed below, P-1339 eventually maintained in court what he had said in his statement.

2441. P-1339 said that Mr Yekatom told the elements to destroy the houses of the Muslims, without providing any reasons for it,⁶¹⁶⁸ and indicated that an example of this was the destruction of

⁶¹⁵⁹ P-1339: T-152, p. 11, lines 4-10.

⁶¹⁶⁰ P-1339: T-152, p. 11, line 18 – p. 12, line 6.

⁶¹⁶¹ P-1339: T-152, p. 34, line 23 – p. 35, line 8, p. 69, line 13 – p. 70, line 3; T-159, p. 36, lines 5-18, p. 38, lines 11-22. The Chamber notes P-1339's testimony that '[REDACTED]', '[REDACTED]' and '[REDACTED]'. The Chamber considers that from the context and overall content of his testimony it is clear that P-1339 was referring to Mr Yekatom (*e.g.* referring to the same person, P-1339 also indicated that '[h]is deputy came, him and Habib were present' (see T-152, p. 35, line 2)). See also P-1339: T-154, p. 39, lines 6-12; T-159, p. 35, lines 1-11.

⁶¹⁶² P-1339: T-152, p. 74, lines 2-9.

⁶¹⁶³ P-1339: T-159, p. 36, lines 13-18.

⁶¹⁶⁴ P-1339: T-159, p. 38, lines 11-22.

⁶¹⁶⁵ P-1339: T-159, p. 39, lines 11-16.

⁶¹⁶⁶ P-1339: T-152, p. 70, lines 6-20. P-1339, when later asked whether Mr Yekatom mentioned where the attack would be carried out when giving instructions on 4 December 2013, said that the latter did not mention the name of any place (see P-1339: T-154, p. 40, lines 11-15).

⁶¹⁶⁷ P-1339: T-152, p. 70, lines 6-20.

⁶¹⁶⁸ P-1339: T-152, p. 71, line 17 – p. 72, line 5, p. 72, lines 20-22, p. 74, lines 2-9.

the mosques, including in Boeing, Boy-Rabe, Combattant and Kina.⁶¹⁶⁹ When confronted with his previous statement according to which they had not received the order to attack schools or clinics, P-1339 explained that Mr Yekatom told them that these belonged to the people of the CAR and that they should not be destroyed.⁶¹⁷⁰ P-1339 also seemed to understand that Yamwara was ‘protected’.⁶¹⁷¹

2442. P-1339 had initially testified that Mr Yekatom said that when they encountered ‘the Seleka, the Muslims, be it a woman, a child’, they had to kill them.⁶¹⁷² After being confronted with his previous statement according to which ‘Rombhot didn’t say anything specifically regarding Muslim women’,⁶¹⁷³ P-1339 indicated that it would be ‘untrue’ to say that Mr Yekatom did not give the order to kill Muslim women because of the instructions he gave about the Seleka and because the bullets they were shooting could have struck Muslim women.⁶¹⁷⁴

2443. P-1339 clarified that Mr Yekatom gave them the following orders: ‘When you are fighting an enemy, if that enemy has a weapon and the enemy has his relatives with him, what’s for sure is that it will cause other damage. Other people might be killed’, and ‘If you meet any Seleka, kill them’.⁶¹⁷⁵

2444. P-1339, asked specifically in relation to his previous statement concerning Muslim women,⁶¹⁷⁶ recited Mr Yekatom’s instruction as he remembered it: ‘Listen, if you attack Muslims, don’t touch the women or the children. It’s the Muslims who are shooting, not the women’.⁶¹⁷⁷ P-1339 said that he did not see elements talking about harming women in front of Mr Yekatom during his time with the group.⁶¹⁷⁸ As per P-1339, no other instructions were given after they left the bush.⁶¹⁷⁹

⁶¹⁶⁹ P-1339: T-152, p. 71, line 17 – p. 72, line 5.

⁶¹⁷⁰ P-1339: T-160, p. 6, lines 3-19.

⁶¹⁷¹ P-1339: T-160, p. 6, lines 3-19.

⁶¹⁷² P-1339: T-152, p. 71, lines 4-15.

⁶¹⁷³ P-1339: T-160, p. 6, lines 3-14.

⁶¹⁷⁴ P-1339: T-160, p. 6, lines 15-22.

⁶¹⁷⁵ P-1339: T-160, p. 7, line 21 – p. 8, line 4.

⁶¹⁷⁶ P-1339: T-160, p. 8, lines 5-17.

⁶¹⁷⁷ P-1339: T-160, p. 8, line 23 – p. 9, line 3.

⁶¹⁷⁸ P-1339: T-160, p. 51, lines 7-13.

⁶¹⁷⁹ P-1339: T-154, p. 38, lines 19-24.

2445. The Chamber also considered that P-1339 said that the goal of Mr Yekatom's group was to attack KM5 but also said that 'in fact, I have always said that the goal of the Anti-Balaka was to target those sectors where Muslims were to be found'.⁶¹⁸⁰ In the Chamber's view, P-1339, [REDACTED] element in Mr Yekatom's group, continued to conflate the Seleka with the Muslims in how he understood Mr Yekatom's instructions.

2446. Having regard to the above, the Chamber finds that Mr Yekatom's instructions to his elements were to fight the Seleka and that it included targeting sectors where 'Muslims' were to be found. The Chamber also finds that Mr Yekatom's instructions were understood by the elements to accept that Muslim civilians would be killed as a result of the fighting. Prominently, Mr Yekatom did not instruct his elements to refrain from attacking civilians or civilian property.

2447. Noting the above, the Chamber finds that Mr Yekatom was aware of how his elements would interpret his instructions to 'target those sectors where Muslims were to be found' and not restrict their attack to the Seleka. Mr Yekatom was aware that his instructions would be understood as also targeting Muslim civilians. The Chamber considers that Mr Yekatom was aware of the fact that his elements had not been trained in or instructed to apply the principle of distinction when engaging in combat. Accordingly, Mr Yekatom was aware that his elements would not apply the principle of distinction during combat.

2448. In addition to the above, there is audio-visual evidence showing that elements of Mr Yekatom's group expressed anti-Muslim sentiments and conflated the Seleka and Djotodia with Muslims. The Chamber recalls that there is no evidence on the record indicating the date on which these videos were shot. Nonetheless, the Chamber has assessed this material together with what witnesses have said about them.

2449. In one video, an element in Mr Yekatom's group identified as Habib Beina is in the bush and talking to the camera, saying that the Seleka are Chadian, Sudanese, and Janjaweed and

⁶¹⁸⁰ P-1339: T-155, p. 16, line 22 – p. 17, line 5.

that Idriss Deby cannot ‘command’ until ‘here’, and that if Michel Djotodia does not step down, there will be a ‘genocide’ in the CAR.⁶¹⁸¹

2450. In a video showing Max Maidanda and other elements claiming to be FACA in a location identified by P-1339 as Projet, Max Maidanda introduces himself and says he wants Michel Djotodia to leave and that he does not want to see Muslims.⁶¹⁸² In another related video in what appears to be the same location as the earlier video, Max Maidanda shows a ‘furogene’ to the camera saying that this was for throwing at Muslims who were in their houses so that they would leave and then ‘we kill them when they leave, even the little children, because we have suffered a lot and we are all soldiers’.⁶¹⁸³

2451. Having regard to this evidence in light of the Yekatom Defence’s arguments,⁶¹⁸⁴ the Chamber considers that the words used by elements in Mr Yekatom’s group clearly show Habib Beina and Max Maidanda openly expressing anti-Muslim sentiment. The Chamber further notes the words and actions of Bodios aka Bojos and Cœur de Lion in the context of

⁶¹⁸¹ Video, CAR-OTP-2065-0436, at 00:00:00-00:00:52; Transcript, CAR-OTP-2107-1539, at 1540, lines 10-15. P-1339 recognised the person talking to the camera as Habib Beina but did not recognise the location (see P-1339: T-155, p. 54, line 16 – p. 56, line 23; see also P-0888: T-120, p. 68, line 6 - p. 70, line 23; P-1193: T-124, p. 43, line 19 – p. 45, line 24).

⁶¹⁸² Video, CAR-OTP-2065-3172, at 00:01:14-00:01:34; Transcript, CAR-OTP-2107-3053; Translation, CAR-OTP-2118-5654, at 5656, lines 27-32. See also P-1647: T-194, p. 46, line 4 – p. 49, line 23 (Stephane Chrisostome Dawili recognising Max Maidanda in the video still at 00:01:16). The Chamber further notes that Stephane Chrisostome Dawili agreed that Max Maidanda was one of the chiefs who provided training to other elements in Mr Yekatom’s group; asked if he had ever heard Maidanda say that as a soldier he was willing to kill even small children, Stephane Chrisostome Dawili said that those were Maidanda’s ‘own thoughts’ and that he had never heard him say that (P-1647: T-194, p. 50, lines 12-19). The witness agreed that he had heard other elements say similar things about civilians, and pointed out that, there were elements who did their job well, and others who had been smoking weed and would ‘speak in their own way’; the witness said that if an element spoke this way, they had to be ‘educated’ and ‘criticised’ and if they acted on these words ‘they would have to be sanctioned’ by the leader or the ‘head of the section’; he added that sometimes elements did things that were not okay and Mr Yekatom would have them punished by wetting or thrashing them (P-1647: T-194, p. 50, line 20 – p. 51, line 16).

⁶¹⁸³ Video, CAR-OTP-2065-3188, at 00:00:00-00:01:08; Translation, CAR-OTP-2107-1547, at 1548, lines 6-18. The Chamber notes that P-1193 denied knowing the person, place, or hearing Mr Yekatom’s group members talking about using smoke guns to drive out Muslims (see P-1193: T-124, p. 47, line 16 – p. 48, line 14). The Chamber further notes that P-1839 agreed that she was surprised to hear the words in this video and agreed that she did hear words ‘from the mouths of [Mr Yekatom], Habib Beina, Alkanto, and Cœur de Lion’ about killing Muslims but ‘not children’ (see P-1839: T-174, p. 76, line 21 – p. 78, line 14). See also paragraphs 3092-3100 below; P-1786: T-197, p. 77, line 10 – p. 79, line 15.

⁶¹⁸⁴ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 349 *referring, inter alia, to* Videos, CAR-OTP-2065-3172, CAR-OTP-2065-3188. See also Annex A to Yekatom Defence Response to the “Prosecution’s Sixth Application for the Submission of Evidence from the Bar Table”, 15 May 2023, ICC-01/14-01/18-1868-Conf, ICC-01/14-01/18-1935-Conf-AnxA, p. 96.

an interrogation and treatment of a captured ‘Muslim’ man after the Bangui Attack.⁶¹⁸⁵ The Chamber recalls P-1339’s evidence that all four of these individuals were among those training civilians in the bush,⁶¹⁸⁶ and that certain people who joined the group were motivated by revenge.⁶¹⁸⁷ The Chamber recalls that Mr Yekatom was aware of the presence of civilian youth in his group prior to the Bangui Attack.⁶¹⁸⁸

2452. In light of this, the Chamber concludes that Mr Yekatom was aware that his elements, including long-standing and high-ranking FACA members in his group, would not distinguish between the Seleka and Muslim civilians during combat. The Chamber further concludes that Mr Yekatom was aware that FACA members of his group, particularly Cœur de Lion, Habib Beina, Max Maidanda and Bodios, who also trained civilian elements, bore strong anti-Muslim sentiments and feelings of vengeance against the Seleka. This extended to targeting Muslim civilians. The Chamber infers from the evidence elaborated here and elsewhere,⁶¹⁸⁹ that this sentiment permeated the remainder of his group.

2453. The Chamber further notes that Mr Yekatom’s group was designated to attack PK5, a predominantly Muslim neighbourhood. Therefore, the possibility that Mr Yekatom’s elements would target Muslim civilians in the upcoming attack was high. Despite this, Mr Yekatom did not specify or clarify to his elements, the principles of distinction or its significance during their preparations and in advance of the attack. Accordingly, the Chamber infers that Mr Yekatom knowingly did not instruct his elements to apply the principle of distinction.⁶¹⁹⁰

2454. Having regard to this, the Chamber finds that Mr Yekatom’s instructions were understood by the elements to accept that Muslim civilians would be killed as a result of the fighting based on his elements not having been trained or instructed to apply the principle of distinction during combat and bearing strong anti-Muslim sentiment and feelings of vengeance against the Seleka.

⁶¹⁸⁵ See paragraph 3158-3162, 3171-3172, 3232-3235 below.

⁶¹⁸⁶ See paragraph 2436 above.

⁶¹⁸⁷ See paragraph 2435 above.

⁶¹⁸⁸ See paragraphs 2430-2431 above.

⁶¹⁸⁹ See paragraphs 3089-3100, 3171-3172, 3137-3142 below.

⁶¹⁹⁰ See further paragraphs 2472-2474 below.

iii. Number and selection of elements

2455. The evidence suggests that, at the base in Gbangba, Mr Yekatom's group could have numbered over a thousand elements, specifically '1,500' in his own words, however, there are no reliable estimates as to the actual number in every stage.

2456. P-1339 testified about the number of elements that were gathered before their move to Gbangba and did not recall the exact number that moved from Gbangba to Projet. P-1339's estimates ranged from about 3,000⁶¹⁹¹ to a hundred.⁶¹⁹² P-1339 maintained that, in any event, there were 'a lot' of them that left the bush,⁶¹⁹³ and that more elements joined them in later.⁶¹⁹⁴

2457. The majority of the elements in the group at the Gbangba base were civilians.⁶¹⁹⁵ Before leaving for Projet, Mr Yekatom selected a number of 'combatants' because, according to P-1339, there were not enough weapons for all of them.⁶¹⁹⁶ P-1339 also indicated that very few of them had firearms.⁶¹⁹⁷

2458. Having regard to the above and noting that P-1339 did not recall how many elements were selected and went to Projet, the Chamber is unable to enter a conclusion on the number of elements in Mr Yekatom's group that participated in the Bangui Attack.

⁶¹⁹¹ P-1339: T-159, p. 35, lines 1-11. The Chamber notes that P-1339's evidence that there were about 3,000 elements in Gbangba at the time is consistent with his testimony according to which he estimated that there were 3,000 elements '[t]owards the end' (see P-1339: T-151, p. 38, lines 16-19).

⁶¹⁹² P-1339: T-152, p. 75, lines 16-25, p. 77, line 15 – p. 78, line 7.

⁶¹⁹³ P-1339: T-152, p. 76, lines 1-11.

⁶¹⁹⁴ P-1339: T-159, p. 49, line 18 – p. 50, line 3. The Chamber has also considered his testimony concerning the figure of 1,000 that appeared in his notebook, together with the figure in his prior statement that '611' elements having fireweapons. P-1339 said that he did not remember exactly and said that what he noted down in his notebook 'could be correct' and that some elements did have fire weapons, and some did not (see P-1339: T-152, p. 76, lines 20-25; T-154, p. 16, line 12 – p. 18, line 10; T-159, p. 49, line 18 – p. 52, line 17). The Chamber did not consider it necessary for P-1339 to recall all details and finds that his testimony concerning these numbers was forthcoming.

⁶¹⁹⁵ P-1339: T-155, p. 52, line 15 – p. 53, line 2.

⁶¹⁹⁶ P-1339: T-152, p. 34, line 23 – p. 35, line 8, p. 69, line 15 – p. 70, line 3, p. 74, line 21 – p. 75, line 6. See also P-1339: T-159, p. 36, lines 5-9, p. 38, lines 5-10.

⁶¹⁹⁷ P-1339: T-152, p. 76, lines 20-25.

iv. Cross-over from Gbangba and arrival close to Bangui airport

2459.P-1339 said that they frisked all the elements and took away their mobile phones so that they could not alert their relatives in the various neighbourhoods and later Mr Yekatom informed the troops that the following day, they would head ‘towards Bangui’.⁶¹⁹⁸

2460.P-1339 testified that after the elements were selected, they set up a column headed by ‘Rambo’, who was followed by ‘Beina’ and ‘the other one’,⁶¹⁹⁹ with Cœur de Lion closing the group.⁶²⁰⁰ The column, which was very long, left Gbangba for Projet on 4 December 2013 at 16:00.⁶²⁰¹

2461.P-1339 explained that to cross over, there was a canoe that could carry 50 people at a time, as well as a small canoe in which ‘Ouandjio’, Mr Yekatom, ‘Habib’ and other people were.⁶²⁰² P-1339 also indicated that there was a person in Gbangba paddling the canoe and helping others to cross over.⁶²⁰³

2462.P-1339 indicated that on the evening of 4 December 2013, they arrived through the bush at a place called Projet.⁶²⁰⁴ P-1339 identified Projet in a video.⁶²⁰⁵ In relation to the M’Poko airport in Bangui, P-1339 indicated that Projet was less than one kilometre away from the

⁶¹⁹⁸ P-1339: T-152, p. 69, line 15 – p. 70, line 3.

⁶¹⁹⁹ P-1339: T-152, p. 74, line 21 – p. 75, line 6.

⁶²⁰⁰ P-1339: T-159, p. 39, lines 14-16.

⁶²⁰¹ P-1339: T-152, p. 74, line 21 – p. 75, line 6, p. 76, lines 18-19. P-1339 was confronted with his previous statement according to which they walked from Kalangoi to Gbangba for the Bangui Attack, and he maintained that they crossed over from Gbangba to Projet (see P-1339: T-159, p. 40, line 16 – p. 42, line 25; see also P-1339: T-159, p. 44, line 17 – p. 45, line 18).

⁶²⁰² P-1339: T-159, p. 45, line 19 – p. 46, line 5, p. 47, line 19 – p. 48, line 9.

⁶²⁰³ P-1339: T-159, p. 45, line 19 – p. 46, line 5. The Chamber has considered P-1339’s testimony about the name of the boat that was used and finds the possible inconsistencies immaterial (see P-1339: T-159, p. 46, line 11 – p. 47, line 1; T-160, p. 20, line 16 – p. 21, line 4).

⁶²⁰⁴ P-1339: T-152, p. 75, lines 1-14 (indicating that they reached Projet at 19:00); T-154, p. 39, lines 13-18 (indicating that they reached Projet at 22:00).

⁶²⁰⁵ P-1339: T-155, p. 78, lines 1-17 referring to Video, CAR-OTP-2065-3220, at 00:03:17.

Muslim cemetery next to the airport.⁶²⁰⁶ P-1339 marked Gbangba and Projet on a map in court, and the latter appears in an area called Bossouambo east of the M’Poko airport.⁶²⁰⁷

2463.P-0884 said that at Projet ‘people were coming in from all directions’ and it was ‘one of the biggest neighbourhoods in Boeing’ and those that were arriving had filled up the entire sector.⁶²⁰⁸

2464.P-1339 said that once they reached Projet, ‘certain chiefs’ contacted Mr Yekatom,⁶²⁰⁹ they met with ‘combatants’ from Combattant and from other ‘regions’, he noticed that the soldiers were happy to see each other again and talked to each other.⁶²¹⁰

v. Preparations for the attack

2465.P-1339’s evidence shows that Mr Yekatom’s group was preparing for participating in an upcoming attack by walking to and from the market in Boeing the night before the attack.

2466.P-1339 said that during the night of 4 December 2013, ‘Rombhot’ and ‘Ouandjio’ asked [REDACTED] to show them ‘the precise geographic location of the [Boeing] market so that [they] could prepare or launch the attack’.⁶²¹¹ P-1339 said that [REDACTED] walked in the dark all the way to the Boeing Market, where there were shops belonging to Muslims on the right-hand side, and a small street between the market and these shops.⁶²¹² P-1339 said that [REDACTED] observed the area and subsequently walked back to Projet,⁶²¹³ noting that

⁶²⁰⁶ P-1339: T-154, p. 36, lines 5-12. In a video purportedly shot after 5 December 2013, Mr Yekatom is shown to be in a location identified by his group elements as Projet market ‘behind the airport’ (see Video, CAR-OTP-2065-3180, at 00:00:00-00:00:15; Transcript, CAR-OTP-2122-7503, at 7504, lines 3-11).

⁶²⁰⁷ P-1339: T-155, p. 3, line 13 – p. 4, line 24, p. 5, line 22 – p. 7, line 20 *referring to* Map (annotated by P-1339), CAR-REG-0001-0008. P-0884, who knew the Boeing area very well [REDACTED], said that ‘Projet’ is located in Boeing ‘behind the Muslim cemetery’ (see P-0884: T-055, p. 75, line 23 – p. 76, line 4; T-056, p. 22, lines 16-23, p. 23, lines 5-9).

⁶²⁰⁸ P-0884: T-055, p. 75, line 23 – p. 76, line 4.

⁶²⁰⁹ P-1339: T-159, p. 49, lines 7-17.

⁶²¹⁰ P-1339: T-154, p. 40, lines 15-22.

⁶²¹¹ P-1339: T-154, p. 40, line 11 – p. 41, line 7, p. 52, lines 8-21; T-159, p. 64, line 25 – p. 65, line 8. In some parts of this testimony, P-1339 also recalled ‘Habib’ and ‘Sebastian’ accompanying [REDACTED] during this mission along with some ‘chiefs’ whom he did not identify.

⁶²¹² P-1339: T-154, p. 40, line 23 – p. 41, line 7, p. 52, lines 8-21.

⁶²¹³ P-1339: T-154, p. 40, line 23 – p. 41, line 7, p. 52, lines 8-21; T-159, p. 66, lines 4-6.

some shops were open and some already closed and that many shopkeepers were already asleep at that time.⁶²¹⁴

2467. The Chamber notes that P-1339 provided evidence concerning arm bands that were purportedly distributed to the elements in Mr Yekatom's group prior to the Bangui Attack.⁶²¹⁵ P-1339 said that these armbands allowed them to recognise one another and they were placed either on the right arm or on the forehead and this was a 'sign' to identify an 'Anti-Balaka element'.⁶²¹⁶ P-1339 added that the elements of Boeing and Cattin wore white armbands whereas elements of 'Combattant' wore red armbands.⁶²¹⁷

2468. P-1339 said that in the morning of 5 December 2013, at dawn, 'other people' who came from the provinces and joined the group in Projet.⁶²¹⁸ P-1339 said that this included two groups of elements coming from Bossangoa, one led by Modibo and another by Sylvestre Yagouzou.⁶²¹⁹

2469. P-1339 said that 'Modibo', whom he got to know on 5 December 2013, introduced himself as marabout when he arrived to Projet with his elements and was responsible for selling the fetishes.⁶²²⁰ P-1339 recognised him in a list of elements from Gobere as Nganafio Honoré, and said that he had brought elements from Bossangoa to Bangui and was the chief of his company.⁶²²¹ P-1339 said that 'Modibo' had many elements with him but could not say the exact number.⁶²²²

⁶²¹⁴ P-1339: T-154, p. 53, lines 1-9.

⁶²¹⁵ P-1339: T-152, p. 69, line 15 – p. 70, line 3, p. 75, lines 7-14, p. 79, line 20 – p. 80, line 5; T-159, p. 57, line 14 – p. 62, line 1.

⁶²¹⁶ P-1339: T-152, p. 74, line 21 – p. 75, line 14.

⁶²¹⁷ P-1339: T-152, p. 79, line 20 – p. 80, line 5. The Chamber has noted the inconsistencies raised by the Yekatom Defence concerning the armbands and considers them immaterial.

⁶²¹⁸ P-1339: T-159, p. 48, line 23 – p. 49, line 17.

⁶²¹⁹ P-1339: T-155, p. 84, lines 16-25, p. 89, line 8 – p. 90, line 16. *See also* List, CAR-OTP-2041-0783; List, CAR-OTP-2041-0802. With regard to the latter list, the Chamber refers to its observations above (*see* paragraph 1134, footnote 3023 above).

⁶²²⁰ P-1339: T-156, p. 16, lines 4-13.

⁶²²¹ P-1339: T-155, p. 84, lines 16-25, p. 88, line 17 – p. 89, line 23, p. 95, line 21 – p. 96, line 1 *referring to* List, CAR-OTP-2041-0783; List, CAR-OTP-2041-0802. With regard to the latter list, the Chamber refers to its observations above (*see* paragraph 1134, footnote 3023 above).

⁶²²² P-1339: T-155, p. 88, line 17 – p. 89, line 6; T-159, p. 49, lines 7-17.

2470. As regards Sylvestre Yagouzou, P-1339 said that he came from Bossangoa and that he was ‘always’ with Mr Yekatom and that they used to talk together.⁶²²³

2471. P-1339 recognised both ‘Modibo’ and Sylvestre Yagouzou in a video.⁶²²⁴

2472. The Chamber notes that the dates on when these set of videos were taken are not on the record; the Chamber has nonetheless considered them to identify individuals and their compartment in relation to one another. In this vein, the Chamber has assessed other audio-visual evidence in which Sylvestre Yagouzou appears together with Mr Yekatom,⁶²²⁵ and which was also shown to P-1339.

2473. P-1339 recognised Sylvestre Yagouzou in this video in which the latter is speaking to Mr Yekatom in Projet.⁶²²⁶ In particular, the Chamber notes that Sylvestre Yagouzou is addressing elements, referring to being connected with the ‘*grand chef*’ who is in ‘*quartier B[oy-Rabe]*’ and instructing the elements not to pillage.⁶²²⁷ Mr Yekatom interrupts and says:

⁶²²³ P-1339: T-155, p. 78, lines 1-7.

⁶²²⁴ P-1339: T-155, p. 83, line 3 – p. 84, line 7 *referring to* Video, CAR-OTP-2012-0523, at 00:38:25-00:39:06.

⁶²²⁵ Video, CAR-OTP-2065-3208, at 00:00:00-00:03:37, in which Mr Yekatom is instructing the elements to be searched for mobile phones in a location that P-1339 recognised as Projet. *See also* Translation, CAR-OTP-2130-1138, at 1140, lines 33-34; Video, CAR-OTP-2065-3212; Translation, CAR-OTP-2127-3662. The Chamber has also considered Video, CAR-OTP-2065-2544, at 00:00:00-00:02:03; Translation, CAR-OTP-2127-3649, at 3651, lines 10-37, in which Mr Yekatom and Sylvestre Yagouzou are shown talking to each other. Mr Yekatom refers to Sylvestre Yagouzou as ‘Coordo’ and is looking for someone in Boeing who would bring him a rocket from Ombia (‘*j’ai l’intention de trouver quelqu’un à Boeing qui pourra nous ramener ...eeeeuuuh l’autre-là...la roquette qui se trouve au niveau d’Ombia*’). This appears to be followed by Video, CAR-OTP-2065-2548, in which Sylvestre Yagouzou and Mr Yekatom are sharing a phone and having an exchange with someone on speaker. In the exchange, a reference is made to elements present in ‘quartier Gbaya’, ‘elements at Boy-Rabe’, procuring a rocket that Mr Yekatom says they need. Asked about the programme for the day by the journalist, Sylvestre Yagouzou and Mr Yekatom both indicate waiting for instructions before doing anything and do not say whose instruction (*see* Translation, CAR-OTP-2127-3653, at 3656, lines 35-68). This appears to be followed by Video, CAR-OTP-2065-2841, showing both Mr Yekatom and Sylvestre Yagouzou leaving. *See also* Video, CAR-OTP-2065-2392. The Chamber has considered the Yekatom Defence’s submissions concerning Videos, CAR-OTP-2065-2544, CAR-OTP-2065-2841, that these videos show that Mr Yekatom and Sylvestre Yagouzou are ‘not close’ and do not belong to the same group (*see* Annex A to Yekatom Defence Response to the “Prosecution’s Fourteenth Application for Submission of P-1819’s Evidence from the Bar Table”, ICC-01/14/01/18-2057-Conf, ICC-01/14-01/18-2233-Conf-AnxA, pp. 252-256 (CAR-OTP-2065-2544), pp. 248-249 (CAR-OTP-2065-2841)). The Chamber has further considered the Yekatom Defence’s arguments that the conversation in the former video ‘tends to show that the armament at the disposition of the group is quite limited as Mr Yekatom indicates they only have two rockets and are looking for a place that could have only four more’. The Chamber notes that these videos demonstrate coordinating activities, including about procurement of arms, between the two individuals and their respective groups, regardless of their arguable personal closeness or hierarchy.

⁶²²⁶ P-1339: T-155, p. 75, line 16 – p. 78, line 17 *referring to* Video, CAR-OTP-2065-3220, at 00:00:00-00:03:20.

⁶²²⁷ Translation, CAR-OTP-2127-3668, at 3670, lines 5-25.

Dis, ça suffit comme cela ; il faut chercher à les disperser rapidement ...ça ne sert à rien de faire un long discours. [...] ce que nous devons faire ici est de fouiller les téléphones ; nous verrons le reste des choses plus tard. Au moment du lancement des opérations, il y aura des décisions à prendre ... dis, attends, vous êtes des militaires, si on vous donne des ordres, il ne faut pas laisser les civils vous dominer, je vous dis la franche vérité. D'accord ? [...] ...je préfère vous mettre au courant car je ne veux pas que quelqu'un foute la merde dans mon travail. C'est ce que je vous dis ; nous devons donner ces instructions au moment du départ. Moi, je suis comme ça. Il y a certaines choses qu'on ne peut pas dire devant tout le monde car nous ne connaissons pas ce que tout le monde pense. [...]

(addressing Sylvestre Yagouzou) En tant que militaire, nous avons des tâches à accomplir, et laissez-nous l'accomplir ; si c'est à votre niveau, vous pouvez le faire. C'est pas à vous de donner de l'ord...des ordres. Moi, je suis comme cela. Parce que nous pouvons dire une chose ici, mais nous ne connaissons pas l'objectif des autres. Je voulais confisquer les téléphones [...] C'est pour ça qu'il faut être bref sur certaines choses ; nous pouvons leur dire certaines choses mais toi et moi, nous pouvons nous réunir et faire autre chose ...il faut comprendre ce que je suis en train de dire.⁶²²⁸

2474. In this video, P-1339 also recognised 'Beorofei';⁶²²⁹ he said that the 'three persons' that Mr Yekatom relied upon were 'Yakouzou and Beorofei' and those were the people that P-1339 'knew well' and that Beorofei 'until today' is Maxime Mokom's 'deputy'.⁶²³⁰

⁶²²⁸ Translation, CAR-OTP-2127-3668, at 3670, lines 30-33, 35-40, at 3671, lines 42-50. (Translation from French to English by the Registry) ' [...] what we've got to do now is search through the phones; we'll sort out the rest later. Decisions will need to be taken at the time of launching the operations ... well, look here, you're soldiers, if people give you orders, you mustn't let civilians lord it over you, I'm telling you the honest truth. OK? [...] ... I prefer to keep you updated because I don't want anyone causing trouble in my work. That's what I'm telling you; we have to give these instructions when it starts. That's the way I am, you see. There are some things we can't say in front of everyone because we don't know what everyone is thinking. Above all, we need to keep it short, and confiscate all the mobile phones; those who want to stay, let them stay; those who don't want to stay can go, and that's it [...] (addressing Sylvestre Yagouzou) As soldiers, we have duties to be performed, and let's perform them; if it's your level, you can do it. It's not up to you to give ord... orders. That's the way I am, you see. Because we could say something here, but we don't know what other people's intentions are. I wanted to confiscate the phones [...] some people said it wasn't necessary, because the phones belonged to such-and-such a person; we would be the ones bearing the brunt of it tomorrow, because we could reveal some truths here, then some people might go and distort them over there. That's why we have to keep it short about some things; we can tell them some things but you and I can meet up and do something else ... you need to understand what I'm saying.'

⁶²²⁹ P-1339: T-155, p. 81, line 21 – p. 82, line 16 *referring to* Video, CAR-OTP-2065-3220, at 00:02:48 as the person with the purple t-shirt. P-1339 identified the person with the black t-shirt as a gendarme named 'Jean'.

⁶²³⁰ P-1339: T-155, p. 81, lines 10-19.

2475. The Chamber notes other audio-visual evidence showing ‘Modibo’⁶²³¹ and Sylvestre Yagouzou,⁶²³² and the two together.⁶²³³ In particular, the Chamber notes that in one of the videos, Sylvestre Yagouzou is asked by a ‘sous-off’ over the phone if the former is in contact with ‘commandant, Mokom’, to which Yagouzou replies that he is in contact with the ‘commandants’, including Lieutenant Herve Ganazoui.⁶²³⁴ Sylvestre Yagouzou appears to be exchanging about a ‘strategy’, stating that ‘you will see, he will reassemble you and then tonight, you will leave to come join us, it is not far’ (*Donc tu vas le voir, tu vas le voir, il vous rassemblera et puis cette nuit, vous allez partir pour venir nous rejoindre, ce n’est pas loin*).⁶²³⁵
2476. The Chamber notes the Yekatom Defence’s submissions concerning some of this audio-visual material. It argues that they show that the groups of ‘Nganafio’ and Sylvestre Yagouzou were ‘not part of Mr Yekatom’s group’.⁶²³⁶ Indeed, this was also P-1339’s impression, as discussed above. The Chamber, nonetheless, considers that not being part of the same group does not preclude coordination between these groups, nor does it preclude Mr Yekatom having authority also over these two groups. In the Chamber’s view, these videos, together with P-1339’s evidence, clearly show Mr Yekatom’s interacting and

⁶²³¹ Video, CAR-OTP-2065-2867; Translation, CAR-OTP-2127-3658, at 3660, lines 4-38, in which ‘Modibo’ is talking to the camera explaining how he joined the ‘Anti-Balaka’ in the bush and walked from Bossangoa and that he will easily take Bangui).

⁶²³² Video, CAR-OTP-2065-2488, at 00:00:53-00:01:00; Transcript, CAR-OTP-00002193, at 000002, lines 19-20, in which Sylvestre Yagouzou introduces himself with his full name and as ‘the general coordinator of the national revoution’ (*le coordonnateur général de la revolution nationale*). The Chamber notes Sylvestre Yagouzou indicating in another video that he is in contact with elements in Boy-Rabe through telephone, noting that there are many elements in Bangui already, including military that have reunited and regrouped to fight the ‘savages’. He states that they are not here for killing Muslims, but it is because of their exactions that they are revolting. He adds that they will raise their weapons against those that will raise theirs (see Video, CAR-OTP-2065-2837; Translation, CAR-OTP-2122-7501, at 7502, lines 3-21).

⁶²³³ Video, CAR-OTP-2065-2895; Translation, CAR-OTP-2107-1545, at 1546, lines 6-12 in which Sylvestre Yagouzou, sitting next to Modibo, appears to be explaining how *gris-gris* works; Video, CAR-OTP-2065-2857; Video, CAR-OTP-2065-2861; Video, CAR-OTP-2065-2871; Video, CAR-OTP-2065-2887. The Chamber also has regard to Video, CAR-OTP-2065-2865; Video, CAR-OTP-2065-2899 in which Mr Yekatom appears together with Modibo and Sylvestre Yagouzou.

⁶²³⁴ Video, CAR-OTP-2065-2903, at 00:01:12-00:01:26; Translation, CAR-OTP-00000810, at 000003, lines 24-30. See also P-1839: T-173, p. 13, lines 5-21.

⁶²³⁵ Video, CAR-OTP-2065-2903, at 00:02:21-00:03:13; Translation, CAR-OTP-00000810, at 000004, lines 63-64.

⁶²³⁶ See e.g. Annex A to Yekatom Defence Response to the “Prosecution’s Fourteenth Application for Submission of P-1819’s Evidence from the Bar Table”, ICC-01/14/01/18-2057-Conf, ICC-01/14-01/18-2233-Conf-AnxA, pp. 238-241 (CAR-OTP-2065-2865), pp. 250-252 (CAR-OTP-2065-2899), pp. 259-260 (CAR-OTP-2065-2861), pp. 265-268 (CAR-OTP-2065-2867).

sharing information with Sylvestre Yagouzou, as well as asserting authority over the latter and the latter's elements.

2477. P-1339 seemed to think that there were other groups too, but they did not have a name.⁶²³⁷

He said that in addition, there was also 'a group of soldiers who volunteered' and came with their own weapons.⁶²³⁸

2478. P-1339 confirmed that elements of the Anti-Balaka chiefs Yagouzou and 'Modibo' joined them in Projet, from where they ('we') organised and participated in the Bangui Attack.⁶²³⁹

P-1339 could not tell how many elements joined their group but confirmed that they were greater in number than the people in their group.⁶²⁴⁰ P-1339 said that he did not know before that they would meet other elements in Projet.⁶²⁴¹

2479. The Chamber notes that P-0884 was asked about an Anti-Balaka 'base' or 'grouping' in Projet around the time of the Bangui Attack, and said that people had arrived there from 'all directions' by foot, including from Bouca and Bossangoa.⁶²⁴²

vi. Launching the attack

2480. As regards the attack, P-1339 said that Mr Yekatom's group left Projet at 04:00 in the morning of 5 December 2013, when it was still dark.⁶²⁴³ P-1339 said that the elements with weapons were in the front, while those with sticks and machetes followed behind,⁶²⁴⁴ leaving Projet in the direction of Boeing to carry out the attack.⁶²⁴⁵

⁶²³⁷ P-1339: T-154, p. 19, lines 2-10.

⁶²³⁸ P-1339: T-154, p. 19, lines 2-10.

⁶²³⁹ P-1339: T-155, p. 95, line 21 – p. 96, line 1 *referring to* three lists of elements shown to and discussed by the witness during the hearing: List, CAR-OTP-2041-0781; List, CAR-OTP-2041-0783; List, CAR-OTP-2041-0802. With regard to the latter list, the Chamber refers to its observations above (*see* paragraph 1134, footnote 3023 above).

⁶²⁴⁰ P-1339: T-159, p. 48, line 23 – p. 49, line 17.

⁶²⁴¹ P-1339: T-152, p. 82, lines 3-7.

⁶²⁴² P-0884: T-055, p. 75, line 23 – p. 76, line 4.

⁶²⁴³ P-1339: T-154, p. 41, lines 8-15, p. 53, lines 11-13. The Chamber notes that P-1339 also agreed to a question stating that, in the notebook, he had indicated that the group left in the direction of Boeing at 06:00 on 5 December 2013 (*see* P-1339: T-154, p. 17, lines 14-24, p. 38, line 25 – p. 39, line 3).

⁶²⁴⁴ P-1339: T-154, p. 41, lines 8-15.

⁶²⁴⁵ P-1339: T-154, p. 17, lines 14-24, p. 38, line 25 – p. 39, line 3.

2481.P-1339 said that Mr Yekatom had announced that, at dawn, he would give a signal to begin the attack by shooting into the air,⁶²⁴⁶ and when they were all lined up, Mr Yekatom moved slightly forward to shoot into the air, then moved back.⁶²⁴⁷ P-1339 recalled that this was at 06:00 and, following the shot, the people ‘on the first line’ ‘launched the attack’.⁶²⁴⁸

2482.P-1339 said that on the morning of the attack, the soldiers were communicating with military codes, using words such as ‘Alpha’ or ‘Tango’ which P-1339, [REDACTED] did not understand.⁶²⁴⁹

2483.P-1339 recalled that there were ‘several attacks’ on 5 December 2013, including in Combattant, Boeing, and PK5, and said that Mr Yekatom’s elements were placed between the centre of Boeing ‘toward Cattin’; there were ‘Anti-Balaka’ mixed with soldiers in civilian clothes.⁶²⁵⁰

2484.In a video taken after the Bangui Attack, Mr Yekatom said that they had ‘encircled’ the airport and had retreated because of lack of ammunition; an unidentified interlocutor mentions in front of Mr Yekatom and Rodrigue Momokama having recuperated weapons from Camp Kassai.⁶²⁵¹

vii. Coordinating with other groups

2485.The Prosecution submits that Maxime Mokom was liaising with Ngremangou, Konaté and Mr Yekatom in coordinating the Bangui Attack, citing witness testimony, Facebook exchanges, and CDR.⁶²⁵² It submits that, in preparation for the Bangui Attack, ‘K[onaté], A[ndjilo], and [Mr] Y[ekatom]’ agreed on how they would carry out the attack, in conjunction with Maxime Mokom.⁶²⁵³ The Prosecution submits that Mr Yekatom was in contact with Maxime Mokom, Konaté and Ngremangou in the days leading up to the Bangui Attack, and was personally or through members of his group in communication with

⁶²⁴⁶ P-1339: T-152, p. 70, line 21 – p. 71, line 2.

⁶²⁴⁷ P-1339: T-159, p. 75, lines 6-12.

⁶²⁴⁸ P-1339: T-154, p. 41, lines 8-15, p. 53, lines 11-13. *See also* T-152, p. 70, line 21 – p. 71, line 2.

⁶²⁴⁹ P-1339: T-152, p. 82, lines 8-17.

⁶²⁵⁰ P-1339: T-152, p. 79, lines 9-19.

⁶²⁵¹ Video, CAR-OTP-2065-0730; Transcript, CAR-OTP-2130-1134, at 1136, lines 9-24.

⁶²⁵² Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, paras 235-243.

⁶²⁵³ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 546.

Ngremangou during its execution.⁶²⁵⁴ The Prosecution points to CDR showing that Mr Yekatom and Ngremangou were in contact prior to and on the day of the Bangui Attack.⁶²⁵⁵

2486. As a member of Mr Yekatom's group at the time, P-1339 appeared to know of some communication with other groups based elsewhere in Bangui but did not have any further details. P-1339 said that he knew about another group that came from Boy-Rabe and that crossed Boy-Rabe to take up a position behind 'the assembly' and of other groups based in Ouango in Boy-Rabe and at the Cattin road.⁶²⁵⁶ P-1339 said that Mr Yekatom had a simple mobile phone when he communicated with people, but did not know or seek to know with whom he was speaking.⁶²⁵⁷ P-1339 said that it was only after 5 December 2013 that Mr Yekatom and 'Mokom' began to be in touch by phone.⁶²⁵⁸

2487. The Yekatom Defence argues that the lack of prior coordination is indicated by the 'array of misinformed claims' by many insider witnesses about the nature and timing of the operations of Mr Yekatom's group on that day as well the absence of any telephone contact between Mr Yekatom and 'alleged "anti-balaka" leaders' prior to 5 December 2013.⁶²⁵⁹

2488. Witnesses who were in other groups at the time seemed to have varying degrees of information about the existence and movements of Mr Yekatom's group. However, this evidence does not suggest to the Chamber that Mr Yekatom was not part of the coordinated attack on Bangui from the very outset.

2489. For example, P-2232 said that those who came from 'the other side set themselves up and coordinated their actions so that they could organise an attack' and that during that time, 'Dedane was in the bush' and 'came back and coordinated the attacks of 5 December'.⁶²⁶⁰ P-1521 said that he himself was not 'in contact with Boeing' before the Bangui Attack but

⁶²⁵⁴ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 546.

⁶²⁵⁵ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, paras 241-243.

⁶²⁵⁶ P-1339: T-152, p. 70, line 21 – p. 71, line 2.

⁶²⁵⁷ P-1339: T-152, p. 81, lines 4-15.

⁶²⁵⁸ P-1339: T-152, p. 84, line 23 – p. 85, line 20. P-1339 also said that it was after the fighting of 5 December 2013 that Mr Yekatom also began being in touch with Thierry Lebene.

⁶²⁵⁹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 358.

⁶²⁶⁰ P-2232: T-075, p. 40, line 18 – p. 41, line 5.

was informed of them later.⁶²⁶¹ P-2269 said that he was in communication with Mr Yekatom from Gobere and the latter was going to take the route from Mbaïki to Bangui.⁶²⁶²

2490.P-1847 [REDACTED] said that behind the airport, in the Boeing neighbourhood, in the surroundings of KM5, there was another point of attack.⁶²⁶³ P-1847 said that ‘W[enezoui]’ managed (‘*pilotait*’) the operations in that location and that the Anti-Balaka in this zone were under his command.⁶²⁶⁴

2491.Jacob Mokpem-Bionli stated that ‘Rambo’ was the one who led the group from Ombella-M’Poko; and said that Brice Emotion was in contact with him and told the witness this.⁶²⁶⁵

2492.Brice Emotion Namsio suggested that, at the time of the preparations for the Bangui Attack on the evening of 4 December 2013, it had been decided that Mr Yekatom’s group would attack PK9 to KM5.⁶²⁶⁶ The witness said that the information he got from Konaté was that Mr Yekatom had many men under his command and would go to KM5 by going towards PK9, at the southeast exist of Bangui.⁶²⁶⁷ Brice Emotion Namsio explained that Mr Yekatom himself was not behind the hill but that Konaté and Mr Yekatom knew each other and they knew that each chief was in a particular location.⁶²⁶⁸

2493.Brice Emotion Namsio however did not know what happened at PK9 and KM5, while ‘Wenezoui’ could explain ‘everything that happened there’ because, according to the witness, he was the one working in ‘close collaboration’ with Mr Yekatom.⁶²⁶⁹ The witness, said that ‘Wenezoui’ told him that Mr Yekatom had ‘more than 2,000 men under his control’.⁶²⁷⁰

⁶²⁶¹ P-1521: T-081, p. 51, line 23 – p. 52, line 7.

⁶²⁶² P-2269 Statement, CAR-OTP-2111-0336-R01, at 0343-44, para. 56.

⁶²⁶³ P-1847 First Statement, CAR-OTP-2061-1534, at 1564, para. 191.

⁶²⁶⁴ P-1847 First Statement, CAR-OTP-2061-1534, at 1564, para. 191.

⁶²⁶⁵ P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0055, para. 36. P-0992 was asked about this portion of his statement in court and said that it was only later that ‘Namsio’ told him about ‘Rambo’. When asked, P-0992 clarified that he was talking about ‘the attack of 5 December’ and that ‘Emotion’ told him that ‘he had been with Rambo on the other side’ (see P-0992: T-092, p. 50, lines 10-24, p. 51, lines 8-24).

⁶²⁶⁶ P-0446: T-096, p. 45, lines 8-24, p. 48, lines 18 – p. 49, line 6.

⁶²⁶⁷ P-0446: T-096, p. 46, lines 7-13.

⁶²⁶⁸ P-0446: T-096, p. 49, lines 10-18.

⁶²⁶⁹ P-0446: T-096, p. 47, lines 5-19, p. 70, line 23 – p. 71, line 17.

⁶²⁷⁰ P-0446: T-096, p. 45, line 25 – p. 46, line 6.

2494. Brice Emotion Namsio clarified that while he had heard talk of Mr Yekatom when he was in Zongo, he did not ‘physically’ know him at the time and only met him later during the meetings in Boeing where Sébastien Wenezoui was also present.⁶²⁷¹ The witness said that it was during his meetings in Boeing where ‘Wenezoui’ was present that he ‘noticed indeed that on the other side of Boeing there were Yekatom elements who were present’; Brice Emotion Namsio added that ‘Wenezoui’ also explained to them that indeed Mr Yekatom was ‘amongst them and he had many men with him as well’.⁶²⁷²

2495. Brice Emotion Namsio, asked if Konaté was in contact with Mr Yekatom, said that sometimes Konaté would call Mr Yekatom and that they had each other’s numbers.⁶²⁷³ As regards Maxime Mokom, the witness said that he did not know if Mr Yekatom called Maxime Mokom directly.⁶²⁷⁴

2496. When it was put to him that he would have made a mistake when testifying that Konaté spoke to Mr Yekatom from the hinterland, on the basis of CDR showing contacts well after the Bangui Attack, Brice Emotion Namsio said that on the eve of the attack, Konaté and Mr Yekatom called each other ‘relating to the structure of the attack’.⁶²⁷⁵

2497. The Chamber notes that Brice Emotion Namsio confirmed that he did not know what Mr Yekatom did on 5 December 2013, how many people he had or when they attacked, and that this was the reason he asked Wenezoui.⁶²⁷⁶ The witness was forthcoming in noting that they had been told that Mr Yekatom’s team attacked PK5 but that he was not a direct witness nor cross-checked this information.⁶²⁷⁷ The Chamber finds Brice Emotion Namsio’s testimony on this aspect credible and does not consider that the absence of CDR reflecting contacts between the respectively attributed numbers to show that no call took place.⁶²⁷⁸

⁶²⁷¹ P-0446: T-096, p. 70, line 23 – p. 71, line 17.

⁶²⁷² P-0446: T-096, p. 70, line 23 – p. 71, line 17.

⁶²⁷³ P-0446: T-096, p. 46, lines 14-19.

⁶²⁷⁴ P-0446: T-096, p. 46, line 20 – p. 47, line 4.

⁶²⁷⁵ P-0446: T-099, p. 25, line 12 – p. 26, line 24.

⁶²⁷⁶ P-0446: T-099, p. 29, lines 10-18.

⁶²⁷⁷ P-0446: T-099, p. 30, lines 3-20.

⁶²⁷⁸ See also paragraphs 189-190 above. The Chamber further notes that a video taken purportedly after 5 December 2013 shows Mr Yekatom not calling Konaté himself but appears to be requesting one of his elements to do so (see Video, CAR-OTP-2065-2292, at 00:01:33-00:02:11; Translation, CAR-OTP-2127-3635, at 3638, lines 37-43). The

2498. As regards Brice Emotion Namsio's evidence concerning contact between Mr Yekatom and Konaté, the Chamber infers that information was shared between Mr Yekatom and Konaté, either directly or through interlocutors. Having regard to its conclusion concerning Konaté's role,⁶²⁷⁹ the Chamber is further persuaded that Mr Yekatom's group was coordinating actions with those that Konaté was communicating with.

2499. Similarly, P-1521, P-0889, P-2602, and P-0306 also did not appear to have direct contact with Mr Yekatom's group and were receiving information through others. P-1521 specifically said that he was not there and could not know.⁶²⁸⁰

2500. P-0889 stated that there was an attack in Boeing but that the elements there were small in number after Mr Yekatom had left to the Mbaïki axis with the majority of the elements.⁶²⁸¹ Therefore, the remaining elements, led by 'Beorofei Ngoyasse' and 'Honoré Modibo', launched an attack to join those in Boy-Rabe but they were prevented from doing so at KM5.⁶²⁸² During his testimony, P-0889 indicated that his knowledge on the split of the group and Mr Yekatom leaving to Yamwara was based on the information that he had received [REDACTED].⁶²⁸³

2501. The Chamber also finds P-2602's and P-0306's ignorance about Mr Yekatom's group's actions immaterial. P-0306 said that he did not have any information relating to Mr Yekatom and so did not think that he should 'answer questions relating to that gentleman'.⁶²⁸⁴ P-0306 also said that he thought that Cattin was not a military or a Seleka base.⁶²⁸⁵ P-0306 nonetheless knew that Ngremangou was 'responsible' for Boeing.⁶²⁸⁶ P-2602 said that he

Chamber's conclusion that a call took place between Mr Yekatom and Konaté remains unaffected by the Yekatom Defence's submissions on this video, stating, *inter alia*, that Mr Yekatom is talking about 'the Bangui people versus him and his group' which shows 'a dissociation' between his group and the others (see Annex A to Yekatom Defence Response to the "Prosecution's Fourteenth Application for Submission of P-1819's Evidence from the Bar Table", ICC-01/14/01/18-2057-Conf, ICC-01/14-01/18-2233-Conf-AnxA, pp. 256-259). It also remains unaffected by the Yekatom Defence's submission that Brice Emotion Namsio's claims are inconsistent with this video, in which it is apparent that Mr Yekatom does not have Konaté's phone number (see [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 361).

⁶²⁷⁹ See section IV.B.1.xi.a above.

⁶²⁸⁰ P-1521: T-081, p. 34, line 10 – p. 35, line 5, p. 66, line 1 – p. 67, line 19.

⁶²⁸¹ P-0889 Interview Transcript, CAR-OTP-2122-7626-R02, at 7639-40, lines 521-537.

⁶²⁸² P-0889 Interview Transcript, CAR-OTP-2122-7626-R02, at 7639-40, lines 521-537.

⁶²⁸³ P-0889: T-111, p. 12, lines 9-22.

⁶²⁸⁴ P-0306: T-068, p. 62, lines 6-11.

⁶²⁸⁵ P-0306: T-066, p. 10, lines 1-15.

⁶²⁸⁶ P-0306: T-065, p. 28, lines 14-25.

knew of Mr Yekatom's rank in the FACA in 2007, but did not know anything else about him.⁶²⁸⁷ In any event, the Chamber notes that P-2602 was not present in Bangui that day, but participated in the Bossangoa Attack.⁶²⁸⁸

2502. The Chamber finds that none of the Yekatom Defence's reading of the evidence creates any doubt that Mr Yekatom's group coordinated with other groups participating in the Bangui Attack. The fact remains that, regardless of the claimed independence or political character of Mr Yekatom's group, it presented itself on the same day, at the same time, armed, and from a location that closed the circle around Bangui, and proceeded towards attacking known locations of the Seleka, on instructions from Ngremangou, who was communicating with Maxime Mokom.

2503. The Chamber has also assessed the Yekatom Defence's arguments concerning Mr Yekatom's unawareness, prior to the participation of his group in Cattin, of any 'broader' operation on 5 December 2013.⁶²⁸⁹ In particular, the Chamber notes that the Yekatom Defence raised issues with P-0954's claims that [REDACTED] spoke with Mr Yekatom before the Bangui Attack.⁶²⁹⁰

2504. The Chamber received information from two witnesses who appeared to have called Mr Yekatom just after the Bangui Attack. The Chamber finds it telling that witnesses P-0876 and P-0954 called Mr Yekatom on the day of the attack to know what was happening.

2505. The Chamber recalls that, in court, P-0876 said that there were 'two main groups', the one which he went to meet on the other side [REDACTED], and the other which was behind the airport, which therefore, according to him, meant that they 'could not have known' each other.⁶²⁹¹

⁶²⁸⁷ P-2602 Interview Transcript, CAR-OTP-2118-9764-R01, at 9780-82, lines 540-597.

⁶²⁸⁸ See paragraphs 2770-2776 below.

⁶²⁸⁹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 357-361.

⁶²⁹⁰ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 361.

⁶²⁹¹ P-0876: T-086-ENG, p. 15, lines 16-24; T-086-FRA, p. 16, lines 13-21 ('*ces groupes ne pouvaient pas se connaître*').

2506.P-0876, who heard gunshots in the morning of 5 December 2013⁶²⁹² and said he was not aware that the attack would take place,⁶²⁹³ called ‘les R[ombho]’ afterwards to ask if their group was involved in the incident, but they said that it was Konaté who ‘went out with the children’.⁶²⁹⁴ P-0876 seemed to think that the ‘Boeing group’, including Mr Yekatom, did not participate in the Bangui Attack.⁶²⁹⁵ P-0876 also said that ‘current did not pass’ between the group from ‘Boy-Rabe’ and that from ‘Boeing’.⁶²⁹⁶

2507.P-0954 said that on 5 December 2013, he called Mr Yekatom to ask him about the Bangui Attack and the latter told him that he received the order from Ngremangou and they did not ‘want to inform other people’.⁶²⁹⁷ P-0954 also indicated that while he was not in regular contact with Mr Yekatom, he called him that day because it was a ‘major attack’ and he knew that Mr Yekatom was in contact with the Anti-Balaka from the north.⁶²⁹⁸

2508.During his testimony, P-0954 recalled calling Mr Yekatom in the morning of 5 December 2013, when they heard the gunshots, and speaking directly to him.⁶²⁹⁹ Mr Yekatom told him that Ngremangou had sent elements to attack Camp Kassai.⁶³⁰⁰ Mr Yekatom also told him that after Ngremangou had asked him to send elements, he sent elements to join Ngremangou’s elements to bolster the other groups for the ‘Camp Kassai attack’.⁶³⁰¹ As per P-0954, Mr Yekatom also told him that Ngremangou asked that the former send his men to carry out the Bangui Attack.⁶³⁰²

2509.Considering P-0954’s phone call with Mr Yekatom in light of the Yekatom Defence’s arguments about P-0954 ‘extraordinary willingness to fabricate evidence’,⁶³⁰³ the Chamber concludes, as set out below, that this phone call did take place. In the view of the Chamber, P-0954 appeared to be recalling information that was relayed to him, which does not match

⁶²⁹² P-0876 Interview Transcript, CAR-OTP-2046-0427-R01, at 0437-38, lines 350-376.

⁶²⁹³ P-0876 Interview Transcript, CAR-OTP-2046-0427-R01, at 0439, lines 402-406.

⁶²⁹⁴ P-0876 Interview Transcript, CAR-OTP-2046-0267-R01, at 0276, lines 316-318.

⁶²⁹⁵ P-0876 Interview Transcript, CAR-OTP-2046-0427-R01, at 0442, lines 535-544, at 0448, lines 733-746.

⁶²⁹⁶ P-0876 Interview Transcript, CAR-OTP-2046-0427-R01, at 0442-43, lines 535-548.

⁶²⁹⁷ P-0954 Statement, CAR-OTP-2048-0171-R03, at 0176, para. 34.

⁶²⁹⁸ P-0954 Statement, CAR-OTP-2048-0171-R03, at 0176, paras 32, 34.

⁶²⁹⁹ P-0954: T-166, p. 25, lines 9-21.

⁶³⁰⁰ P-0954: T-166, p. 25, lines 22-25.

⁶³⁰¹ P-0954: T-166, p. 26, lines 1-4.

⁶³⁰² P-0954: T-166, p. 35, line 12 – p. 36, line 1.

⁶³⁰³ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 361.

what the evidence shows. Indeed, there are several indications in his testimony that he did not have the correct information about how the attack unfolded, which locations were involved, and what Ngremangou's instructions may have been.⁶³⁰⁴

2510. The Chamber notes that it was put to P-0954 that he never had a phone call with Mr Yekatom on the morning of 5 December 2013, pointing to the CDR reflecting no such call between the phone numbers attributed to Mr Yekatom or P-0954.⁶³⁰⁵ Significantly, the Chamber notes that P-0954 maintained that he spoke to 'Rambo' about the Bangui Attack,⁶³⁰⁶ and never claimed to have received correct information about it. In the view of the Chamber, the absence of CDRs did not create any doubt about the existence of this phone call or show that P-0954 lied about it. It recalls that the absence of CDRs on the case record do not *per se* exclude the possibility that the phone call in question took place.⁶³⁰⁷

2511. Further, neither P-0954 nor P-0876 claimed to or did indeed have correct information about Mr Yekatom's group. The Chamber recalls that P-0954 and P-0876 themselves did not participate in the attack and has also considered the limited perspective from which they were commenting on Mr Yekatom's actions in the Bangui Attack.

2512. The fact that these exchanges with P-0954 and P-0876 took place suggests to the Chamber that Mr Yekatom was not only aware of the broader operation but was also expected to be aware of it by the two aforementioned witnesses in relation to what had happened in Bangui on 5 December 2013.

2513. The Chamber now turns to the Yekatom Defence's submissions pointing to P-0884's evidence that it was [REDACTED] Mr Yekatom that people had come from 'all over' including Bossangoa,⁶³⁰⁸ and that this lack of awareness was 'mutual' in that P-0884 also only learnt of Mr Yekatom's involvement after the Bangui Attack.⁶³⁰⁹

⁶³⁰⁴ See P-0954: T-166, p. 37, lines 3-19.

⁶³⁰⁵ P-0954: T-168, p. 49, line 22 – p. 50, line 7 *referring to* CDR, CAR-D29-0004-0148.

⁶³⁰⁶ P-0954: T-168, p. 50, line 8 – p. 52, line 25.

⁶³⁰⁷ See paragraph 190 above.

⁶³⁰⁸ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 357.

⁶³⁰⁹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 358.

2514.P-0884 said that Mr Yekatom was the one who came from the south, from Pissa to Bangui; after they met on 5 December 2013 behind the airport, they only met again perhaps around 24 December 2013 at Yamwara, where Mr Yekatom was giving an interview to a French journalist, explaining how he had carried out his attacks, why he had begun the attack and so on.⁶³¹⁰ P-0884 had also heard from other people talking about what Mr Yekatom was doing and organising his group and his elements, however, it was only later on 5 December 2013 that P-0884 realised who ‘Rambo’ was.⁶³¹¹

2515.The Chamber considered P-0884’s evidence credible but found that he distanced himself when it came to his own involvement in the Bangui Attack. The Chamber recalls that P-0884 said that Mr Yekatom was also ‘an Anti-Balaka’ but that he ‘operated differently’ and more in the Zongo area; and, in the beginning, ‘he was not with the other team’.⁶³¹² P-0884 said that after Mr Yekatom left Zongo, he started his ‘own movement’ and he called on his brothers in arms to create his own group.⁶³¹³ P-0884 said that he did not know what Mr Yekatom did before 5 December 2013.⁶³¹⁴

2516.P-0884 said that he met Mr Yekatom only on 5 December 2013, the day of the Bangui Attack, in Boeing, and Mr Yekatom said that ‘I don’t understand what’s going on. There’s total disorder’.⁶³¹⁵ P-0884 recalled meeting Mr Yekatom, Habib Beina, Dolway, and Cœur de Lion around noon on 5 December 2013 as there had ‘been a lull in the fighting’; they greeted each other but did not spend much time together.⁶³¹⁶ P-0884 said that they met near the Bangui M’Poko airport as Mr Yekatom’s elements were ‘stationed at Projet while others were at Yamwara’.⁶³¹⁷ P-0884 said that the fighting on 5 December 2013 was done by several groups and on that day, there were some kind of gathering or rallying around Projet.⁶³¹⁸ According to P-0884, the attacks were quite complex, and each leader was leading his own unit, so it was difficult to properly understand their strategy; all P-0884 knew was that

⁶³¹⁰ P-0884: T-056, p. 12, line 19 – p. 13, line 9.

⁶³¹¹ P-0884: T-055, p. 76, line 25 – p. 77, line 13.

⁶³¹² P-0884: T-055, p. 71, line 22 – p. 72, line 5.

⁶³¹³ P-0884: T-055, p. 72, line 20 – p. 73, line 9.

⁶³¹⁴ P-0844: T-055, p. 74, line 22 – p. 75, line 7.

⁶³¹⁵ P-0884: T-055, p. 73, line 18 – p. 74, line 7.

⁶³¹⁶ P-0884: T-055, p. 75, lines 8-20.

⁶³¹⁷ P-0844: T-055, p. 76, lines 5-8.

⁶³¹⁸ P-0844: T-055, p. 76, lines 5-13.

Mokom was the one who ‘coordinated operations’ and that people came from ‘everywhere in a disorderly fashion’.⁶³¹⁹

2517. P-0884, who knew Mr Yekatom [REDACTED] before the events in question, said that people used to talk about what Mr Yekatom was doing before the Bangui Attack in terms of organising his elements, but it was only on 5 December 2013, when they met, that P-0884 realised that it was indeed Mr Yekatom that people were talking about.⁶³²⁰ The Chamber recalls that, at the time, P-0884 was [REDACTED].⁶³²¹

2518. Having considered P-0884’s evidence about Mr Yekatom’s involvement in its totality, it is clear that P-0884 was being informed about the formation of Mr Yekatom’s group and its movements towards Bangui advancing from the direction of Pissa. P-0884’s claims of meeting Mr Yekatom physically only on 5 December 2013 also do not affect this conclusion.

2519. The Yekatom Defence also submits that it cannot be assumed that Ngremangou would have shared information about the Bangui Attack with Mr Yekatom, given that Ngremangou was ‘not forthcoming or truthful’ about the details of the operation with Mr Yekatom or his group.⁶³²²

2520. The Chamber has further considered the Yekatom Defence’s argument that Mr Yekatom was operating on Ngremangou’s instructions together with the evidence received by it concerning Ngremangou.⁶³²³ This further reinforces the Chamber’s conclusion. It is clear that Ngremangou instructed Mr Yekatom and his group to advance to participate in the Bangui Attack. Whether and to what extent Ngremangou conveyed complete details about the ‘broader Operation’ to Mr Yekatom is immaterial insofar as it concerns Mr Yekatom’s responsibility for what unfolded during the attack.

⁶³¹⁹ P-0884: T-056, p. 11, lines 6-16.

⁶³²⁰ P-0884: T-055, p. 76, line 14 – p. 78, line 5.

⁶³²¹ P-0884: T-056, p. 7, lines 2-10. See paragraphs 2237-2240 above.

⁶³²² [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 361.

⁶³²³ See section IV.B.1.xi.b above.

2521. Having considered this, the Chamber's conclusions above and below do not rest on whether Mr Yekatom was aware of the movement of other groups or the level of detail he was made privy to before 5 December 2013 about such attacks.

2522. To ascertain whether there was coordination, the Chamber was not guided by a standard requiring perfect lines of communication between all levels, whether they be chiefs or elements, or requiring that information be shared democratically or fully across all groups. It was sufficient that these lines of communication existed and were used. The fact that information was being transmitted faithfully would have added to the Chamber's assessment. However, imperfect communication between chiefs and elements across different groups did not take away from the Chamber's conclusion that these groups were being coordinated in relation to the Bangui Attack.

viii. Conclusion

2523. Having regard to the evidence discussed thus far, the Chamber finds that Mr Yekatom's group coordinated with other Anti-Balaka groups to participate in the Bangui Attack.

2524. The Chamber has had regard to the fact that Mr Yekatom formed his group, composed of FACA members and civilians, following his return from Zongo. Mr Yekatom's group armed and trained in the bush and gathered on the south side of Bangui close to Projet, at the outskirts of Bangui. On the eve of the Bangui Attack, Mr Yekatom's group conducted reconnaissance missions to prepare for an impending attack the next morning. Mr Yekatom's group joined other groups coming from the Bossangoa area at Projet, and Mr Yekatom instructed his elements in advance of the attack. Mr Yekatom's group then launched the attack at the exact same time as the groups in other locations in Bangui at a pre-decided location where the Seleka were supposed to be present. Across the various Anti-Balaka groups, including Mr Yekatom's group, attacking the Seleka positions was also understood by the elements to target Muslim civilians.

2525. The Chamber finds that the movement of Mr Yekatom's group in the bush, when superimposed onto those from other groups who proceeded towards Bangui along the same time frame, shows that this coordination had begun well before November 2013.

3. *Attack on Boeing*

i. *Boeing Market*

On the night of 4 December 2013, Mr Yekatom and some of his elements visited the market in Boeing to assess its precise geographical location and conduct reconnaissance. The same night, Mr Yekatom instructed his elements to target Seleka positions along the Boeing-Cattin-PK5 direction. These instructions encompassed attacking the Muslim traders at the market in Boeing before moving along the route to PK5.

In the early morning of 5 December 2013, Mr Yekatom launched the attack on Boeing by firing an automatic pistol in the air when his group reached the market in Boeing. The armed elements in the front continued and advanced together and fired at the Muslim traders who were present there. During this time, Mr Yekatom's elements shot in all directions. Those that were inside the shops fled. Mr Yekatom's group attacked the market in Boeing during their advance towards PK5 following Mr Yekatom's orders.

2526. The Prosecution submits that Mr Yekatom's group attacked Boeing and Cattin and their goal was to advance towards PK5, the predominantly Muslim neighbourhood.⁶³²⁴ The Prosecution submits that during Mr Yekatom's group's attack on the Boeing Market, they killed 'at least seven Muslim traders', who were not fighters and who were not actively taking part in hostilities.⁶³²⁵ This included 'Hassan', who was the delegate of the Muslim traders, his brother 'Abrar Babakar', and traders named 'Ousman, Moussa, and Saleh'.⁶³²⁶ It submits that the bodies of victims were transported on the same day to the Ali Babolo Mosque in PK5.⁶³²⁷ In addition, it submits that some Muslim shopkeepers were injured while others managed to flee.⁶³²⁸

2527. The Yekatom Defence submits that there is no reliable evidence to show that Mr Yekatom's group was present at the Boeing Market on 5 December 2013, let alone involved in the deaths of the traders.⁶³²⁹ It argues that, in any event, P-1339's account does not support the Prosecution's case, as it suggests that the traders 'did not have IHL immunity' and the fighting at the Boeing Market was 'aimed solely at a military objective'.⁶³³⁰

⁶³²⁴ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 547.

⁶³²⁵ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, paras 553, 556-559.

⁶³²⁶ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 555.

⁶³²⁷ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 555.

⁶³²⁸ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Conf, para. 555.

⁶³²⁹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 387.

⁶³³⁰ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 387.

2528. In what follows, the Chamber has first assessed Mr Yekatom's instructions to his elements about the purported goal of the attack, before turning to the allegations of the killings of the traders.

a. Reconnaissance and orders before 5 December 2013

2529. The Chamber recalls that on 4 December 2013, in preparation of the Bangui Attack, Mr Yekatom and some of his elements, [REDACTED], went to Boeing Market.⁶³³¹ On the basis of these conclusions above and as set out below, on the night of 4 December 2013, Mr Yekatom and some of his elements visited the Boeing Market to assess its precise geographical location and conduct reconnaissance.

2530. The Chamber further recalls that P-1339 did not appear to have complete knowledge of what was discussed among the 'chiefs' on the eve of the Bangui Attack. P-1339 said that he was not nearby when the chiefs talked among themselves and did not hear these 'new instructions'.⁶³³² P-1339 recalled that the 'attack' started at 06:00 when they arrived in Bangui and 'the chief' gave a signal.⁶³³³

2531. The Chamber further recalls that P-1339 said that when they left the bush, it was 'Rombhot' who gave the instruction to 'attack the Muslims and Seleka' present at Boeing Market.⁶³³⁴ P-1339 mentioned that while there were many Christians and fewer Muslims in the Boeing neighbourhood, the target was 'where there were many Muslims' and where they ('we') 'put in a cross' was 'the Ali church'.⁶³³⁵

2532. P-1339 understood that they would attack 'the market' because 'there were Muslims in that location' and they had to start there in order to advance to PK5, which was the 'goal of the Anti-Balaka'.⁶³³⁶ P-1339 understood that the first target was PK5, 'where the Seleka were',

⁶³³¹ See paragraphs 2465-2479 above. P-1339 made a sketch of the Boeing Market during his interview with the Prosecution and which was discussed with him in court (see Sketch, CAR-OTP-2041-0767; paragraphs 2542-2544 below).

⁶³³² P-1339: T-154, p. 36, line 22 – p. 38, line 24.

⁶³³³ P-1339: T-154, p. 53, lines 14-19. See also paragraphs 2480-2484 above.

⁶³³⁴ P-1339: T-154, p. 54, lines 11-15, p. 58, line 8 – p. 59, line 8.

⁶³³⁵ P-1339: T-155, p. 16, lines 15-19.

⁶³³⁶ P-1339: T-154, p. 53, line 20 – p. 54, line 10; T-155, p. 16, line 22 – p. 17, line 12. The Chamber notes that P-1339 also indicated: 'But to say that there was a predisposition to go to the market, no. I was executing orders. My

but that they could not leave ‘the Muslims located in Boeing’ behind as they could have attacked them from behind, so ‘instructions were given’ to start with the Boeing Market before moving further.⁶³³⁷ In this regard, the Chamber notes that it is not contested that PK5 was a predominantly Muslim neighbourhood.⁶³³⁸

2533. Having regard to the above, the Chamber finds that Mr Yekatom instructed his elements to target Seleka positions along the Boeing-Cattin-PK5 direction, and that these instructions encompassed attacking the Muslims traders at the Boeing Market before moving along the route to PK5.

2534. P-1339 said that the Seleka had the ‘habit’ of coming to the Boeing Market and to park their cars in front of Hassan Mahamat’s shop and sometimes he gave them tea and this was how ‘the population’ regarded those shopkeepers as ‘accomplices’ of the Seleka.⁶³³⁹ P-1339 thought that the population who had been ‘attacked by the Seleka’ considered Muslims as being part of the Seleka; following this, the ‘Anti-Balaka’ also started to consider ‘all Muslims’ as being Seleka.⁶³⁴⁰

b. Progression of the attack

Elements in Mr Yekatom’s group killed Hassan Mahamat in the morning of 5 December 2013 during the attack on the market in Boeing. Hassan personally interacted with certain Seleka officials prior to 5 December 2013 in his role as delegate of the male Muslim traders at the market in Boeing. Hassan had at least one weapon in his shop with which he fired in self-defence during the attack of 5 December 2013 carried out by Mr Yekatom’s elements. Further, Mr Yekatom’s elements killed two unnamed Muslim traders at the market in Boeing during this attack. Traders at the market in Boeing and the Seleka personally interacted with each other at the market and were seen by others as associating with each

superiors asked me to bring them to the market, and I did, to look at the layout. I could not know what was going to happen afterwards. All I knew was that there were Muslims in that market.’

⁶³³⁷ P-1339: T-154, p. 59, lines 15-23.

⁶³³⁸ See [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, paras 545, 547; [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 422.

⁶³³⁹ P-1339: T-154, p. 50, lines 15-19.

⁶³⁴⁰ P-1339: T-154, p. 51, lines 5-18.

other. There is no indication that any of the two unnamed Muslim traders were armed during the attack or otherwise engaged in combat at that time.

2535. The Chamber recalls that P-1339 explained that on 5 December 2013, they left Projet at 04:00 and launched the attack at 06:00.⁶³⁴¹

2536. P-1339 was asked to mark the progression of the attack on a map.⁶³⁴² P-1339 said that the ‘Boeing police station’ indicated in the map was not there during the fighting, but that it is located where the Anti-Balaka ‘aligned themselves’ and from where they launched the attack.⁶³⁴³

2537. The Chamber finds that when Mr Yekatom’s group reached the Boeing Market, he launched the attack by firing an automatic pistol in the air with the armed elements to continue and advance together. P-1339 said that Mr Yekatom gave the signal and ‘the fighting started’; Mr Yekatom took out his automatic pistol and shot into the air, returned to all those behind him who were armed and they started to advance together, those that had weapons were shooting, moving forward to cover the elements positioned in the back.⁶³⁴⁴ P-1339 said that there was a first column for those who had weapons, and [REDACTED] those who did not have weapons.⁶³⁴⁵ P-1339 said that there were very few firearms and that some elements had machetes and others had sticks or knives.⁶³⁴⁶

2538. The Chamber finds that Mr Yekatom’s elements fired at the Muslim traders who were present at the Boeing Market. P-1339 said that during the attack, the Muslims were still inside their shops and left their shops when they started hearing the detonation of the weapons.⁶³⁴⁷ When asked who started to shoot first, P-1339 indicated that it was ‘the Anti-

⁶³⁴¹ P-1339: T-154, p. 53, line 13. *See also* section IV.B.2.vi above.

⁶³⁴² P-1339: T-154, p. 73, line 20 – p. 74, line 8.

⁶³⁴³ P-1339: T-154, p. 87, line 11 – p. 88, line 14. *See also* P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0760, paras 16-17 *referring to* Satellite image (annotated by P-1558), CAR-OTP-2048-0771.

⁶³⁴⁴ P-1339: T-154, p. 50, lines 10-13, p. 53, lines 14-19.

⁶³⁴⁵ P-1339: T-159, p. 63, lines 20-24.

⁶³⁴⁶ P-1339: T-152, p. 76, lines 20-25.

⁶³⁴⁷ P-1339: T-154, p. 50, lines 4-9.

Balaka’.⁶³⁴⁸ P-1339 denied that the shopkeepers had carried out any attack against the population or the Anti-Balaka before the Bangui Attack.⁶³⁴⁹

2539. The Chamber notes that Salehou Ndiaye stated that on 5 December 2013 at around 04:30, he woke up and heard gunshots from the area of the Boeing Mosque.⁶³⁵⁰ According to the witness, his house was situated [REDACTED] the Boeing Mosque and the Boeing Market.⁶³⁵¹ Significantly, he stated that he could not see what was happening at the mosque but he heard ‘the rapid fire of Kalashnikovs[] for several minutes followed by single shots’.⁶³⁵² The Chamber further notes that Salehou Ndiaye indicated that the time at which he heard the gunshots is ‘the time when Muslims usually get ready to go to the mosque for prayers’.⁶³⁵³

i. Hassan Mahamat

2540. The Chamber notes that witnesses P-2682,⁶³⁵⁴ P-1339,⁶³⁵⁵ P-0884,⁶³⁵⁶ Gaston Sallo⁶³⁵⁷ and Salehou Ndiaye⁶³⁵⁸ confirmed that Hassan Mahamat, Hassan Babakar, ‘Hassan *Délégué*’, ‘*délégué*’ or ‘delegate’ (hereinafter: ‘Hassan’) was a delegate of the male Muslim traders at the Boeing Market for several years.

⁶³⁴⁸ P-1339: T-154, p. 50, line 20 – p. 51, line 1.

⁶³⁴⁹ P-1339: T-154, p. 51, lines 5-13.

⁶³⁵⁰ P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0762, para. 27.

⁶³⁵¹ P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0762, para. 27.

⁶³⁵² P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0762, para. 27.

⁶³⁵³ P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0762, para. 27.

⁶³⁵⁴ P-2682: T-017, p. 12, lines 2-10, p. 14, lines 9-11, p. 17, lines 14-16; T-018, p. 19, line 17 – p. 20, line 6. Specifically, P-2682 said that, as a delegate, Hassan Babakar’s duty was to represent the traders, for example by assisting them in discussions when there was a police control and helping to present or issue documents (*see* P-2682: T-017, p. 17, lines 5-25; T-018, p. 28, line 24 – p. 29, line 4). [REDACTED]

⁶³⁵⁵ P-1339 said that the shopkeeper of the Boeing Market named Hassan that he mentioned in his previous statement used to go by the name ‘Hassan *Délégué*’, recognising him in the same photographs as [REDACTED] (*see* P-1339: T-157, p. 12, lines 19-22, p. 14, lines 13-18 *referring to* Photograph, CAR-OTP-2126-0291).

⁶³⁵⁶ P-0884 [REDACTED] knew that ‘Hassan Mahamat’ was the traders’ delegate at the Boeing Market (*see* P-0884: T-057, p. 53, lines 3-5).

⁶³⁵⁷ Gaston Sallo recognised ‘*Délégué*’ in the same photograph in which [REDACTED] recognised Hassan Babakar (*see* D29-4013: T-277, p. 9, lines 3-7 *referring to* Photograph, CAR-OTP-2126-0291).

⁶³⁵⁸ Salehou Ndiaye confirmed that Hassan, a trader who had a shop at the Boeing Market, was the delegate representing the traders at the Boeing Market, and was of Chadian origin (*see* P-1528: T-179, p. 44, lines 3-12).

2541. Salehou Ndiaye indicated that there were about a dozen shops at the Boeing Market, one after another, some of which were ‘further subdivided’, and that the shop of Hassan and his brother was also situated in that row.⁶³⁵⁹ [REDACTED].⁶³⁶⁰

2542. The Chamber has considered P-1339’s sketch of the Boeing Market in which he marked Hassan’s shop,⁶³⁶¹ and the relative positions of Mr Yekatom’s group during the attack.⁶³⁶²

2543. In this sketch, P-1339 drew three boxes next to each other, with the indications of ‘*boutique*’, ‘*la buvette*’ and ‘*boutique des musulmans*’, subdivided into smaller units, which the Chamber understands represent each of the shops.⁶³⁶³ P-1339 said that he knew the area [REDACTED].⁶³⁶⁴ P-1339 said that all the shops alongside Hassan’s shop belonged to Muslims and the remaining ones belonged to Christians.⁶³⁶⁵

2544. As regards the positions of Mr Yekatom’s elements, P-1339 marked a line with ‘the elements with arms’, which included ‘Rambo’ in the middle, ‘Abib’ to his left and ‘Fredy’ to his right, as well as a second line of ‘elements without arms’ behind which included himself.⁶³⁶⁶ P-1339 confirmed these positions in court.⁶³⁶⁷

2545. P-2682, [REDACTED] indicated that on 3 December 2013, she had left Boeing for PK5 and while her husband joined her at PK5 that evening, he decided to stay at the market on the night of 4 December 2013.⁶³⁶⁸ In particular, P-2682 indicated that she spoke to her husband on the phone and he told her that he would spend the night at the market because ‘there was

⁶³⁵⁹ P-1528: T-179, p. 31, line 12 – p. 32, line 8 *referring to* Video, CAR-D29-0008-0017, at 00:01:53-00:02:31.

⁶³⁶⁰ [REDACTED] The Chamber notes that the photograph shows two blue doors with a brick wall in between and pots in front of the brick wall. The Chamber further notes that Gaston Sallo recognised in this same photograph the doors of Hassan’s shops in the Boeing Market (*see* D29-4013: T-277-ENG, p. 9, line 19 – p. 20, line 3; T-277-FRA, p. 9, line 20 – p. 10, line 10 *referring to* Photograph, CAR-OTP-2126-0290).

⁶³⁶¹ P-1339: T-154, p. 70, lines 19-24 *referring to* Sketch, CAR-OTP-2041-0767. The Chamber notes that in the sketch, the witness wrote ‘Ashan’.

⁶³⁶² Sketch, CAR-OTP-2041-0767.

⁶³⁶³ *See* Sketch, CAR-OTP-2041-0767.

⁶³⁶⁴ P-1339: T-154, p. 71, lines 7-14.

⁶³⁶⁵ P-1339: T-154, p. 70, line 25 – p. 71, line 14.

⁶³⁶⁶ Sketch, CAR-OTP-2041-0767.

⁶³⁶⁷ P-1339: T-154, p. 70, lines 1-4 *referring to* Sketch, CAR-OTP-2041-0767.

⁶³⁶⁸ P-2682: T-017, p. 26, lines 20-23; T-018, p. 40, line 10 – p. 41, line 3.

a lot of tension in the air, [...] the information going around wasn't good and so he would rather stay there in order to protect his shop'.⁶³⁶⁹

2546.P-1339 said that, after Mr Yekatom launched the attack,⁶³⁷⁰ Hassan, who had a weapon in his shop, came out as soon as he heard the shot and started firing as well.⁶³⁷¹

2547.P-1339 said that Hassan died in front of his shop, receiving a bullet after leaving his shop with a weapon and shooting, after which he fell and continued to shoot.⁶³⁷² P-1339 said that 'Habib' went around 'the house' from the back and threw the grenade into 'the house' that propelled Hassan outside the shop.⁶³⁷³ P-1339 said that after his death, the population started to loot his shop.⁶³⁷⁴

2548.P-2682, who was not an eyewitness to the events, described how she found out that [REDACTED] had been killed during the attack. P-2682 said that on 5 December 2013, very early in the morning, she started hearing gunshots and woke up abruptly, trembling.⁶³⁷⁵ She opened the gate of the house where she was staying at PK5 and went out, she saw people crying and running in all directions, injured people, some with broken arms and covered in blood, telling all sorts of stories; and she thought of her husband who was still in Boeing and tried to call him on the phone.⁶³⁷⁶

2549.P-2682 decided to go to the Boeing Market and, on her way, saw people with injuries all over their bodies, and a person told her that 'the Anti-Balaka were everywhere' and that she could not go there.⁶³⁷⁷ P-2682 also saw her husband's 'brother' fleeing in a vehicle with people, none of whom were injured; they told her that they had tried to go to the shop but that there were 'too many people', so they had come back to the neighbourhood looking for Red Cross workers to fetch the dead bodies.⁶³⁷⁸

⁶³⁶⁹ P-2682: T-018, p. 41, lines 10-16.

⁶³⁷⁰ See paragraph 2537 above.

⁶³⁷¹ P-1339: T-154, p. 41, lines 8-15. See also P-1339: T-159, p. 75, lines 13-19.

⁶³⁷² P-1339: T-154, p. 46, lines 15-25.

⁶³⁷³ P-1339: T-154, p. 46, lines 15-25.

⁶³⁷⁴ P-1339: T-154, p. 46, lines 15-25.

⁶³⁷⁵ P-2682: T-017, p. 26, lines 24-25; T-018, p. 41, line 22 – p. 42, line 1.

⁶³⁷⁶ P-2682: T-017, p. 26, line 24 – p. 27, line 4, p. 30, line 15 – p. 31, line 4; T-018, p. 42, line 24 – p. 43, line 21.

⁶³⁷⁷ P-2682: T-017, p. 27, lines 5-9; T-018, p. 45, line 25 – p. 46, line 8.

⁶³⁷⁸ P-2682: T-017, p. 27, lines 10-22.

2550. P-2682 kept calling her husband's phone and could not reach him, it was only at '8 o'clock' that a man picked up her husband's phone, saying 'don't think about him anymore, we have killed him and you are the one who is left' and that the 'next person to be killed shall be you'.⁶³⁷⁹ P-2682 said that when she heard that, she threw the phone down and started crying; she told her in-laws that a person had told her that her husband had been killed.⁶³⁸⁰

2551. P-2682 said that there was a vehicle that went to Boeing and transported the dead bodies to the Ali Babolo Mosque; later 'one of the brothers' told her that one of the vehicles had brought back bodies to the mosque and her dead husband was amongst them.⁶³⁸¹ P-2682 went to the mosque and saw Hassan's body and noted that his neck was broken [REDACTED].⁶³⁸²

2552. The Chamber notes the Yekatom Defence's arguments that P-2682 did not provide any details about any other wounds, including gunshot wounds.⁶³⁸³ In the view of the Chamber, these details are unnecessary. The Chamber considers that the concise accounts of both P-1339, who witnessed Hassan's killing during the attack on the Boeing Market, and P-2682, who saw his body when it was brought to the Ali Babolo Mosque in the aftermath of the attack, are sufficient to find that Hassan was killed by Mr Yekatom's elements on 5 December 2013 at the Boeing Market.

2553. The Chamber now turns to the circumstances of Hassan's death.

2554. The Prosecution submits that none of the Muslim traders Mr Yekatom and his group killed during the attack on the Boeing Market were fighters or actively took part in hostilities.⁶³⁸⁴ The Yekatom Defence disagrees and submits that there is a 'reasonable inference' to be drawn that Hassan and the other traders at the Boeing Market were directly participating in hostilities on 5 December 2013.⁶³⁸⁵ The Yekatom Defence argues that Hassan, having received information about 'the impending Operation', opted to spend the night at the market

⁶³⁷⁹ P-2682: T-017, p. 29, line 17 – p. 30, line 12; T-018, p. 39, line 18 – p. 40, line 9, p. 52, lines 4-9.

⁶³⁸⁰ P-2682: T-017, p. 30, lines 3-14.

⁶³⁸¹ [REDACTED]

⁶³⁸² [REDACTED]

⁶³⁸³ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 399.

⁶³⁸⁴ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, paras 553, 556.

⁶³⁸⁵ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 396-397.

instead of at PK5 and would have shared this information with the other traders.⁶³⁸⁶ The Yekatom Defence asserts that Hassan and the traders would have ‘decided to take up a position at the market’, ‘equipped with Seleka firearms’, given their ‘membership (or at the very least, material links) with the Seleka’.⁶³⁸⁷ This, it argues, does not allow for a finding that their use of firearms was ‘merely in the exercise of their right to self-defence’.⁶³⁸⁸

2555. The Prosecution argues that while some of the victims, including Hassan, ‘may have had interactions with Seleka elements at an undetermined frequency’, this did not deprive them of their status of ‘protected civilians’ since it did not show involvement in ‘any combat activity’.⁶³⁸⁹ It also argues that to the extent that any of the victims may have used weapons to defend themselves during the attack, the evidence shows that Mr Yekatom’s group attacked the market, armed, ‘with the intent of killing the Muslim traders that were present’, and that ‘the Muslim traders acted in self-defence to protect their lives’.⁶³⁹⁰ The Prosecution explains that Hassan’s case illustrates this point.⁶³⁹¹

2556. In what follows, the Chamber has first assessed Hassan’s purported links with the Seleka prior to 5 December 2015, before turning to the events immediately before his death.

2557. In the Chamber’s view, the evidence outlined below shows that Hassan personally interacted with certain Seleka officials prior to 5 December 2013 in his role as delegate of the male Muslim traders at the Boeing Market. The Chamber does not conclude on the basis of such interactions by themselves, and in light of the evidence outlined below, that Hassan was a member of, or otherwise affiliated with, the Seleka at the time of his death on 5 December 2013.

2558. P-1339 testified, when confronted with his previous statement according to which Hassan was a member of the Seleka who ‘openly’ sold weapons, that Hassan was a shop owner, clarified that he had not seen him selling weapons,⁶³⁹² and explained that he had previously

⁶³⁸⁶ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 396-397.

⁶³⁸⁷ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 396-397.

⁶³⁸⁸ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 397.

⁶³⁸⁹ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 557.

⁶³⁹⁰ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 558.

⁶³⁹¹ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 559.

⁶³⁹² P-1339: T-154, p. 48, lines 5-25.

said that Hassan was a Seleka member because when the Seleka elements arrived to Boeing, they used to stop their cars in front of Hassan's 'house' and go there for coffee.⁶³⁹³ According to P-1339, 'the Seleka' only stopped in front of Hassan's shop, not in front of the shops of 'other Muslims'.⁶³⁹⁴ P-1339 thought that a Seleka chief called Bichara⁶³⁹⁵ and Hassan had a relationship, as Bichara would go to Hassan's shop to talk and they had 'a shared interest'.⁶³⁹⁶

2559.P-1339 also explained that when Hassan was killed, they 'received his card as a former Chadian soldier', but he could not confirm whether Hassan was a former soldier of Hissène Habré's regime in Chad.⁶³⁹⁷ When asked whether Hassan had proclaimed himself to be colonel within the Seleka, P-1339 indicated that he did not know as he was not in the neighbourhood at the time but in Zongo.⁶³⁹⁸ He specified that he found out that Hassan was a 'soldier' when he 'met him' for the first time on 5 December 2013.⁶³⁹⁹

2560.P-0884, [REDACTED] was communicating with Ngremangou prior to the Bangui Attack,⁶⁴⁰⁰ said that some of the traders who had come from Chad and belonged to Hissène Habré's party had moved to Boeing, [REDACTED]; but that when the Seleka arrived, they put on military outfits and sported military ranks.⁶⁴⁰¹ P-0884 said that Hassan had 'the rank of colonel'.⁶⁴⁰²

2561.D29-4011 saw 'the Seleka' drinking tea in front of Hassan's shop.⁶⁴⁰³ She stated that Hassan called the Seleka and 'based' them at the Boeing Market.⁶⁴⁰⁴ She also stated that after Hassan called the Seleka, they searched the people and pillaged their goods.⁶⁴⁰⁵ According to some traders who saw Hassan and told D29-4011, he dressed as a civilian when he was at home

⁶³⁹³ P-1339: T-157, p. 12, line 23 – p. 13, line 7.

⁶³⁹⁴ P-1339: T-157, p. 17, lines 12-21.

⁶³⁹⁵ P-1339: T-157, p. 25, lines 9-14, p. 28, line 3 – p. 30, line 4.

⁶³⁹⁶ P-1339: T-157, p. 29, line 22 – p. 30, line 4.

⁶³⁹⁷ P-1339: T-157, p. 13, lines 13-18.

⁶³⁹⁸ P-1339: T-157, p. 13, line 24 – p. 14, line 5.

⁶³⁹⁹ P-1339: T-157, p. 14, line 23 – p. 15, line 3.

⁶⁴⁰⁰ See paragraphs 2338-2341 above.

⁶⁴⁰¹ P-0884: T-056, p. 23, line 18 – p. 24, line 13.

⁶⁴⁰² P-0884: T-057, p. 52, lines 4-13.

⁶⁴⁰³ D29-4011 Statement, CAR-D29-0009-0680-R01, at 0685, paras 41-42.

⁶⁴⁰⁴ D29-4011 Statement, CAR-D29-0009-0680-R01, at 0684, paras 26-28.

⁶⁴⁰⁵ D29-4011 Statement, CAR-D29-0009-0680-R01, at 0684, para. 28.

and had military clothes in a bag, which he changed into when he sometimes went to PK5 to work with the Seleka.⁶⁴⁰⁶

2562. Gaston Sallo described an incident in which Hassan was said to have mediated between the population and the Seleka.⁶⁴⁰⁷

2563. Salehou Ndiaye, who at the time was the imam of the Boeing Mosque, did not know whether Seleka elements often visited Hassan at the market.⁶⁴⁰⁸ He said that while Seleka elements would talk to a Muslim trader as soon as they saw one, particularly if the trader was from Chad, no one told him about any ‘complicity’ between them and he also did not know the traders’ viewpoints on this.⁶⁴⁰⁹

2564. P-2682 testified that she did not see or hear that Muslim civilians from her community, including those who were killed on 5 December 2013, had joined or were part of the Seleka before 5 December 2013.⁶⁴¹⁰

2565. The evidence outlined above shows that certain Seleka officials frequented Hassan’s shop before 5 December 2013, and that they were known to personally interact with each other at the Boeing Market. In this regard, the Chamber recalls that Hassan was the delegate of the male Muslim traders at the Boeing Market at the time and that his duty, as described by P-2682, was to represent the traders before the authorities.⁶⁴¹¹ The Chamber does not read the evidence of P-1339 and P-0884 to mean that Hassan was a member of the Seleka at the time

⁶⁴⁰⁶ D29-4011 Statement, CAR-D29-0009-0680-R01, at 0684, para. 29.

⁶⁴⁰⁷ D29-4013: T-277, p. 20, line 7 – p. 21, line 11. *See also* paragraph 2540 above.

⁶⁴⁰⁸ P-1528: T-179, p. 44, lines 18-22.

⁶⁴⁰⁹ P-1528: T-179, p. 44, line 23 – p. 45, line 15.

⁶⁴¹⁰ P-2682: T-017, p. 41, line 24 – p. 42, line 2; T-018, p. 39, lines 12-17.

⁶⁴¹¹ P-2682 confirmed that as the traders’ representative, Hassan would assist the police and the other traders in their discussions when the police went in to do their checks (P-2682: T-018, p. 27, lines 6-10, p. 28, line 24 – p. 29, line 4). When asked, she indicated that she did not know whether after the Seleka entered Bangui, they replaced the police and the gendarmes, as she only saw them drive by in their vehicles and do their rounds in the city (P-2682: T-018, p. 25, line 22 – p. 26, line 3). She also indicated that the police and the gendarmes have the duty to patrol, and that when the Seleka arrived, they too were doing that job of patrolling (P-2682: T-018, p. 26, line 21 – p. 27, line 1). She confirmed that after the arrival of the Seleka in Bangui, she no longer saw gendarmes or policemen go to the market to deal with the grievances and no longer went to patrol, although she thought they continued going to ask for certain things and make certain grievances (P-2682: T-018, p. 29, lines 16-21). [REDACTED] P-2682 responded that she did not know but that when the Seleka arrived, she no longer saw the police and the gendarmes go to the market as they used to do, if they had grievances or questions to ask, or if they came to raise issues, she did not see it (P-2682: T-018, p. 29, line 5 – p. 30, line 4).

of the Bangui Attack, or indeed before that attack. Further, the Chamber considers D29-4011's suggestion regarding Hassan being a member of the Seleka to be based on what she generally heard, and in any event unsupported by any other evidence.

2566. Having regard to the above, the Chamber finds that Hassan personally interacted with certain Seleka officials prior to 5 December 2013 in his role as delegate of the male Muslim traders at the Boeing Market. The Chamber does not conclude on the basis of such interactions by themselves, and in light of the above evidence, that Hassan was a member of, or otherwise affiliated with, the Seleka at the time of his death on 5 December 2013.

2567. Turning to the presence of the traders of the Boeing Market at their shops immediately before the events, P-2682 recalled that her husband had told her on the evening of 4 December 2013 that he would not go back to PK5 that night because 'there was a lot of tension in the air, [...] the information going around wasn't good and so he would rather stay there in order to protect his shop'.⁶⁴¹² This accords with [REDACTED].⁶⁴¹³ The Chamber therefore infers that Muslim traders at the Boeing Market were sleeping in their shops in fear of 'rumours' about an imminent attack on Bangui.⁶⁴¹⁴ At the same time, the Chamber notes that Gaston Sallo mentioned that following an incident of robbery at the Boeing Market which took place before the Seleka arrived to Bangui, traders at the market ensured the security of their shops by watching over them and spending the nights there.⁶⁴¹⁵

2568. The Chamber now turns to the Yekatom Defence's assertion that Hassan had weapons at his shop. In this regard, it recalls P-1339's evidence according to which after Mr Yekatom fired a shot in the air and his elements 'launched the attack', Hassan, who had a weapon in his shop, came out as soon as he heard the shot and started firing as well.⁶⁴¹⁶ In P-1339's words, Hassan 'left his shop with this weapon to defend himself'.⁶⁴¹⁷

⁶⁴¹² P-2682: T-018, p. 41, lines 10-16.

⁶⁴¹³ See paragraphs 2465-2466 above.

⁶⁴¹⁴ See paragraphs 2294-2302 above.

⁶⁴¹⁵ D29-4013: T-277, p. 10, line 9 – p. 11, line 17, p. 14, lines 1-4.

⁶⁴¹⁶ P-1339: T-154, p. 41, lines 8-15. *See also* P-1339: T-159, p. 75, lines 13-19.

⁶⁴¹⁷ P-1339: T-154, p. 48, lines 5-25.

2569.D29-4011 recalled that when the Seleka arrived, Hassan made a statement telling the youngsters that ‘they’ would kill them if they joked.⁶⁴¹⁸ She also recalled that upon the arrival of the Seleka, the Muslim traders of the Boeing Market took their weapons out of their shops and shot into the air, which everybody saw, including herself.⁶⁴¹⁹ According to D29-4011, Hassan and the other Muslim traders of the Boeing Market had at least one weapon each in their shops.⁶⁴²⁰ The Chamber recalls, however, its findings concerning D29-4011’s evidence.⁶⁴²¹

2570.Relatedly, the Chamber notes that P-2682 confirmed that Hassan was the victim of an assault following an incident involving the death of two children in Fatima, which occurred before the Seleka’s arrival to Bangui.⁶⁴²² In particular, P-2682 indicated that [REDACTED], she saw several people armed with spears and sticks shouting, ‘You Muslims, you are the ones who attack people. We are going to kill you today’.⁶⁴²³ [REDACTED].⁶⁴²⁴ P-2682 specified that she did not see [REDACTED] with any weapons, however, ‘Muslims always move about with a knife’ [REDACTED].⁶⁴²⁵

2571.Having regard to this, and in particular to P-1339’s aforementioned evidence, the Chamber finds that Hassan had at least one weapon in his shop with which he fired in self-defence during the attack of 5 December 2013 carried out by Mr Yekatom’s elements. This is irrespective of the Chamber’s conclusion in relation to traders more generally, as discussed below.⁶⁴²⁶

2572.[REDACTED].⁶⁴²⁷ [REDACTED].⁶⁴²⁸

⁶⁴¹⁸ D29-4011 Statement, CAR-D29-0009-0680-R01, at 0684, para. 29.

⁶⁴¹⁹ D29-4011 Statement, CAR-D29-0009-0680-R01, at 0684, para. 31, at 0685, para. 33.

⁶⁴²⁰ D29-4011 Statement, CAR-D29-0009-0680-R01, at 0684, para. 28.

⁶⁴²¹ See paragraphs 2561-2565 above.

⁶⁴²² P-2682: T-018, p. 33, lines 17 – p. 36, line 7, p. 36, line 15 – p. 37, line 13.

⁶⁴²³ P-2682: T-018, p. 34, lines 2-12, p. 36, lines 1-7.

⁶⁴²⁴ P-2682: T-018, p. 34, line 2 – p. 35, line 15.

⁶⁴²⁵ P-2682: T-018, p. 35, lines 16-25. The Chamber notes that the Yekatom Defence counsel asked the witness whether after the Fatima incident traders at the Boeing Market took measures to protect themselves, and while she seemed to respond ‘yes’, it is not entirely clear whether she said this in response to this question, or whether she was merely recognising that she understood the question (see P-2682: T-018, p. 41, lines 4-9).

⁶⁴²⁶ See paragraphs 2586-2606 below.

⁶⁴²⁷ [REDACTED]

⁶⁴²⁸ [REDACTED]

ii. *Death of other Muslims at the Boeing Market*

2573. The Chamber first has regard to evidence concerning the death of other named persons at the Boeing Market, Nina Pascal and Hassan's brother.

2574. The Chamber notes that it has received no evidence concerning Nina Pascal's death, nor does the Prosecution mention her in its Closing Brief.

2575. As regards Hassan's 'younger brother', the Chamber received evidence from P-1339, P-2682 and Salehou Ndiaye. P-1339 said that Hassan's brother, 'Mahamat Amada', was not killed during the Bangui Attack.⁶⁴²⁹ P-1339 clarified that he remembered that Mahamat had shot at them with a weapon,⁶⁴³⁰ but that after Hassan was killed, Mahamat threw his weapon down and fled, following which 'Cheveux de la mort' took Mahamat's weapon.⁶⁴³¹ P-2682 said that Hassan also had a younger brother named 'Abrar' who died 'during these events' but did not offer any other information as to the circumstances of this death or the source of her information.⁶⁴³² Salehou Ndiaye recalled hearing that one of the traders named Hassan and his younger brother, whose name he did not know, were amongst those killed during the Bangui Attack.⁶⁴³³

2576. Having regard to the above, the Chamber cannot conclude that Hassan's younger brother was killed during the Bangui Attack. It is unclear whether P-2682 and Salehou Ndiaye referred to the same person. There is no indication as to the sources of their knowledge, or specific circumstances of his death that could assist in reaching any conclusion as to his death. P-1339, the only witness who saw Hassan's younger brother that day at the Boeing Market – and on whose evidence the Chamber thus places more weight –, said that the latter shot his gun, threw it down, and fled.

2577. The Chamber now turns to unnamed persons that died at the Boeing Market that day. As set out below, the Chamber finds that when Mr Yekatom's elements continued and advanced

⁶⁴²⁹ P-1339: T-154, p. 43, lines 8-20.

⁶⁴³⁰ P-1339: T-154, p. 43, line 21 – p. 44, line 7.

⁶⁴³¹ P-1339: T-154-ENG, p. 43, line 21 – p. 44, line 12; T-154-FRA, p. 47, line 24 – p. 48, line 10. The Chamber notes that P-1339 indicated that they retrieved two weapons, that of Hassan and of his brother.

⁶⁴³² P-2682: T-017, p. 35, lines 4-16.

⁶⁴³³ P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0762, para. 29.

through the Boeing Market, they shot in all directions and those that were inside the shops fled.

2578. As regards unnamed Muslim traders at the Boeing Market, the Chamber recalls that P-1339 first said that Hassan was the only Muslim he identified as a victim of ‘that attack at that place’, while the others ‘fled to PK5 to join up with their families’.⁶⁴³⁴ P-1339 also said that it was ‘possible’ that there were other victims at the Boeing Market because they shot in all directions and there was ‘a certain lengthy distance’ to the Boulata Church, and that Red Cross agents collected bodies.⁶⁴³⁵ P-1339 recalled not being in a position to observe everything that was happening, as he himself was towards the back.⁶⁴³⁶

2579. P-1339 recalled seeing gunfire from ‘all sides’ and seeing bodies on the ground of individuals that had been shot but were not dead.⁶⁴³⁷ P-1339 then specified that ‘four people died’, including Hassan and two persons whose names he did not remember, one of which died next to the shop just in front of ‘the place where the drinks are sold’, and the other was a Muslim who had a shop.⁶⁴³⁸ P-1339 did not remember whether these individuals had weapons.⁶⁴³⁹

2580. P-1339 said that after Hassan was killed and while the shooting continued, they moved ahead, so he did not know what happened further back.⁶⁴⁴⁰ P-1339 recalled some people inside the shops fleeing quickly.⁶⁴⁴¹

2581. P-2682 said that on that day, many people died in Boeing but that it was difficult to name all the people who lost their lives.⁶⁴⁴² She indicated that ‘at least three people died’ in the same

⁶⁴³⁴ P-1339: T-154, p. 41, lines 16-17.

⁶⁴³⁵ P-1339: T-154, p. 45, lines 2-8.

⁶⁴³⁶ P-1339: T-154, p. 45, lines 15-23.

⁶⁴³⁷ P-1339: T-154, p. 47, lines 1-15.

⁶⁴³⁸ P-1339: T-154, p. 47, lines 17-23. *See also* Sketch, CAR-OTP-2041-0767.

⁶⁴³⁹ P-1339: T-154, p. 47, line 24 – p. 48, line 4.

⁶⁴⁴⁰ P-1339: T-154, p. 72, lines 7-15.

⁶⁴⁴¹ P-1339: T-154, p. 41, lines 8-15.

⁶⁴⁴² P-2682: T-017, p. 34, lines 12-17.

row of shops as that of Hassan.⁶⁴⁴³ P-2682 specified that '[REDACTED]' were killed on 5 December 2013.⁶⁴⁴⁴

2582. P-0884 recalled that when he went to the Boeing Market later on 5 December 2013, he saw that the 'majority' of the Muslims at the market had been killed, stating that 'a lot of people were killed from the boutiques'; perhaps they were nine, it was difficult to identify the bodies, but they were all men.⁶⁴⁴⁵

2583. Salehou Ndiaye stated that on 5 December 2013, after he woke up hearing gunshots from the area of the Boeing Mosque, he called an elder from the area, who told him that the area was attacked by the Anti-Balaka and that seven Muslim traders were killed.⁶⁴⁴⁶ The witness did not know the names of all of these victims.⁶⁴⁴⁷ The witness said that on the same day, another individual told him that the Muslim traders of the market were among the first to be killed that day.⁶⁴⁴⁸ Salehou Ndiaye confirmed that he did not know how the events that led to the traders' death unfolded, and indicated that he was not present or nearby.⁶⁴⁴⁹

2584. Odette Namsona said that while she did not see what happened at the Boeing Market during the Bangui Attack, afterwards she saw two dead bodies of 'Muslim civilians' in the market, in front of their shops.⁶⁴⁵⁰ She seemed to indicate that the spouses of the Muslims, who were crying, told them that they had been killed by 'the Anti-Balaka'.⁶⁴⁵¹ She also said that she learnt that these Muslims were traders of the Boeing Market who had been sleeping in the market and were killed in front of their shops.⁶⁴⁵²

⁶⁴⁴³ P-2682: T-017, p. 35, lines 17-23.

⁶⁴⁴⁴ P-2682: T-017, p. 35, lines 17-23, p. 36, lines 18-25; T-018, p. 21, line 23 – p. 22, line 16.

⁶⁴⁴⁵ P-0884: T-056, p. 22, lines 16-23, p. 23, lines 5-17.

⁶⁴⁴⁶ P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0762, paras 27-28.

⁶⁴⁴⁷ P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0762, para. 29.

⁶⁴⁴⁸ P-1528 Second Statement, CAR-OTP-2121-2831-R01, at 2835, para. 24.

⁶⁴⁴⁹ P-1528: T-179, p. 50, lines 7-15.

⁶⁴⁵⁰ D30-4496: T-290, p. 15, line 3 – p. 16, line 24, p. 17, lines 12-15.

⁶⁴⁵¹ D30-4496: T-290, p. 17, lines 1-5.

⁶⁴⁵² D30-4496: T-290, p. 17, lines 7-10. *See also* P-1858 Statement, CAR-OTP-2063-0050-R04, at 0057, para. 42 (stating that there Muslim and Christian victims, and also some traders who were on their way to buy things early in the morning who were 'caught up in the attack'); D29-5014: T-258, p. 21, line 23 – p. 22, line 14 (confirming that after the Bangui Attack, she learnt that Anti-Balaka forces killed individuals in the Boeing Market). *See further* Video, CAR-OTP-2108-1454, at 00:00:31-00:01:13; Translation, CAR-OTP-2122-9712, at 9714, lines 10-24 (where some individuals in a car discuss that some civilians were killed in the neighbourhood of Boeing by the Anti-Balaka, after

2585. The Chamber notes the Yekatom Defence's argument that the Prosecution failed to 'elicit the necessary precision' from these witnesses as to the circumstances of the deaths of these traders.⁶⁴⁵³ The Chamber considers that the purported failure to elicit such details did not mean that the Chamber could not conclude on these deaths.

2586. Having regard to the evidence discussed above, the Chamber finds that, as part of the attack launched by Mr Yekatom's group at the Boeing Market, two unnamed Muslim traders, as described by P-1339, were also killed. There is no indication that these persons were armed or engaged in combat at the time of their death. Having regard to the overall circumstances of the attack, the Chamber infers that these persons died at the hands of Mr Yekatom's group.

2587. The Chamber now turns to the Yekatom Defence's arguments concerning the Muslim traders not having 'IHL immunity' and the fighting at the Boeing Market being 'aimed solely at a military objective'.⁶⁴⁵⁴

2588. The Yekatom Defence argues that the Prosecution has not established that the traders were civilians; on the contrary, the evidence indicates that the traders were members of the Seleka at the time of 'the 5th December Operation', directly participating in hostilities prior to and during this operation.⁶⁴⁵⁵ It submits that the 'voluntary decision' of Hassan and the other traders 'to take up a position at the Market in the context [of] an ongoing armed conflict, equipped with Seleka firearms and in the vicinity of additional armed Seleka and/or security elements, in the apparent knowledge of an impending military operation of an armed group(s) opposing the Seleka, does not allow for a finding that the Trader's use of firearms was merely in the exercise of their right to self-defence'.⁶⁴⁵⁶

which two Seleka were shot, resulting in five killings) *in combination with* P-2377 Statement, CAR-OTP-2108-0609-R02, at 0627, para. 74 (describing this video footage, indicating that they arrived to 'the mosque' on 5 December at 09:30).

⁶⁴⁵³ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 399.

⁶⁴⁵⁴ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 387. *See also* paras 388-393.

⁶⁴⁵⁵ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 394-396.

⁶⁴⁵⁶ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 397.

2589. Considering these arguments, the Chamber has first assessed the evidence of witnesses on links, if any, between Muslim traders at the Boeing Market more generally, and the Seleka. Then it ascertained the assertions concerning the traders at the Boeing Market being armed.

2590. In the Chamber's view, the evidence outlined below shows that Seleka elements went to the Boeing Market and talked to the Muslim traders, including Hassan, with whom they had personal interactions in public. Without more, this does not allow the Chamber to conclude that such interactions were related to anything other than market activity. Therefore, it does not conclude on the basis of such interactions by themselves, and in light of the evidence outlined below, that the traders of the Boeing Market in general were members of, or otherwise affiliated with, the Seleka at the time of the Bangui Attack. The Chamber also considers that the traders were suspected to have weapons in their shops, but no evidence points to these weapons being used on 5 December 2013 by the unnamed Muslim victims.⁶⁴⁵⁷

2591. As regards the Boeing Market traders' link with the Seleka, the Chamber has considered the evidence provided by P-1339, P-8884, P-2682, Brice Emotion Namsio, Salehou Ndiaye and Gaston Sallo.

2592. In addition to what P-1339 said about the links between Hassan and the Seleka,⁶⁴⁵⁸ the witness said that when the Seleka arrived, 'they had the habit of coming to the Boeing market and to park their cars in front of his shop, and that is how sometimes he gave them tea', which is 'how the population regarded those shopkeepers as accomplices of the Seleka'.⁶⁴⁵⁹ P-1339 confirmed that the Boeing population was very angry towards Hassan and the shopkeepers.⁶⁴⁶⁰ When asked whether a number of shop owners supported the Seleka, as indicated in his previous statement, P-1339 responded that the shopkeepers in the Boeing Market were represented by Hassan, and 'since he committed the act, [...] [he] refer[red] to "some of the shop owners"'.⁶⁴⁶¹

⁶⁴⁵⁷ See also paragraph 2571 above.

⁶⁴⁵⁸ See paragraphs 2558-2559 above.

⁶⁴⁵⁹ P-1339: T-154, p. 50, lines 14-19.

⁶⁴⁶⁰ P-1339: T-157, p. 19, lines 10-17.

⁶⁴⁶¹ P-1339: T-157, p. 20, line 23 – p. 21, line 3. The Chamber understands P-1339's answer such that he appeared to have assumed that since Hassan supported the Seleka, other shop owners would equally have supported the Seleka.

2593. The Chamber recalls that P-0884 mentioned that some of the traders came from Chad, belonged to Hissène Habré's party, moved to Boeing when they were 'kicked out', [REDACTED]; but that when the Seleka arrived, they put on military outfits and some became colonels and other ranks.⁶⁴⁶² P-0884 also explained that the Muslim traders in the Boeing district had 'betrayed' the FACA and certain civilians, and sometimes could fire shots into the air, the population recalled all of these events and exactions and promised that they would take revenge one day.⁶⁴⁶³

2594. At the same time, P-2682, Salehou Ndiaye and Brice Emotion Namsio indicated that they were not aware of any links between the Muslim traders at the Boeing Market and the Seleka.

2595. Notably, the Chamber recalls P-2682's testimony that she did not see or hear that before 5 December 2013, Muslim civilians from her community, [REDACTED] she mentioned being killed on 5 December 2013, had joined or were part of the Seleka.⁶⁴⁶⁴ P-2682 also did not seem to know whether Moussa, Saleh and others were members of the Seleka who owned weapons.⁶⁴⁶⁵ Salehou Ndiaye said that while Seleka elements would talk to a Muslim trader as soon as they saw one, particularly if the trader was from Chad, no one told him about any 'complicity' between them and he also did not know the traders' viewpoint on this.⁶⁴⁶⁶ Brice Emotion Namsio did not know whether Muslim traders helped the Seleka 'hunt down the FACA' and attack civilians.⁶⁴⁶⁷

2596. Moreover, Gaston Sallo stated that after the Seleka arrived, the Muslims went to 'their brothers' for protection, which he said were other Muslims.⁶⁴⁶⁸ Asked whether these Muslims were Seleka, Gaston Sallo indicated that he did not know and that as a Christian, he could not see what happened because Christians and Muslims could not cooperate at the

⁶⁴⁶² P-0884: T-056, p. 23, line 18 – p. 24, line 13.

⁶⁴⁶³ P-0884: T-057, p. 53, lines 3-18.

⁶⁴⁶⁴ P-2682: T-017, p. 41, line 24 – p. 42, line 2; T-018, p. 39, lines 12-17.

⁶⁴⁶⁵ P-2682: T-018, p. 17, line 15 – p. 18, line 4. The Chamber notes that P-2682 was specifically asked whether it was possible that the traders she talked about, Moussa, Saleh, others, were members of the Seleka and owned weapons, to which she responded that she really did not know what to say about this question, and that if she was asked this type of question she could only say yes because she was not aware what happened amongst men, she did not know what happened when the men met up with each other, when they were together. In the Chamber's view, while the witness said that she could only respond 'yes' to the question, her explanation shows that she did not know.

⁶⁴⁶⁶ P-1528: T-179, p. 44, line 23 – p. 45, line 15.

⁶⁴⁶⁷ P-0446: T-098, p. 76, line 14 – p. 77, line 23.

⁶⁴⁶⁸ D29-4013: T-277, p. 15, line 9 – p. 17, line 2.

time.⁶⁴⁶⁹ The witness also mentioned that ‘they’ would park at the place where the ‘*méchouis*’ was sold; that they could also spend the night with ‘their brothers’;⁶⁴⁷⁰ and that some of them wore the Muslim dress, the boubou, while others dressed ‘like ordinary people’.⁶⁴⁷¹ He further indicated that for him, ‘these were just Muslims who were coming to visit other Muslims’ and reiterated that he did not hear anything about them being Seleka.⁶⁴⁷²

2597. On this basis, the Chamber finds that Boeing Market traders and the Seleka personally interacted with each other at the Boeing Market and were seen by others as associating with each other.⁶⁴⁷³ The Chamber does not conclude on the basis of such interactions by themselves, and in light of the above evidence, that the traders of the Boeing Market in general were members of, or otherwise affiliated with, the Seleka at the time of the Bangui Attack. As regards the Boeing Market traders being armed at the time of the Bangui Attack, the Chamber has considered the evidence provided by members of the Anti-Balaka, namely, P-1339, P-0884, Brice Emotion Namsio and P-0876, and residents of Boeing Salehou Ndiaye, D29-4011 and Gaston Sallo, having special regard to the generalities of their claims and the source of their information.

2598. First and significantly, the Chamber notes that while P-1339 saw Hassan firing with a weapon and his younger brother with a weapon, he did not mention seeing any other Muslim trader with weapons during the attack on the Boeing Market.⁶⁴⁷⁴ P-1339, when asked whether the other Muslims who had been killed and whom he had seen had weapons, indicated that he could not remember.⁶⁴⁷⁵

2599. P-0884 [REDACTED] said that when the Seleka arrived in 2013, the Muslim traders at the Boeing Market joined them and received weapons from them,⁶⁴⁷⁶ but when asked to confirm

⁶⁴⁶⁹ D29-4013: T-277, p. 17, lines 13-21.

⁶⁴⁷⁰ D29-4013: T-277, p. 18, lines 11-20.

⁶⁴⁷¹ D29-4013: T-277, p. 18, line 22 – p. 19, line 2.

⁶⁴⁷² D29-4013: T-277, p. 19, lines 14-19.

⁶⁴⁷³ See further paragraphs 2556-2566 above.

⁶⁴⁷⁴ See e.g. P-1339: T-154, p. 41, lines 8-15, where P-1339 said that during the attack, some people inside the shops came out quickly and ran away.

⁶⁴⁷⁵ P-1339: T-154, p. 47, line 1 – p. 48, line 4.

⁶⁴⁷⁶ P-0884: T-057, p. 53, lines 19-24, p. 54, lines 11-21, p. 55, lines 3-9. See also P-0884: T-056, p. 24, lines 1-13 (he indicated that they pointed out Christian soldiers, that is why the population started to use the expression ‘*lawa lawa*’, meaning sooner or later, and these soldiers sought revenge from 5 December onwards).

his prior statement that he saw weapon caches at the Boeing Market on 5 December 2013, he said that he did not see the arms himself.⁶⁴⁷⁷ P-0884 added generally that when the Seleka arrived, ‘they’ took the weapons, kept them in the shops and used them to shoot.⁶⁴⁷⁸

2600. Brice Emotion Namsio said generally that ‘everyone’ knew that there were some Muslims, not all, who held arms and weapons at home,⁶⁴⁷⁹ however, he did not know whether or how Muslim traders obtained weapons.⁶⁴⁸⁰

2601. P-0876 confirmed that it was frequent practice of the Seleka to distribute weapons to Muslim civilians, in the mosques or elsewhere, even at the time of his testimony.⁶⁴⁸¹ He gave the example of the PK13 market where, according to him, the majority of people were Muslims selling cows, some of whom became Seleka colonels when the Seleka entered Bangui, and where machetes were distributed, known to ‘everyone’.⁶⁴⁸² However, P-0876 said that he did not have any information about the distribution of weapons or the presence of the Seleka in the Boeing Market.⁶⁴⁸³

2602. The Chamber recalls the evidence of D29-4011, who claimed that Hassan and the other Muslim traders of the Boeing Market had at least one weapon each in their shops.⁶⁴⁸⁴

⁶⁴⁷⁷ P-0884: T-057, p. 48, line 20 – p. 49, line 2.

⁶⁴⁷⁸ P-0884: T-057, p. 48, line 20 – p. 49, line 2.

⁶⁴⁷⁹ P-0446: T-098, p. 75, line 10 – p. 76, line 12.

⁶⁴⁸⁰ P-0446: T-098, p. 78, lines 5-9. The Chamber has also considered that Brice Emotion Namsio stated that the Anti-Balaka took up weapons not by chance but because the Muslims attacked them before, and that this is what pushed the Anti-Balaka to take artisanal weapons to defend themselves (see P-0446 Interview Transcript, CAR-OTP-2105-0462-R02, at 0482-83, lines 708-714). He also said that he had never heard about an individual named Abdel Khalil who incited people in the Ali Babolo Mosque to kill Christians and also killed several individuals on 5 December 2013 (see P-0446: T-098, p. 79, lines 16-22). The witness was asked about his previous statement that Moussa joined the Seleka in Boeing, sold in PK5 and lived in Cattin; he did not remember this individual, but he did recall an incident in which a Seleka element was stopped on the site at the airport, beaten and wounded; Brice Emotion Namsio took him home for his wife to look after him and thereafter brought him to the gendarmerie (see P-0446: T-098, p. 78, line 18 – p. 79, line 14).

⁶⁴⁸¹ P-0876: T-086, p. 25, lines 4-15.

⁶⁴⁸² P-0876: T-086, p. 25, lines 16-24.

⁶⁴⁸³ P-0876: T-086, p. 25, line 25 – p. 26, line 12. The Chamber has also noted that P-0876 said that the majority of the Seleka colonels and generals came from PK5, where there were weapons, and that everyone talked about it in Bangui town (see P-0876: T-086, p. 25, line 25 – p. 26, line 12). P-0876 described PK5 as ‘the portion of the territory of the capital which was prohibited entry to anyone who was a non-Muslim’ (see P-0876: T-086, p. 26, line 22 – p. 27, line 2).

⁶⁴⁸⁴ D29-4011 Statement, CAR-D29-0009-0680-R01, at 0684, paras 28, 31.

2603. The Chamber further recalls that Gaston Sallo described an event before the arrival of the Seleka to Bangui during which thieves tried to break into the Muslims' shops at the Boeing Market, following which the traders spent the nights at their shops and set up a watch schedule to ensure security of their shops, however, he did not hear of Muslim traders at the market having weapons.⁶⁴⁸⁵

2604. The Chamber likewise recalls that Salehou Ndiaye also did not know whether Muslim traders in the market had weapons in their shops.⁶⁴⁸⁶

2605. Having regard to P-1339's and P-0884's evidence above that they did not observe weapons or weapon caches next to the Muslim traders who were killed at the Boeing Market and the generally unsupported claims about the Seleka distributing weapons to the traders, the Chamber cannot conclude that the Boeing Market traders, other than Hassan and his younger brother, had weapons in their shops at the time of the Bangui Attack.

2606. Consequently, and having regard to the discussion above, the Chamber finds that the two unnamed Muslim victims were not engaged in combat during the attack on the Boeing Market by Mr Yekatom's elements on 5 December 2013.

2607. The Chamber notes that in addition to the witnesses above, it received a considerable amount of information on the death and wounding of people during the Bangui Attack. The Chamber emphasises that this information is indicative of the scale of the attack and its consequences on the population of Bangui, and relevant only for the purposes of the general context as it is not encompassed within the facts and circumstances as confirmed by the Pre-Trial Chamber.

2608. The Chamber notes that additional information about the deaths during the Bangui Attack can be found at a document containing 'interview notes' which, according to the Prosecution, originate from the UN High Commissioner for Human Rights and which, according to the

⁶⁴⁸⁵ D29-4013: T-277, p. 10, line 9 – p. 11, line 17, p. 14, line 1 – p. 17, line 2.

⁶⁴⁸⁶ P-1528: T-179, p. 49, lines 16-21.

metadata of the document, were provided by the UN Office of Legal Affairs.⁶⁴⁸⁷ This item helps assess the scale of the attack also in Boeing and Cattin.

2609. As a preliminary matter, the Chamber notes that the Defence opposed the submission of this document, requested by the Prosecution, arguing that it compiles witness statements that are testimonial in nature and thus inadmissible, and which ‘contain extremely prejudicial allegations on the 5 December’.⁶⁴⁸⁸ The Chamber, noting that the document does not specify the circumstances or context in which the individuals concerned provided their accounts, nor the purpose or mandate of the UN High Commissioner when compiling these accounts, considered the item not testimonial in nature and recognised it as formally submitted.⁶⁴⁸⁹

2610. In its Closing Brief, the Yekatom Defence argues that reliance on ‘anonymous sources’ within reports such as this one ‘introduces significant risks, as the Chamber cannot verify the credibility of the individuals providing information or assess potential biases’ and further ‘raises the possibility that some of these individuals [...] may be directly involved in the case, either as witnesses or interested parties, without the Chamber’s knowledge’.⁶⁴⁹⁰

2611. In this regard, the Chamber notes that it has not relied on the below information for the purposes of entering any factual finding but to illustrate the scale and extent of the attack on Bangui on 5 December 2013.

2612. According to one of these accounts, on 6 December 2013, after the Friday prayer, ‘they’, escorted by the Chadian FOMAC, brought 58 bodies of people killed on 5 and 6 December to PK16, on the road to Bouali where a mass grave had been dug.⁶⁴⁹¹ This individual also indicated that after the first day of the Anti-Balaka attack, most of the bodies came from

⁶⁴⁸⁷ Compilation, CAR-OTP-2088-1198.

⁶⁴⁸⁸ Response to “Prosecution’s Ninth Application for the Submission of Evidence from the Bar Table and request for reconsideration of the Decision on the submission of CAR-OTP-2053-0576”, 14 July 2023, ICC-01/14-01/18-1978-Red, paras 2, 75; Annex A to the Response, ICC-01/14-01/18-1978-Conf-AnxA, pp. 31-33. The Yekatom Defence also indicated that page 1218 of CAR-OTP-2088-1198 is a duplicate of CAR-OTP-2101-0340. *See also* Defence Response to the “Prosecution’s Ninth Application for Submission of Evidence from the Bar Table and request for reconsideration of the Defence on the submission of CAR-OTP-2053-0567” ICC-01/14-01/18-1947-Conf, 18 August 2023, ICC-01/14-01/18-2036-Red, paras 40-41; Annex 1 to the response, ICC-01/14-01/18-2036-Conf-Anx1, pp. 23-24.

⁶⁴⁸⁹ Decision on the Ninth Prosecution Submission Request from the Bar Table and Request for Reconsideration of the Email Decision on CAR-OTP-2053-0576, 1 November 2023, ICC-01/14-01/18-2182, para. 20.

⁶⁴⁹⁰ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 49.

⁶⁴⁹¹ Compilation, CAR-OTP-2088-1198, at 1200.

Boy-Rabe, Boeing (where ‘some traders were targeted’) and Bimbo.⁶⁴⁹² He also mentioned the ‘destruction’ of a small mosque located at the ‘*Place de la Reconciliation* [sic]’, also known as ‘*Place Oumar Bongo*’.⁶⁴⁹³

2613. A second individual stated that during the night of 5 December 2013, the Anti-Balaka attacked Boeing, Muslims were attacked house by house, and the headquarters of the NGO in Boeing where he worked were destroyed, which he observed the following day.⁶⁴⁹⁴ He also indicated that two people, Abakar Hussein and Hassan Ahmad, were killed and that he saw their bodies at the morgue.⁶⁴⁹⁵

2614. A third individual indicated that on 5 December 2013 in Boeing, two traders were killed by the Anti-Balaka, specifying that he went to Boeing at 16:40 and transported the corpses to the morgue, one had a head and the other a stomach wound, one was inside the shop and the other one outside.⁶⁴⁹⁶ In total, ‘they’ found nine corpses.⁶⁴⁹⁷ He recognised ‘*le délégué du marché Moussa*’, killed by a shot to the stomach.⁶⁴⁹⁸ He also indicated that all the shops had been looted.⁶⁴⁹⁹

2615. A fourth individual explained that on 5 December 2013 a group of 15 to 20 Anti-Balaka elements entered his son’s house, in Cattin, took him with them and also took some things.⁶⁵⁰⁰ ‘R[ambo]’ was recognised amongst these elements, some of whom wore military clothes, civilian clothes, carried machetes or guns.⁶⁵⁰¹ The corpse of his son was found on 7 December 2013 and brought to the Ali Babolo Mosque by the Seleka.⁶⁵⁰² They stayed at their house for the rest of the month and due to the threats that the Anti-Balaka continued to make, the wife and children left on 2 January 2014.⁶⁵⁰³

⁶⁴⁹² Compilation, CAR-OTP-2088-1198, at 1200.

⁶⁴⁹³ Compilation, CAR-OTP-2088-1198, at 1200.

⁶⁴⁹⁴ Compilation, CAR-OTP-2088-1198, at 1209.

⁶⁴⁹⁵ Compilation, CAR-OTP-2088-1198, at 1209.

⁶⁴⁹⁶ Compilation, CAR-OTP-2088-1198, at 1210.

⁶⁴⁹⁷ Compilation, CAR-OTP-2088-1198, at 1210.

⁶⁴⁹⁸ Compilation, CAR-OTP-2088-1198, at 1210.

⁶⁴⁹⁹ Compilation, CAR-OTP-2088-1198, at 1210.

⁶⁵⁰⁰ Compilation, CAR-OTP-2088-1198, at 1218.

⁶⁵⁰¹ Compilation, CAR-OTP-2088-1198, at 1218.

⁶⁵⁰² Compilation, CAR-OTP-2088-1198, at 1218.

⁶⁵⁰³ Compilation, CAR-OTP-2088-1198, at 1218.

2616. Another individual stated that on 5 December 2013, an individual named Hassan Abrass was killed in the market in Boeing with his younger brother.⁶⁵⁰⁴

ii. Boeing Mosque

On 5 December 2013, and following Mr Yekatom's instructions, Mr Yekatom's elements attacked the mosque in Boeing, which was the main mosque serving the communities of both Boeing and Cattin, by firing a 'rocket' at it. Mr Yekatom's elements also torched the mosque in Boeing with gasoline. On the same day and in the days that followed, the local population took it apart.

2617. The Prosecution submits that the evidence shows that on 5 December 2013 at around 06:00, Mr Yekatom's group directed an attack on the only mosque in Boeing, the Nour Alyaguin Mosque (the 'Boeing Mosque'), in execution of the orders given by Mr Yekatom the day before the attack, partially damaging it.⁶⁵⁰⁵

2618. The Chamber has considered the evidence from Salehou Ndiaye, the principal Imam of the Boeing Mosque, as well as of P-1339, who was an eyewitness to the events.

2619. Before turning to the events of 5 December 2013, the Chamber recalls the significance of the Boeing Mosque as the main mosque serving the communities of both Boeing and Cattin,⁶⁵⁰⁶ where at the time around 100 Muslim families lived, and about 20 disciples regularly attended the daily morning prayers at the Boeing Mosque.⁶⁵⁰⁷ Salehou Ndiaye described the Friday prayers at the Boeing Mosque as 'an opportunity for people to greet one another' after not seeing each other and being busy during the week.⁶⁵⁰⁸

2620. Salehou Ndiaye stated that on 5 December 2013 at around 04:30, he heard gunshots from the area of the Boeing Mosque, 'the time when Muslims usually get ready to go to the

⁶⁵⁰⁴ Compilation, CAR-OTP-2088-1198, at 1220.

⁶⁵⁰⁵ Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, para. 579.

⁶⁵⁰⁶ P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0759, para. 13; P-1528: T-178, p. 13, lines 9-20. *See also* P-1528 Second Statement, CAR-OTP-2121-2831-R01, at 2833, para. 10; P-0475: T-090, p. 40, lines 9-14. As regards location, Salehou Ndiaye marked the Boeing Mosque on a satellite image relative to the Boeing Market and his house (*see* Satellite image (annotated by P-1558), CAR-OTP-2048-0771); P-1528 First Statement, CAR-OTP-2048-0757, at 0760, para. 17, at 0768, para. 65; Satellite image (annotated by P-1558), CAR-OTP-2048-0772).

⁶⁵⁰⁷ P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0760, para. 16; Corrections to P-1528 First Statement, CAR-OTP-00000693. *See also* P-1528: T-178, p. 13, line 21 – p. 14, line 24.

⁶⁵⁰⁸ P-1528: T-178, p. 15, lines 14-20.

mosque for prayers’.⁶⁵⁰⁹ The witness fled to PK5 together with his family later that day, and only learnt that ‘the mosque was destroyed’ after 5 December 2013.⁶⁵¹⁰ The witness said that the last time he saw the Boeing Mosque was on the Friday before the Bangui Attack, and that it was ‘in a good condition’, describing it as having a rectangular shape, with a roof, windows, doors, carpets for prayers and a half-moon on the front wall, and not having a minaret.⁶⁵¹¹ [REDACTED] Salehou Ndiaye returned with the Prosecution to the location where the Boeing Mosque had been situated but its structure was no longer there.⁶⁵¹²

2621. The Prosecution points to P-1339’s evidence that he saw Alkanto firing a rocket at the building and argues that Alkanto would have only done so following Mr Yekatom’s instructions.⁶⁵¹³ The Prosecution further submits that after Mr Yekatom’s elements tried to set fire to the mosque’s roof, it was partly burnt and subsequently, members of the population continued to destroy it over the next days, looting the materials, until the mosque was razed to ground.⁶⁵¹⁴

2622. The Yekatom Defence argues that P-1339’s evidence on the destruction of the Boeing Mosque by Mr Yekatom’s group is unreliable.⁶⁵¹⁵ In this regard, it notes that satellite imagery contradicts P-1339’s account and that ‘[a]nonymous hearsay evidence of the involvement of unspecified “anti-balaka” in the destruction of the Mosque’ is also not corroborative of this account.⁶⁵¹⁶ It submits that, in fact, the Boeing Mosque was progressively dismantled by the civilian population according to the evidence of two Boeing residents who saw how ‘the Mosque was dismantled by youths in civilian attire using nail-pullers, hammers, and other tools’ and three witnesses who ‘gave corroborative evidence that the Mosque was progressively dismantled’.⁶⁵¹⁷

⁶⁵⁰⁹ P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0762, para. 27; P-1528 Second Statement, CAR-OTP-2121-2831-R01, at 2833, para. 11.

⁶⁵¹⁰ P-1528 Second Statement, CAR-OTP-2121-2831-R01, at 2833, para. 14, at 2835, para. 25.

⁶⁵¹¹ P-1528 Second Statement, CAR-OTP-2121-2831-R01, at 2833, para. 13. Salehou Ndiaye also indicated that the Boeing Mosque did not have a minaret.

⁶⁵¹² P-1528 Second Statement, CAR-OTP-2121-2831-R01, at 2835, paras 27-28.

⁶⁵¹³ Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, para. 580.

⁶⁵¹⁴ Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, para. 581.

⁶⁵¹⁵ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 413-414.

⁶⁵¹⁶ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 415-416.

⁶⁵¹⁷ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 417-418.

2623. The Chamber notes the Yekatom Defence's submissions that P-1339's account 'remains inherently unreliable' since he initially stated that Mr Yekatom's group was 'not involved in the destruction of the Mosque' and subsequently reversed his position, thereby 'negating the probative value of either version'.⁶⁵¹⁸

2624. At the outset, having considered the Yekatom Defence's arguments in light of the charges, the Chamber notes the difference between an attack on the Boeing Mosque and its subsequent purported destruction. The Chamber recalls that Mr Yekatom is charged with 'directing an attack against a building dedicated to religion' pursuant to Article 8(2)(e)(iv) of the Statute. In the view of the Chamber, whether and by whom the Boeing Mosque was later destroyed, dismantled, or otherwise taken apart, is not material to the charges.

2625. Indeed, P-1339 drew a similar distinction during his testimony between the *attack* to the mosque – which he attributed to Mr Yekatom's group – and its subsequent *destruction* or *dismantling* – which he said was carried out by the civilian population. In the view of the Chamber, this explains why P-1339, when repeatedly asked who destroyed the mosque, said that it was the civilian population, while at the same time maintained that it was Mr Yekatom's group that attacked the mosque. For example, and as discussed in further detail below, P-1339 confirmed that he had told the Prosecution that 'Alkanto shot a rocket' and the walls were 'destroyed by the population'.⁶⁵¹⁹

2626. Importantly, the Chamber considers that the subsequent destruction or taking apart of the Boeing Mosque by the population does not, in any way, exclude the possibility that Mr Yekatom's group attacked it first.

2627. In light of this, the Chamber considers without merit the Yekatom Defence's submissions that P-1339 initially stated that Mr Yekatom's group were 'not involved in the destruction of the Boeing Mosque' and thereafter reversed his version.⁶⁵²⁰ Likewise, it considers without merit the Yekatom Defence's submissions that 'P-1339's testimony in regard to 'the destruction of the Boeing Mosque' contains two irreconcilable accounts: one that would put

⁶⁵¹⁸ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 413.

⁶⁵¹⁹ P-1339: T-160, p. 23, lines 15-23, p. 27, line 12 – p. 28, line 5. *See also* P-1339: T-154-ENG, p. 83, lines 5-6; T-154-FRA, p. 86, lines 19-23.

⁶⁵²⁰ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 413.

the population ‘solely responsible for the destruction of the Mosque’, and another ‘partially blaming’ Mr Yekatom’s group.⁶⁵²¹

2628. As set out below, both are true.

2629. P-1339 said that following Mr Yekatom’s instructions ‘to destroy the houses of the Muslims’, ‘they [‘we’/‘on’] destroyed the mosque of the Muslims [in Boeing]’, as well as in other neighbourhoods, and also said that ‘the civilian population was also involved in the destruction of those mosques’.⁶⁵²² According to P-1339, Mr Yekatom gave this instruction in the presence of Habib Beina and Cœur de Lion.⁶⁵²³

2630. P-1339 said that Alkanto, who was an ‘Anti-Balaka member’ and ‘a Christian’ who had converted to Islam, ‘fired a rocket at the mosque’, and that ‘gasoline was used to torch the roof of the mosque, but the walls were destroyed by the civilian population’.⁶⁵²⁴ P-1339 added that he was with the group when Alkanto shot the rocket,⁶⁵²⁵ that he was not very far away from Alkanto nor from the mosque, and that Alkanto was the only person who had a rocket launcher and ‘the one who fired the rocket at the mosque’.⁶⁵²⁶ P-1339 saw how Alkanto shot the rocket,⁶⁵²⁷ and said that when the latter shot the rocket, he did not destroy the entire building, but part of the roof was burnt.⁶⁵²⁸ P-1339 said that thereafter, the population destroyed the walls of the mosque,⁶⁵²⁹ as also discussed further below.

2631. As regards instructions to attack the Boeing Mosque, P-1339 said that ‘Alkanto on his own initiative would not have shot a rocket at the mosque’, ‘the leader, the commander, Yekatom’

⁶⁵²¹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 123.

⁶⁵²² P-1339: T-152, p. 71, line 17 – p. 72, line 22. The Chamber further notes the Yekatom Defence’s allegation that ‘P-1339 initially stated that RFACPP elements were not involved in the destruction of the Mosque’, based on the fact that ‘P-1339 stated in Sango “*a fa a mosquée*”, which [...] excludes the speaker; and as such, “*on a détruit la mosquée*” (as interpreted) must be understood the same way’ (see Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 413, n. 1374). The Chamber, however, considers that P-1339 referred to the fact that ‘they’, that is, Mr Yekatom’s group and including himself as part of the group, ‘attacked’ the Boeing Market, and that subsequently the local population dismantled the mosque.

⁶⁵²³ P-1339: T-152, p. 74, lines 2-9; T-154, p. 79, line 12, p. 82, lines 16-20.

⁶⁵²⁴ P-1339: T-154, p. 83, lines 9-17, p. 84, line 22 – p. 86, line 2. See also P-1339: T-154-FRA, p. 86, line 26 – p. 87, line 5.

⁶⁵²⁵ P-1339: T-160, p. 23, line 24 – p. 24, line 5.

⁶⁵²⁶ P-1339: T-160, p. 24, lines 9-16.

⁶⁵²⁷ P-1339: T-160, p. 24, line 23 – p. 25, line 3.

⁶⁵²⁸ P-1339: T-160, p. 27, line 12 – p. 28, line 5.

⁶⁵²⁹ P-1339: T-160, p. 24, lines 9-16, p. 27, lines 21-25.

gave the instruction, and Alkanto ‘only complied with the instructions that Yekatom gave him’.⁶⁵³⁰

2632. As regards the torching by the ‘Anti-Balaka’, P-1339 explained that ‘they’ yelled out and said that they ‘wanted gasoline’, after which an Anti-Balaka element who was a motorcycle taxi driver brought some and ‘they sprayed the building with gas’.⁶⁵³¹ P-1339 specified that at this point, the ‘rocket’ had already been fired and the building had been torched but the walls were still standing, ‘[t]here was wiring in the mosque, and so there was a fire’.⁶⁵³²

2633. The Chamber notes that Mr Yekatom’s group proceeded with their operation from the Boeing Mosque and then retreated. In particular, P-1339 explained that the mosque was ‘torched’ and the ‘attack’ was at 06:00, after which they ‘moved forward’, towards the Ali Church which was ‘very far’ from the mosque; they left the mosque behind as they walked further and so they were not close but rather ‘far away’ from the mosque.⁶⁵³³ P-1339 said that during ‘the first attack’, the Seleka had not yet arrived; but once Mr Yekatom’s group was in Boulata, they ran short of ammunition and withdrew, at which point the Seleka ‘took advantage of that to gain some territory’.⁶⁵³⁴

2634. P-1339 said that the attack began at 06:00, that they withdrew at 07:00 and that this was ‘when the mosque was destroyed’.⁶⁵³⁵ P-1339 agreed that ‘other Anti-Balaka’ participated in the ‘attack’ on or ‘destroying’ of the Boeing Mosque before the civilian population stepped in.⁶⁵³⁶

2635. The Chamber notes that P-1339 also recalled observing the Boeing Mosque beginning to be taken apart by the population already on the morning of 5 December 2013, during the retreat by Mr Yekatom’s group. P-1339 said that when the sound of bullets began to be heard in the

⁶⁵³⁰ P-1339: T-154, p. 86, lines 3-10.

⁶⁵³¹ P-1339: T-160, p. 29, line 24 – p. 30, line 20.

⁶⁵³² P-1339: T-160, p. 30, lines 7-20.

⁶⁵³³ P-1339: T-160, p. 31, line 21 – p. 32, line 4.

⁶⁵³⁴ P-1339: T-160, p. 32, lines 5-14.

⁶⁵³⁵ P-1339: T-160, p. 26, line 22 – p. 27, line 4.

⁶⁵³⁶ P-1339: T-154, p. 86, lines 11-14.

Boeing market, Mr Yekatom's group continued with operations and the civilians began to destroy the mosque, the imam's house, and the houses of other Muslims close by.⁶⁵³⁷

2636. P-1339 clarified that after attacking the Boeing Market, they moved forward, and that it was only upon their return, after the fighting ended at 10:00, that they noticed that the roof and the mosque had been destroyed.⁶⁵³⁸ P-1339 said that on the way back, during their retreat, all those houses had been destroyed already and it was not 'the elements' who had destroyed them, but the civilian population.⁶⁵³⁹ P-1339 seemed to be of the view that the houses and mosques of Muslims in Bangui were not destroyed by the Anti-Balaka but in their majority by the Christians, who regarded Muslims as Seleka and considered that they should no longer live in the country.⁶⁵⁴⁰

2637. The Chamber notes the Yekatom Defence counsel's suggestion, during P-1339's testimony, that the witness provided several different versions of how the mosque was destroyed because he was not present, which is why according to the counsel he 'forgot to talk about Alkanto' in his previous statement.⁶⁵⁴¹

2638. The Chamber finds P-1339's account reliable concerning the Boeing Mosque.

2639. In this respect, the Chamber also notes that P-1339 had not mentioned Alkanto in his previous interview with the Prosecution but said categorically during his testimony that 'it was Alkanto who launched the rocket'.⁶⁵⁴² P-1339 explained that the investigator had not asked him to mention any names at the time so he did not mention anyone's name.⁶⁵⁴³ The

⁶⁵³⁷ P-1339: T-152, p. 74, lines 10-16; T-154, p. 77, lines 6-24.

⁶⁵³⁸ P-1339: T-154, p. 82, lines 21-23.

⁶⁵³⁹ P-1339: T-152, p. 74, lines 10-16; T-154, p. 77, lines 20-24.

⁶⁵⁴⁰ P-1339: T-154-ENG, p. 79, lines 1-18; T-154-FRA, p. 83, lines 9-28. The Chamber notes that the witness seemed to be providing a general explanation of what had happened to the houses and mosques in Bangui, not in Boeing, and that in any event he referred to the 'destruction' of mosques. This is clearer in the French version of the transcript, according to which P-1339 referred to '[l]es maisons et les mosquées détruites dans la ville de Bangui, ce ne sont pas les Anti-balaka'.

⁶⁵⁴¹ P-1339: T-160, p. 33, line 25 – p. 34, line 5.

⁶⁵⁴² P-1339: T-160, p. 35, line 23 – p. 36, line 4. The Chamber further notes that some videos before it show a person who appears to be Alkanto carrying an RPG (see Video, CAR-OTP-2065-0915 compared with Photograph, CAR-OTP-2125-0742 and Video, CAR-OTP-2065-4585, at 00:00:03). In this regard, the Chamber notes that P-1839 confirmed that the person appearing on Photograph, CAR-OTP-2125-0742, matched the name appearing in the same photograph ('Mahamat Abdoulaye Alkanto') (see P-1839: T-172, p. 11, lines 8-13).

⁶⁵⁴³ P-1339: T-160, p. 34, line 20 – p. 35, line 15.

Chamber found P-1339 forthcoming in acknowledging his omission and his own responsibility as part of the group that ‘attacked’ the Boeing Mosque.⁶⁵⁴⁴

2640. The Chamber also notes that P-1339 did not provide the intricate details of the actual destruction of the Boeing Mosque, and that certain details of his account were only brought forward after P-1339’s memory was refreshed.⁶⁵⁴⁵ This did not change the Chamber’s assessment of his reliability concerning the events surrounding the Boeing Mosque.

2641. As set out below, the Chamber has also received evidence showing how the local population and/or youth of the neighbourhood took apart the Boeing Mosque after the attack.

2642. Gaston Sallo said that he did not know and could not remember the precise date of a ‘fight’ between the Anti-Balaka and the Seleka.⁶⁵⁴⁶ Gaston Sallo explained that one morning, on his way home, he saw the Boeing Mosque being ‘destroyed’.⁶⁵⁴⁷ In particular, after hearing noises and people ‘taking off the roof with nail pullers or with a hammer’, he turned back and observed that ‘the roofs were being removed’.⁶⁵⁴⁸ The witness saw ‘youngsters’ removing the ‘roofing from the mosque’, once they finished taking off the metal roofing, they came back for ‘the wooden eaves and the brickwork’.⁶⁵⁴⁹ Gaston Sallo clarified that he arrived when they were removing ‘the second part of the roofing’ and that he did not know when they had started nor how much time had passed since they started and until he arrived.⁶⁵⁵⁰

2643. Gaston Sallo could not get closer to find out how these individuals were dressed, but was at an observable distance from these individuals.⁶⁵⁵¹ The witness said that these people did not

⁶⁵⁴⁴ P-1339: T-160, p. 35, line 4 – p. 36, line 4.

⁶⁵⁴⁵ P-1339: T-154, p. 81, line 21 – p. 82, line 15.

⁶⁵⁴⁶ D29-4013: T-277, p. 45, lines 1-14.

⁶⁵⁴⁷ D29-4013: T-277, p. 25, line 7 – p. 26, line 20, p. 44, lines 17-25. The Chamber notes that D29-4013 indicated that at the time, he stayed at the Ledger displacement camp and went back home from time to time, going through the neighbourhood rather than taking the ‘main path’ to avoid stray bullets (D29-4013: T-277, p. 21, line 13 – p. 22, line 16, p. 23, line 24 – p. 26, line 20). He also specified that his home was located [REDACTED] (D29-4013: T-277, p. 7, lines 4-10). Further, the witness was shown a video footage and indicated that his house was located where [REDACTED] appeared in the video footage shown to him (D29-4013: T-277, p. 37, lines 6-14).

⁶⁵⁴⁸ D29-4013: T-277, p. 27, lines 1-7.

⁶⁵⁴⁹ D29-4013: T-277, p. 32, line 20 – p. 33, line 24.

⁶⁵⁵⁰ D29-4013: T-277, p. 47, lines 10-15.

⁶⁵⁵¹ D29-4013: T-277, p. 27, lines 8-21, p. 42, line 14 – p. 43, line 16.

wear military attire, carried machetes, nail pullers, hammers and crowbars.⁶⁵⁵² Gaston Sallo did not see them carrying firearms nor wearing *gris-gris*.⁶⁵⁵³ He did not recall burning traces or smoke on the Boeing Mosque.⁶⁵⁵⁴

2644. D29-4011 recalled similar events. D29-4011 said that she witnessed ‘the destruction’ of the Boeing Mosque on the way back home from the location where she slept during ‘the events’.⁶⁵⁵⁵ D29-4011 said that during ‘calm moments’ she would return back home, and at this time the mosque was ‘intact’, while some time later ‘the destruction’ started.⁶⁵⁵⁶ D29-4011 specified that she did not live too far from the Boeing Mosque, which she could see when she went out of the house and walked to one of its corners.⁶⁵⁵⁷

2645. D29-4011 recalled hearing noise of metal sheets being removed, and saw ‘youngsters’ tearing off the metal sheets of the mosque, as well as the window frames, with hammers and crowbars.⁶⁵⁵⁸ D29-4011 saw how the ‘youngsters’ took with them the metal sheets and the wooden frames before leaving.⁶⁵⁵⁹ D29-4011 stated that these youngsters came from different neighbourhoods, were dressed in civilian clothes, and that she did not see any *gris-gris*.⁶⁵⁶⁰ D29-4011 said that the mosque was not set on fire and that no bomb was thrown onto it, as she did not smell gasoline, and she did not hear gunshots while the ‘destruction’ took place.⁶⁵⁶¹ As per D29-4011, she witnessed the destruction of the Boeing Mosque from the beginning till the end.⁶⁵⁶²

2646. The Chamber notes that both witnesses indicated not seeing any traces of fire or smoke on the Boeing Mosque and both recalled the metal sheets of the roof being removed.

⁶⁵⁵² D29-4013: T-277, p. 27, line 14 – p. 28, line 9.

⁶⁵⁵³ D29-4013: T-277, p. 27, line 24 – p. 28, line 7.

⁶⁵⁵⁴ D29-4013: T-277, p. 30, lines 9 – p. 32, line 19, p. 34, lines 4-23.

⁶⁵⁵⁵ D29-4011 Statement, CAR-D29-0009-0680-R01, at 0686, para. 43.

⁶⁵⁵⁶ D29-4011 Statement, CAR-D29-0009-0680-R01, at 0686, para. 43.

⁶⁵⁵⁷ D29-4011 Statement, CAR-D29-0009-0680-R01, at 0683, para. 16.

⁶⁵⁵⁸ D29-4011 Statement, CAR-D29-0009-0680-R01, at 0686, paras 45-46.

⁶⁵⁵⁹ D29-4011 Statement, CAR-D29-0009-0680-R01, at 0687, paras 48-49.

⁶⁵⁶⁰ D29-4011 Statement, CAR-D29-0009-0680-R01, at 0687, para. 50.

⁶⁵⁶¹ D29-4011 Statement, CAR-D29-0009-0680-R01, at 0687, para. 49.

⁶⁵⁶² D29-4011 Statement, CAR-D29-0009-0680-R01, at 0686, para. 47, at 0687, para. 49.

2647. In light of the above, and contrary to the Yekatom Defence's submissions,⁶⁵⁶³ the Chamber considers that Gaston Sallo's account of the Boeing Mosque being 'progressively dismantled by the civilian population' confirms the veracity of P-1339's account. Indeed, P-1339 indicated that he saw how the local population 'destroyed' the Boeing Mosque as the group withdrew, but at no point indicated that the mosque was fully destroyed that day. Regarding D29-4011's claim that the Boeing Mosque was intact when she arrived to her house on the day she witnessed the destruction of the mosque, the Chamber notes that while the witness stated that she passed by the '*église néo-apostolique*' – located close to the Boeing Mosque –,⁶⁵⁶⁴ she did not specifically state that she walked close to or by the mosque or paid any particular attention to it.⁶⁵⁶⁵ The Chamber further notes that from her house, D29-4011 did not seem to have full visibility of the entirety of the mosque's building.⁶⁵⁶⁶ It is therefore of the view that D29-4011's account does not contradict that of P-1339 nor that of Gaston Sallo.

2648. In this respect, the Chamber has also considered the evidence of other witnesses who indicated that 'the Anti-Balaka', together with the civilian population, 'destroyed' the Boeing Mosque.⁶⁵⁶⁷

2649. The Chamber now turns to the impact of the attack on the Boeing Mosque. The Chamber notes that Salehou Ndiaye provided the following explanation when asked how the memories of the Boeing Mosque emotionally affected him:

It's difficult to explain what I feel within. It's difficult to describe what I feel, because I don't see why. When there is a problem, why is it that religious buildings are destroyed? For what reason? No matter what the problem might be, these are places where people take refuge when there are problems. And when I see this, it's true, it

⁶⁵⁶³ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 417-418.

⁶⁵⁶⁴ See e.g. Video, CAR-D29-0008-0105, at 00:00:00-00:00:09.

⁶⁵⁶⁵ D29-4011 Statement, CAR-D29-0009-0680-R01, at 0686, para. 45.

⁶⁵⁶⁶ Video, CAR-D29-0008-0105, at 00:00:43-00:01:30; Translation, CAR-D29-0006-1404, lines 4-25.

⁶⁵⁶⁷ P-0884: T-057, p. 56, line 13 – p. 57, line 21; P-0475 Statement, CAR-OTP-2104-0116-R03, at 0120, para. 28, at 0122, para. 42, at 0124, paras 55, 58, at 0126, para. 70, at 0128, para. 92 *referring to* List, CAR-OTP-2104-0153-R02, at 0155; P-0475 Corrections, CAR-OTP-2129-1743, at 1743; P-0475: T-090, p. 40, lines 1-14, p. 45, line 10 – p. 46, line 2; T-091, p. 27, line 24 – p. 28, line 2. See also P-2682: T-017, p. 41, lines 12-23; P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0765, para. 47; P-1528 Second Statement, CAR-OTP-2121-2831-R01, at 2833, paras 14-15; T-178, p. 15, line 21 – p. 17, line 2; T-179, p. 8, line 13 – p. 10, line 6. The Chamber also notes that the observations of expert witness Lars Bromley are in line with this evidence and are inconclusive as regards the existence of traces of fire on the Boeing Mosque (see P-2193: T-019, p. 29, line 15 – p. 30, line 12 *referring to* Annex 1 to P-2193 Report, CAR-OTP-2127-6626, at 6627; p. 48, line 13 – p. 49, line 20, p. 50, lines 13-18; see also P-2193 Report, CAR-OTP-2127-6617, at 6621).

hurts. It's very [...] sad to see the house of God destroyed. This is my opinion. I might be wrong, but if there are problems and if someone goes to a religious place, a church or a mosque, in principle, the action should stop. But to destroy it, a church or a mosque, to my mind, that makes no sense. That's what I feel. When I see it, it brings back all the memories of everything that was destroyed.⁶⁵⁶⁸

2650. Salehou Ndiaye said that about a year before giving testimony before the Court, his deputy, who stayed 'there', resumed prayers at the location of the Boeing Mosque by setting up a tent.⁶⁵⁶⁹ The witness indicated that the Boeing Mosque has since been reopened.⁶⁵⁷⁰

2651. As for 'those six or seven years' that elapsed between the destruction of the Boeing Mosque and the resumption of prayers at that location, Salehou Ndiaye said that he was no longer in that neighbourhood and no longer in touch with 'the faithful' there but he knew that some Muslims would go to PK5 for the Friday prayer, for Eid and the feast at the end of Ramadan, as this was the closest neighbourhood where there were mosques and Boeing no longer had a mosque.⁶⁵⁷¹ He added that for the daily prayers, he believed that people started doing them at home.⁶⁵⁷²

4. *Attack on Cattin*

Following the attack on the market and the mosque in Boeing, elements of Mr Yekatom's group moved on to attack Cattin, where they clashed with the Seleka. During the attack on Cattin, elements of Mr Yekatom's group killed at least one Muslim man, who was not armed, nor engaged in combat, at the time of his death. The elements targeted this Muslim man on the basis that he was an 'Arab' and the victim eventually succumbed to the injuries inflicted on him.

2652. The Chamber recalls the Prosecution's allegation that Mr Yekatom and his group attacked Boeing and Cattin, with the goal of advancing towards PK5, the predominantly Muslim neighbourhood in the third district.⁶⁵⁷³

⁶⁵⁶⁸ P-1528: T-178, p. 23, line 16 – p. 24, line 4.

⁶⁵⁶⁹ P-1528: T-178, p. 18, lines 1-11.

⁶⁵⁷⁰ P-1528: T-178, p. 24, lines 11-17.

⁶⁵⁷¹ P-1528: T-178, p. 24, line 25 – p. 25, line 16.

⁶⁵⁷² P-1528: T-178, p. 25, lines 15-16.

⁶⁵⁷³ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 547 *referring, inter alia*, to Video, CAR-OTP-2065-0726, at 00:00:17-00:01:53; Translation, CAR-OTP-2135-4419, at 4421-24, lines 19-107. *See also* Prosecution Closing Statements: T-306, p. 100, lines 7-13; P-1339: T-155, p. 17, line 16 – p. 26, line 20.

2653. The Prosecution submits that while attacking the Cattin neighbourhood in the morning of 5 December 2013, elements of Mr Yekatom's group 'killed at least one Muslim civilian, who was not actively taking part in the hostilities' in the execution of Mr Yekatom's 'orders to attack the Muslim civilian population on the eve of the attack'.⁶⁵⁷⁴ In support of this allegation, it relies on Salehou Ndiaye,⁶⁵⁷⁵ arguing, *inter alia*, that he saw four Anti-Balaka elements, who were members of Mr Yekatom's group, as 'confirmed by the fact that they wore armbands'.⁶⁵⁷⁶ The Prosecution also refers to another individual account concerning the killing of a Muslim civilian, by Anti-Balaka in Cattin during the Bangui Attack.⁶⁵⁷⁷

2654. The Yekatom Defence does not dispute the presence of Mr Yekatom's group in Cattin in the morning of 5 December 2013, and submits that they were targeting the Seleka who were present on the Cattin and Dameca road.⁶⁵⁷⁸ The Yekatom Defence submits that 'Cattin was the scene of active combat' involving Mr Yekatom's group and heavily armed Seleka elements, during which the Seleka elements fired machine guns and rocket launchers extensively and indiscriminately on the Cattin and Dameca roads, including directly at civilians, as well as into civilian residences and premises.⁶⁵⁷⁹ The Yekatom Defence further argues that no reliable evidence has been led of Mr Yekatom's group 'directing attacks against the civilian population, or otherwise targeting civilians, in Boeing or Cattin'.⁶⁵⁸⁰ It submits that the Prosecution has failed to show that these killings even occurred, let alone that Mr Yekatom's group was involved.⁶⁵⁸¹

2655. The Chamber will first examine the evidence about the killing of a person between 08:00 and 09:00 by 'the Anti-Balaka' from Salehou Ndiaye, who lived [REDACTED] in Cattin at

⁶⁵⁷⁴ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 565.

⁶⁵⁷⁵ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 566.

⁶⁵⁷⁶ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 572; *see also* paras 568-571.

⁶⁵⁷⁷ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 567 *referring to* Compilation, CAR-OTP-2088-1198, at 1218.

⁶⁵⁷⁸ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 366-367.

⁶⁵⁷⁹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 378.

⁶⁵⁸⁰ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 370.

⁶⁵⁸¹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 378.

the time,⁶⁵⁸² and then assess whether this can be attributed to the elements in Mr Yekatom's group.

2656. Salehou Ndiaye said that around 07:00, he saw 'many Anti-Balaka' walk past his house going in the direction of KM5 and that, on their way to KM5, they clashed with the Seleka 'at the site of the C[atin] company' [REDACTED], in a fight that lasted more than one hour.⁶⁵⁸³ The witness recalled 'quite a sustained gunfire for quite a while and then it stopped', at which point they thought 'things had settled'.⁶⁵⁸⁴ The witness also stated that some of the 'Anti-Balaka elements were posted on the street corners' and they 'occupied the whole neighbourhood' and they ('we') could not leave their house at that time.⁶⁵⁸⁵ Salehou Ndiaye watched them from a hole in the wall of their compound.⁶⁵⁸⁶

2657. Salehou Ndiaye said that the 'Anti-Balaka' then retreated and returned to 'their bases' in the Boeing area, and that, as they walked past his house, they shouted that 'first they would kill D[jotodia] and then they would come back to kill all Muslims'.⁶⁵⁸⁷

2658. Salehou Ndiaye said that between 08:00 and 09:00, 'the Anti-Balaka' chased a Muslim man to the front of the witness's house, shouting that he was 'an Arab'.⁶⁵⁸⁸ The witness was observing this through a hole in the wall of his compound where he was hiding.⁶⁵⁸⁹ Salehou Ndiaye heard the man 'pleading for help', but was not able to see his body on the ground, and 'later' saw four 'Anti-Balaka elements' armed with a Kalashnikov and three machetes standing next to his body.⁶⁵⁹⁰ The witness later saw the body of the victim, lying on the road, with 'wounds' all over,⁶⁵⁹¹ when he went out of the house to run away around 14:00 or

⁶⁵⁸² P-1528: T-178, p. 28, line 21 – p. 30, line 3; P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0760, para. 16. *See also* Satellite image (annotated by P-1528), CAR-OTP-2048-0771; Satellite image (annotated by P-1528), CAR-OTP-2048-0772; Sketch, CAR-OTP-2048-0773.

⁶⁵⁸³ P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0762, para. 30; P-1528: T-179, p. 57, lines 12-16.

⁶⁵⁸⁴ P-1528: T-179, p. 50, line 16 – p. 51, line 7.

⁶⁵⁸⁵ P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0762, para. 30.

⁶⁵⁸⁶ P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0762, para. 30.

⁶⁵⁸⁷ P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0762, para. 30.

⁶⁵⁸⁸ P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0762-63, para. 31; P-1528: T-178, p. 28, line 25 – p. 30, line 3.

⁶⁵⁸⁹ P-1528: T-178, p. 28, line 25 – p. 30, line 3. *See* Satellite image (annotated by P-1528), CAR-OTP-2048-0772 showing P-1528's family compound); Satellite image (annotated by P-1528), CAR-OTP-2048-0771; Sketch, CAR-OTP-2048-0773.

⁶⁵⁹⁰ P-1528: T-178, p. 28, line 25 – p. 30, line 3; P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0762-63, para. 31.

⁶⁵⁹¹ P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0762-63, para. 31.

15:00.⁶⁵⁹² The witness did not recognise the victim,⁶⁵⁹³ and did not spend much time looking at it.⁶⁵⁹⁴ Salehou Ndiaye saw blood on his face, underneath the body and on the ground, and could not establish the nature of the wounds.⁶⁵⁹⁵ The witness later learnt that the man was ‘somebody who had come from another neighbourhood into the plateau who fell into these people’s hands and they ultimately killed him’.⁶⁵⁹⁶

2659. Salehou Ndiaye stated that he knew that ‘the attackers were Anti-Balaka’ because they were armed with machetes, knives and iron bars, wore *gris-gris* and bands around their heads, including of red colour, and upper arms.⁶⁵⁹⁷ The witness stated that they spoke Sango, were on foot and were followed by a crowd of locals who ‘were encouraging’ them.⁶⁵⁹⁸ When asked how he distinguished between the locals and the Anti-Balaka, Salehou Ndiaye explained that he saw through the hole in the compound wall ‘a big crowd behind them that were shouting [and] encouraging them’, shouting things like ‘Djotodia is going to go and [...] there’s going to be an attack on the Muslims’ and ‘[w]e’re going to finish with Djotodia, and now we’re going to finish up the Muslims’.⁶⁵⁹⁹

2660. The Chamber finds Salehou Ndiaye’s account credible, noting that during his testimony, he explained the sources of his information and clearly distinguished between events he directly observed and those he was told or heard about.⁶⁶⁰⁰

2661. The Yekatom Defence argues that the Prosecution failed to establish the circumstances concerning the killing of the man whose body Salehou Ndiaye saw.⁶⁶⁰¹ In particular, it argues that the Prosecution has not established that the man whose body Salehou Ndiaye saw indeed died because of the incident that the latter overheard, nor that the four Anti-Balaka were

⁶⁵⁹² See P-1528 Second Statement, CAR-OTP-2121-2831-R01, at 2835, para. 25 (indicating he left his ‘compound’ on 5 December 2013 at around 14:00 or 15:00).

⁶⁵⁹³ P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0762-63, para. 31.

⁶⁵⁹⁴ P-1528: T-178, p. 29, lines 14-18.

⁶⁵⁹⁵ P-1528: T-178, p. 31, lines 2-20.

⁶⁵⁹⁶ P-1528: T-178, p. 29, lines 14-18.

⁶⁵⁹⁷ P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0763, para. 32.

⁶⁵⁹⁸ P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0763, para. 32.

⁶⁵⁹⁹ P-1528: T-178, p. 30, lines 4-23. See also P-1528: T-179, p. 55, lines 4-17 (indicating that ‘when the Anti-Balaka left Boeing to leave, there was a crowd [of the local population] that went with them’).

⁶⁶⁰⁰ See for example P-1528: T-179, p. 51, line 8 – p. 52, line 2.

⁶⁶⁰¹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 379-384.

involved in pursuing the Muslim man or in attacking or killing him.⁶⁶⁰² The Chamber further notes the Yekatom Defence's arguments that the Prosecution failed to elicit basic details from Salehou Ndiaye as regards this death, including the victim's status at the time of his death,⁶⁶⁰³ whether he heard the man being beaten to death, whether the Anti-Balaka elements had blood on their hands, weapons or clothes, whether they appeared to be breathing heavily or even looking down at the body at all.⁶⁶⁰⁴

2662. Having regard to the above, the Chamber, for the reasons set out below, finds that 'the Anti-Balaka' killed a Muslim man in Cattin.

2663. The Chamber considers that Salehou Ndiaye was unequivocal about the identity of the alleged perpetrators as 'the Anti-Balaka', clearly distinguished between 'the Anti-Balaka' and the local population and did not attribute the incident to the latter. While the witness was not able to observe the body of the victim when the Anti-Balaka elements beat him, he heard a man pleading for help and saw wounds on the body lying on the ground when he later saw the body. The Chamber notes that the witness saw the body lying on or close to the place where he had seen the Anti-Balaka elements. As to the wounds the body sustained, while the witness could not describe them in detail nor ascertain whether the man lying wounded on the ground had indeed died, it is clear from his description that these wounds were not sustained because of an exchange of fire. The description was consistent with Salehou Ndiaye's own impression that this man had been beaten by the Anti-Balaka.

2664. Further, given the words used by the assailants and their description, the Chamber finds that the four Anti-Balaka elements that Salehou Ndiaye saw indeed targeted this Muslim man on the basis that he was an 'Arab'. Having regard to what the witness later learnt about this person, the Chamber infers that the victim eventually succumbed to the injuries inflicted on him by the Anti-Balaka.

2665. The Chamber further considers Salehou Ndiaye's description that the man was lying on the ground when the Anti-Balaka approached him. The witness did not mention seeing any

⁶⁶⁰² [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 380-381.

⁶⁶⁰³ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 383.

⁶⁶⁰⁴ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 382.

weapons or arms on or around the body. On this basis, the Chamber finds that this man was not armed at the time of his death nor otherwise engaged in combat.

2666. The Chamber now turns to whether ‘the Anti-Balaka’ referred to by Salehou Ndiaye was a reference to elements in Mr Yekatom’s group.

2667. The Yekatom Defence disputes that Mr Yekatom’s elements could have been present there at the same time that Salehou Ndiaye observed the killing. Referring to audio-visual evidence, the Yekatom Defence submits that members of Mr Yekatom’s group were engaged with the Seleka forces on the Cattin road at 08:00 ‘latest’ and that the Seleka pursued Mr Yekatom’s group ‘around the Cattin crossroad along the Dameca road, past the Dameca factory’ by 08:51 and westward from Cattin to M’Poko Bac river by 10:29.⁶⁶⁰⁵ It also argues that since there were ‘multiple groups’ of Anti-Balaka present in and around Boeing at the time, including Modibo and his group, this killing cannot be ‘automatically’ attributed to Mr Yekatom’s group.⁶⁶⁰⁶

2668. In assessing whether this killing can be attributed to Mr Yekatom’s group, the Chamber has considered the itinerary that Mr Yekatom’s group took in the morning of 5 December 2013, as described by P-1339, who annotated on a map the locations the group went through that morning.⁶⁶⁰⁷

2669. The Chamber considers that, as per P-1339, at some point, after the events of the Boeing Market and the Boeing Mosque, Mr Yekatom’s group split into two.⁶⁶⁰⁸ P-1339’s group, which was led by Mr Yekatom and Cœur de Lion,⁶⁶⁰⁹ took the ‘main road’ and reached the Boulata church.⁶⁶¹⁰ The other group, led by ‘Habib’ and ‘Alkanto’,⁶⁶¹¹ took the ‘dusty road’

⁶⁶⁰⁵ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 367.

⁶⁶⁰⁶ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 373-377.

⁶⁶⁰⁷ P-1339: T-155, p. 5, line 24 – p. 6, line 3 *referring to* Map (annotated by P-1339), CAR-REG-0001-0008.

⁶⁶⁰⁸ P-1339: T-154, p. 41, lines 18-23; T-155, p. 8, line 21 – p. 9, line 5; T-159, p. 67, line 25 – p. 68, line 25 *referring to* Map, CAR-OTP-2118-9146, p. 73, line 24 – p. 74, line 24. The Chamber notes that P-1339’s appeared to have minor inconsistencies regarding the exact location where the group split but maintained that there were two groups after the events at the Boeing Market and the Boeing Mosque (see P-1339: T-155, p. 8, lines 4-20; T-160, p. 4, line 23 – p. 5, line 18).

⁶⁶⁰⁹ P-1339: T-155, p. 11, line 25 – p. 12, line 9; T-159, p. 73, lines 11-23.

⁶⁶¹⁰ P-1339: T-159, p. 85, lines 3-12.

⁶⁶¹¹ P-1339: T-155, p. 11, line 25 – p. 12, line 9; T-159, p. 73, lines 11-23.

that leads to Dameca and Cattin.⁶⁶¹² The latter group was intended to ‘provide cover’ for the group on the main road.⁶⁶¹³ P-1339 did not know the exact location of the ‘Cattin group’ and which route it took as he was not part of this group.⁶⁶¹⁴

2670. P-1339 indicated that his group stopped at the Boulata church because they were short of ammunition,⁶⁶¹⁵ at which point the ‘Cattin group’ also ran out of ammunition.⁶⁶¹⁶ Both groups exchanged this information and decided to retreat as ‘progressing was no longer possible’.⁶⁶¹⁷

2671. P-0884, asked about ‘the Anti-Balaka or FACA’ controlling the sector surrounding Cattin on 5 December 2013, said that ‘they controlled the situation in the morning’ but the Seleka pushed them back around 09:00 and ‘the Anti-Balaka had to withdraw’.⁶⁶¹⁸

2672. P-1339 said that they withdrew to the Boeing Market and the Seleka began a counterattack,⁶⁶¹⁹ and when the Seleka arrived, the latter started to engage in reprisals against the population and to shoot randomly.⁶⁶²⁰ P-1339 recalled hearing ‘stray bullets whistling through the air’.⁶⁶²¹ The Chamber notes that some elements within Mr Yekatom’s group withdrew to Yamwara and others to Projet.⁶⁶²²

2673. The Chamber further notes that the timing of the alleged killing, between 08:00 and 09:00, appears to coincide with the time around which Mr Yekatom’s group would have been present on the Cattin road, close to the Dameca factory.⁶⁶²³ The Yekatom Defence asserts that Seleka elements proceeded to engage and pursue Mr Yekatom’s group around ‘Cattin crossroads along the Dameca road, past the Dameca factory (by 08:51), and westward from

⁶⁶¹² P-1339: T-154, p. 41, lines 18-23; T-155, p. 7, lines 7-9.

⁶⁶¹³ P-1339: T-155, p. 10, line 21 – p. 11, line 6.

⁶⁶¹⁴ P-1339: T-159, p. 85, lines 3-15.

⁶⁶¹⁵ P-1339: T-154, p. 73, line 20 – p. 74, line 8; T-155, p. 7, lines 5-12.

⁶⁶¹⁶ P-1339: T-155, p. 13, lines 16-23.

⁶⁶¹⁷ P-1339: T-155, p. 7, lines 5-12, p. 13, lines 16-23.

⁶⁶¹⁸ P-0884: T-057, p. 44, line 19 – p. 45, line 3 *referring to* Video, CAR-OTP-2065-1428.

⁶⁶¹⁹ P-1339: T-155, p. 7, lines 5-12.

⁶⁶²⁰ P-1339: T-159, p. 76, lines 5-15, p. 77, lines 1-9. *See also* P-0884: T-057, p. 44, line 19 – p. 45, line 7.

⁶⁶²¹ P-1339: T-159, p. 76, lines 5-15.

⁶⁶²² P-1339: T-155, p. 25, lines 5-14; T-159: p. 77, line 1 – p. 78, line 21, p. 88, line 12 – p. 92, line 8. The Chamber notes that Mr Yekatom himself, together with some of his elements, appear to have retreated in the bush and can be seen in videos in locations like Projet and Gbangba before appearing in Yamwara (*see* paragraph 2430-2431, 2473 above; *see also* section IV.D.1 below).

⁶⁶²³ P-1339: T-154, p. 82, lines 21-23. *See* paragraphs 2633-2636 above.

Cattin, up to the river at M'Poko Bac (by 10:29)'.⁶⁶²⁴ Considering this together with Salehou Ndiaye's evidence and the Chamber's conclusion that Mr Yekatom's group attacked Cattin that morning, the Chamber finds that Mr Yekatom's elements killed a Muslim man in Cattin. The Chamber has received no evidence that other Anti-Balaka groups were present that morning at this very location.

2674. While the Yekatom Defence points to evidence from P-0884, Brice Emotion Namsio and P-1521 regarding the presence of other Anti-Balaka groups 'in an around Boeing, both before 5th December and afterwards',⁶⁶²⁵ the Chamber finds that such evidence does not support its assertion. P-0884 recalled Modibo and his group specifically *not* being in Boeing on 5 December 2013 but attacking the National Assembly.⁶⁶²⁶ P-0884 further recalled Ngremangou's group composed of 'military men' being in Boeing before 5 December 2013 and remaining there 'until Djotodia left',⁶⁶²⁷ which the Chamber understands to be a reference to Mr Yekatom's group. The same holds true for Brice Emotion Namsio, who stated that some of Mr Yekatom's elements were in Boeing on that day and 'attacked' KM5 and PK9.⁶⁶²⁸ P-1521 did not have direct or accurate information about Mr Yekatom's group or the 'Boeing team' that attacked on the '6th or the 7th' of December 2013.⁶⁶²⁹ Asked 'who led the Boeing group', P-1521 recalled certain names generally, including Ngremangou, Mr Yekatom, Sylvestre Yagouzou, Sebastien Wenezoui, Bertin Nganabeam, Bama Clement and Modibo; and said that on the 5th, 6th, or the 7th, 'we did not have any contact with them'.⁶⁶³⁰ The Chamber also has regard to P-0889's evidence concerning the presence of certain Anti-Balaka in Boeing, including Modibo Honoré, Yvon Donoh, Sylvestre Yagouzou, and Sébastien Wenezoui.⁶⁶³¹ P-0889, asked specifically if these groups were in Boeing 'before' 5 December 2013, said that he could not confirm and that he would not have known if they were there, because he was in Zongo at the time; he clarified that his sketch

⁶⁶²⁴ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 367.

⁶⁶²⁵ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 373.

⁶⁶²⁶ P-0884: T-057, p. 20, line 5 – p. 21, line 3.

⁶⁶²⁷ P-0884: T-057, p. 21, lines 9-20.

⁶⁶²⁸ P-0446 Interview Transcript, CAR-OTP-2059-1672-R02, at 1690-92, lines 676-766. The Chamber notes that the witness seemed to think that the group in Boeing engaged in combat in PK5 which is not borne out by evidence.

⁶⁶²⁹ P-1521: T-081, p. 65, line 16 – p. 67, line 19, p. 69, line 8-16.

⁶⁶³⁰ P-1521: T-081, p. 65, line 16 – p. 66, line 24.

⁶⁶³¹ P-0889: T-111, p. 10, lines 3-15, p. 12, lines 1-4.

of the Anti-Balaka bases in Boeing was made in relation to when he went to Boeing ‘after’ 5 December 2013.⁶⁶³²

2675. Further noting that there is no date or time on the record concerning the audio-visual evidence pointed to by the Yekatom Defence, the Chamber cannot establish whether the events therein indeed took place at the indicated time. In any event, these videos show the clashes on Cattin road from the perspective of the Seleka, but do not indicate the presence of ‘other’ Anti-Balaka groups.

2676. The Chamber now turns to the Prosecution’s allegation that someone reported the killing of a Muslim civilian by Anti-Balaka in Cattin during the attack on 5 December 2013.⁶⁶³³ The Chamber finds that without further evidence, it is unable to conclude that this alleged killing took place or that it refers to the same event as described by Salehou Ndiaye.

2677. Lastly in respect of the events in Cattin, the Chamber notes that the Yekatom Defence challenges ‘P-1339’s uncorroborated account of the killing of a moto-driver in Cattin’.⁶⁶³⁴ In this regard, it notes that P-1339 testified that during the Bangui Attack, seemingly in Cattin, ‘a young Muslim who was on a motorcycle’ fell during a skirmish and ‘they’ killed him and torched his motorbike.⁶⁶³⁵ In the absence of any further information about the alleged victim and perpetrators, as well as on the circumstances of the alleged killing, the Chamber is unable to reach any conclusion in this regard.

5. Dislocation of Muslims from Boeing and Cattin

From 5 December 2013 onwards, the majority of Muslims of Boeing and Cattin, including Salehou Ndiaye and P-2682, fled to PK5 in Bangui, while some others fled to other parts of the CAR, in the context of the attack by Mr Yekatom’s group on Boeing and Cattin. Muslim persons who fled to PK5 continued to fear for their security because of the presence of the Anti-Balaka around PK5 and Bangui generally. With the influx of Muslims fleeing the attack on Bangui on 5 December 2013, PK5 became overcrowded, practically uninhabitable, and

⁶⁶³² P-0889: T-111, p. 12, lines 6-22 referring to Sketch, CAR-OTP-2027-2311.

⁶⁶³³ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 567 referring to Compilation, CAR-OTP-2088-1198, at 1218.

⁶⁶³⁴ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 385-386.

⁶⁶³⁵ P-1339: T-155, p. 22, lines 12-17.

unsafe. As a result, some Muslims, including Salehou Ndiaye and P-2682, then fled to neighbouring countries fearing for their safety.

2678. The Chamber notes that the Prosecution points to two sets of events attributed to Mr Yekatom's group that led the Muslims to flee from Boeing and Cattin on 5 December 2013 to PK5. First, Mr Yekatom's 'attack against the Muslim civilian population of B[oeing] and C[atatin] on 5 December 2013'.⁶⁶³⁶ Second, 'the crimes that his elements continued to commit, under his leadership, against this population' while based at Yamwara.⁶⁶³⁷ The Prosecution submits that Muslims from Boeing and Cattin fled to PK5 as this was 'the only safe place' for them in Bangui, and to other parts of the CAR and neighbouring countries.⁶⁶³⁸ The Prosecution submits that most of the displaced Muslims at PK5 were eventually evacuated to neighbouring countries, including Chad and Cameroon, in convoys secured by heavy military escorts.⁶⁶³⁹ The Prosecution argues that the 'forced departure of the Muslim civilian population from Bangui' was one of the 'objectives' of the Anti-Balaka who took part in the attack, including Mr Yekatom and his group.⁶⁶⁴⁰

2679. The Chamber will first address the evidence concerning Muslims fleeing Boeing and Cattin to PK5 and then turn to Muslims fleeing to other parts of the CAR and neighbouring countries.

2680. Before turning to its assessment, the Chamber recalls that PK5 is in the 3rd arrondissement.⁶⁶⁴¹ It is located next to Boeing neighbourhood with Cattin falling in between Boeing and PK5.⁶⁶⁴²

2681. In its assessment, the Chamber has considered evidence from witnesses, who were familiar with these locations, namely, Salehou Ndiaye, P-2682, P-1339 and P-0884. As set out in detail below, the Chamber finds that Muslims, including Salehou Ndiaye and P-2682, fled Boeing and Cattin to PK5, other parts of the CAR, and to neighbouring countries.

⁶⁶³⁶ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, paras 573, 575.

⁶⁶³⁷ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, paras 573, 576.

⁶⁶³⁸ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 573.

⁶⁶³⁹ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 578.

⁶⁶⁴⁰ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 574.

⁶⁶⁴¹ Map, CAR-OTP-2062-0666.

⁶⁶⁴² Map, CAR-OTP-2062-0666; Map, CAR-OTP-2118-9146. *See also* footnote 6506 above.

2682. Amongst these accounts, the Chamber first notes those of Salehou Ndiaye and P-2682, who described in detail how they and their families were forced to leave their homes and belongings behind and seek refuge and protection at PK5 and then in neighbouring countries. As set out below, Salehou Ndiaye fled from Cattin as a direct result of the events at the Boeing Mosque and Cattin.⁶⁶⁴³ P-2682 stayed in PK5 as a direct result of her husband's death during the events at the Boeing Market.⁶⁶⁴⁴

i. Salehou Ndiaye

2683. Salehou Ndiaye, who at the time was a resident of Cattin, explained that on 5 December 2013, he feared for his and his family's safety and was 'desperate to take them to a safe location'.⁶⁶⁴⁵ The Chamber recalls that he witnessed a killing in Cattin between 08:00 and 09:00 that morning,⁶⁶⁴⁶ and had heard gunshots from the direction of the Boeing Mosque.⁶⁶⁴⁷

2684. At around 11:00 or 12:00, Salehou Ndiaye heard from a Christian neighbour, whom he saw leaving with her two children, that her husband had called and told them to leave immediately because he had heard that 'the attack of the Anti-Balaka had failed and [...] they were now planning to return and kill all Muslims in the area'.⁶⁶⁴⁸ The witness then approached another Christian neighbour, who agreed to help him and gave him a ladder so that he and his family members – 11 in total – could climb over a three-meter wall and seek shelter at his compound.⁶⁶⁴⁹ Thereafter, a friend who lived in KM5, drove to Cattin to fetch them; Salehou Ndiaye and his family climbed over the wall back to their property; some of his family members left with his friend while others left with him in his car.⁶⁶⁵⁰

2685. Salehou Ndiaye said that they all went to KM5, which he considered 'the only safe place to go as the majority of the population [was] Muslim'.⁶⁶⁵¹ He believed that they had no other

⁶⁶⁴³ See also sections IV.B.3.ii, IV.B.4 above.

⁶⁶⁴⁴ See also section IV.B.3.i above.

⁶⁶⁴⁵ P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0763, para. 34.

⁶⁶⁴⁶ See paragraphs 2655-2665 above.

⁶⁶⁴⁷ See paragraph 2620 above.

⁶⁶⁴⁸ P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0763, para. 35.

⁶⁶⁴⁹ P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0763, para. 36.

⁶⁶⁵⁰ P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0763, para. 37.

⁶⁶⁵¹ P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0764, para. 38.

option but to flee Cattin and that if they had stayed in the house they would have all been killed.⁶⁶⁵²

2686. Other members of Salehou Ndiaye's family who were living at his older brother's compound in Cattin managed to flee the area approximately three to four days after the Bangui Attack when the French Sangaris were present in the area.⁶⁶⁵³ They fled to KM5 [REDACTED].⁶⁶⁵⁴ He explained that the Anti-Balaka retreated and this gave his family members and other local Muslims 'an opportunity to leave the area safely'.⁶⁶⁵⁵

2687. Having regard to the above, the Chamber finds that Salehou Ndiaye, like many others, fled Cattin prompted by fear, having directly observed some of the events concerning the Boeing Mosque,⁶⁶⁵⁶ and Cattin. These fears were subsequently reinforced by the information received from and assistance provided by his Christian neighbours.

2688. In the case of Salehou Ndiaye's family members and 'other local Muslims', who fled Cattin, the Chamber finds that these persons also fled because of the attacks on the Boeing Mosque and Cattin, which took place during the Bangui Attack. The Chamber notes that while this move only occurred three or four days after the events in Cattin, it finds that it was nonetheless because of the events in Cattin during the Bangui Attack. Salehou Ndiaye noted specifically that these persons left only when the French Sangaris were present in the area and the Anti-Balaka had retreated. In the same vein, the Chamber has also considered that the witness stated that after news on the killing of Muslim traders at the Boeing Market

⁶⁶⁵² P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0764, para. 39.

⁶⁶⁵³ P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0764, para. 40.

⁶⁶⁵⁴ P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0764, para. 40.

⁶⁶⁵⁵ P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0764, para. 40. The Chamber notes that Salehou Ndiaye provided further details during his second interview, including that when he was in PK5, he received information that the Anti-Balaka were going to attack this compound as well as other Muslims who had stayed in the neighbourhood, so he called people living in that compound and told them to leave as soon as possible; after his phone call, all the people living in the compound fled to '[REDACTED]'; thereafter, some stayed in Bangui while others fled to Cameroon and Chad (see P-1528 Second Statement, CAR-OTP-2121-2831-R01, at 2835, para. 26). When asked about his source of information, Salehou Ndiaye explained that when they were in the hangar, people talked and said that 'the Anti-Balaka' could be doing a 'cleansing operation' and 'sort out the Muslims' that night, and while these were rumours and it was impossible to check the information, it was best to take precautions (see P-1528: T-178, p. 31, line 24 – p. 32, line 23).

⁶⁶⁵⁶ See paragraph 2620 above.

spread, people started to leave, some on the same day, others within a few days after the attack.⁶⁶⁵⁷

2689. Salehou Ndiaye said that when they left their home in Cattin, they did not have time to take any possessions with them because they were ‘fleeing for [their] lives’.⁶⁶⁵⁸

2690. Salehou Ndiaye explained that he and his family first lived with a friend in KM5 for a month, and around 3 or 4 January 2014, he took his family outside of the country because he ‘feared for their continued safety’ in the CAR.⁶⁶⁵⁹ The witness did not see ‘a clear future for [them] as Muslims’ in the CAR and believed that the problems were not over and that their personal safety was at risk.⁶⁶⁶⁰

2691. Salehou Ndiaye said that in June 2014, he returned to Bangui where he found ‘things still tense’ and noticed that all Muslims from the Boeing neighbourhood had fled.⁶⁶⁶¹ They had to disguise themselves to avoid being recognised as Muslims, which meant that they could not wear their traditional clothing or symbols, and they needed UN escorts to move around certain areas of Bangui.⁶⁶⁶² He went back to [REDACTED] in Cattin on 26 January 2016 and found it ‘totally looted and mostly destroyed’.⁶⁶⁶³ His family was not compensated following the destruction of [REDACTED].⁶⁶⁶⁴

2692. Salehou Ndiaye explained that after he went back to the CAR, his sister whose husband was killed and her daughter went back in 2018 or 2019, and his two daughters also went back in 2018 as their schooling had suffered while being out of the CAR.⁶⁶⁶⁵ He also explained that being far away from his family, particularly after the ‘events’, was not easy; he was unemployed at the time of his testimony but had to support and cover for his family’s expenses.⁶⁶⁶⁶ He further described his family situation as follows:

⁶⁶⁵⁷ P-1528 Second Statement, CAR-OTP-2121-2831-R01, at 2835, para. 24.

⁶⁶⁵⁸ P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0763, para. 37.

⁶⁶⁵⁹ P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0765, para. 48.

⁶⁶⁶⁰ P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0765, para. 48.

⁶⁶⁶¹ P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0765, paras 48-49.

⁶⁶⁶² P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0765, para. 49.

⁶⁶⁶³ P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0766, para. 53.

⁶⁶⁶⁴ P-1528: T-178, p. 50, line 18 – p. 51, line 2.

⁶⁶⁶⁵ P-1528: T-178, p. 45, lines 5-23.

⁶⁶⁶⁶ P-1528: T-178, p. 46, lines 8-16.

Other than the financial problems, when you also have the family problems – you know, if you're poor that's one thing, but at least you can be together, but when you are not even together [...] it's difficult. It's really difficult. Even, you know, if you are together, you can at least share the burden. But the fact that I'm far away from my family and my family is far away from me, this is very difficult, and also it is very harmful for the schooling of my children.⁶⁶⁶⁷

2693. Salehou Ndiaye indicated that since he had returned to Bangui, he lived in a flat of a friend with one bedroom, a living room and a shower, and did not have the financial resources to bring his family back to Bangui to live with him.⁶⁶⁶⁸

2694. Salehou Ndiaye indicated that approximately two weeks after 5 December 2013, a neighbour called him and told him that all their homes had been looted.⁶⁶⁶⁹ Earlier, the deputy imam of the Boeing Mosque and the muezzin had told him that the mosque had been 'pillaged and subsequently destroyed'.⁶⁶⁷⁰ He also explained that except for his clothes and his car, he had to leave all his property behind when he fled his house, but at least he and most of his family were still alive:

Unfortunately, those were the consequences of these unfortunate events. And you can't really even measure the consequences. The consequences have been terrible for the people who have experienced this situation and I'm not the only one. Many people, both Muslims and Christians. Not only Muslims were victims, Christians too. I left my house on 5 December. On the way out, [...] there were other events. I left with my family, and just with the clothes on my back, some clothing and [...] my car. That's it. Everything else we left behind in the house. And a few days later, my neighbour called me and said, 'Neighbour, people are going into your house and they are emptying it.' And I said to her, 'Let them empty the house.' Because the son of the neighbour was in the house [...] I had asked him to stay in the house, to keep an eye on things. And when I heard that people had come to the house to vandalise the house, I said to my neighbour, 'Tell your son to get out of there. Possessions are nothing. Life is more important.' So the boy left and they looted my house. They left me nothing. Even documents, my diplomas, my children's birth certificates. They took everything. I thank God that I'm still alive. And most of my family is alive, with the exception of my brother-in-law who was murdered. Because, you know, a soul does not come back. Possessions, if I work hard, I can [...] buy some more. But when a soul is torn away from you, you cannot call that soul back. That bothers me the most. I have lost

⁶⁶⁶⁷ P-1528: T-178, p. 46, lines 17-22.

⁶⁶⁶⁸ P-1528: T-178, p. 51, lines 3-21.

⁶⁶⁶⁹ P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0765, para. 47.

⁶⁶⁷⁰ P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0765, para. 47.

everything. I left the house with nothing except for my car and the clothes on my back.⁶⁶⁷¹

2695. Salehou Ndiaye also explained how the events emotionally affected him:

But anyway, you take life as it come[s]. And you had to save your skin. And that's what we did. But, you know, all these events, I think it's very difficult. It's very, very difficult to forget all that happened. It's very, very difficult, very difficult. And even to this day, when my mind rakes over it, it's a source of pain. And this is why I even avoid going to where I used to live. I avoid going there, because as soon as I go in the area, all this comes flooding back to me, and so I would spend a sleepless night then. So, [...] I'm basically, you know, almost on the floor here.⁶⁶⁷²

2696. Having regard to the above, the Chamber finds that Salehou Ndiaye had to flee out of the CAR in the context of the attack on the Boeing Mosque and Cattin, which took place during the Bangui Attack.

ii. P-2682

2697. P-2682, who was a resident of Boeing at the time, described how rumours about an impending attack, and concerns for their safety, grew in the days immediately prior to the Bangui Attack.⁶⁶⁷³ On 3 December 2013, after telling her husband that she could no longer stay in Boeing, P-2682 told him that she would leave for PK5 with the children; once she arrived to PK5, she told her in-laws that her area in Boeing was in danger.⁶⁶⁷⁴ There was no indication, at that time, that she would be separated from her husband or that she would need to dislocate from Boeing. P-2682's husband stayed at the Boeing Market, was killed during the Bangui Attack and it is from PK5 that she learnt of his death.⁶⁶⁷⁵ P-2682 said that during the time she stayed at PK5 after the Bangui Attack, she did not leave the house to see what was happening outside because she was mourning her husband.⁶⁶⁷⁶

2698. The Chamber considers that while P-2682 moved to PK5 a few days before the events at the Boeing Market, her continued stay in PK5 on and after 5 December 2013 is inevitably linked to the death of her husband and the threats to her life that she received from an unidentified

⁶⁶⁷¹ P-1528: T-178, p. 46, line 23 – p. 47, lines 23.

⁶⁶⁷² P-1528: T-178, p. 56, lines 1-8.

⁶⁶⁷³ See paragraph 2296 above.

⁶⁶⁷⁴ P-2682: T-017, p. 26, lines 13-19, p. 44, lines 2-16; T-018, p. 32, lines 6-25.

⁶⁶⁷⁵ See paragraphs 2548-2550 above.

⁶⁶⁷⁶ P-2682: T-017, p. 44, line 22 – p. 45, line 6.

speaker talking to her from her husband's phone.⁶⁶⁷⁷ For these reasons, the Chamber finds that P-2682 fled to PK5 in the context of the attack on the Boeing Market, which took place during the Bangui Attack.

2699. P-2682 further said that after 5 December 2013 and fleeing to PK5, she went with her in-laws to the embassy so that they could be 'evacuated' to Chad.⁶⁶⁷⁸ In particular, she indicated that they waited at the embassy for a car to take them to the airport, from where they would take a plane; however, they learnt that the plane could not land because 'the Anti-Balaka had invaded the airport', so they waited at the embassy until the vehicle arrived.⁶⁶⁷⁹ She specified that there were many 'trucks to transport troops', that they had an escort from Chad who helped them get out of the CAR, and that eventually they were taken to N'Djamena.⁶⁶⁸⁰

2700. P-2682 described an encounter with the 'Anti-Balaka' along the way. In particular, she indicated that when they took the main route, *Avenue des Martyrs*, they met 'young people' who had machetes and sticks, or makeshift guns, *gris-gris*, and they threatened them and made gestures with their hands, saying, 'We're going to kill you. We're going to slit your throats'.⁶⁶⁸¹ She explained that she immediately identified them as Anti-Balaka ('you can't make a mistake') because of the way they were behaving: they were carrying *gris-gris*, had bush clothes, hunting arms and machetes, brooms to sweep the soil, and they were making throat-slitting gestures.⁶⁶⁸² She indicated that they were numerous, they could be seen all along the road 'even if you passed PK12', and those travelling were forced to lie down in the vehicle.⁶⁶⁸³ She indicated that there were also children throwing stones at them, at PK12 there were women with brooms making gestures and shouting, 'Leave, leave, we no longer want to see you here'.⁶⁶⁸⁴ She seemed to indicate that she knew that the women were

⁶⁶⁷⁷ See paragraphs 2548-2550 above.

⁶⁶⁷⁸ P-2682: T-017, p. 37, lines 10-17.

⁶⁶⁷⁹ P-2682: T-017, p. 37, lines 17-23. The Chamber notes that the time P-2682 spent at PK5 and waiting at the embassy is unclear as she seemed to indicate that she spent one week at the house at PK5 but at the same time indicated that they spent 1 January 2014 at the embassy, one week at the house, then went to the embassy to wait for the aircraft, and then waited for a vehicle until it arrived, spending the month of December 'there' (P-2682: T-018, p. 33, lines 1-7, p. 53, line 23 – p. 55, line 5). The Chamber is in any event satisfied that according to her testimony, P-2682 was transported outside of the CAR at some point in January 2014.

⁶⁶⁸⁰ P-2682: T-017, p. 37, line 23 – p. 38, line 7.

⁶⁶⁸¹ P-2682: T-017, p. 38, lines 10-20.

⁶⁶⁸² P-2682: T-017, p. 46, line 24 – p. 47, line 6.

⁶⁶⁸³ P-2682: T-017, p. 47, lines 11-15.

⁶⁶⁸⁴ P-2682: T-017, p. 48, lines 7-14; T-018, p. 47, line 13 – p. 48, line 4.

civilians, while she identified ‘the men with frizzy hair’ and *gris-gris* as ‘people who had come from the provinces to attack the town’.⁶⁶⁸⁵

2701. P-2682 explained that she lived in a displaced camp in Chad for 40 days, where they were given food; and since she had lost her husband, she could not really move, so the only thing they could do was to go out to go to the toilet.⁶⁶⁸⁶ Thereafter, she went to stay at the town of her in-laws in N’Djamena, her in-laws gave her a bit of money so that she could go to the market and prepare food.⁶⁶⁸⁷ When her in-laws told her that she should maybe go back to Bangui, she sold the plot where her house had been (and which had been destroyed) to obtain some money to return to [REDACTED].⁶⁶⁸⁸ She then returned to [REDACTED] together with her in-laws, with whom she still lived at the time of her testimony, in a small house.⁶⁶⁸⁹ She estimated having spent about one year and two months in Chad.⁶⁶⁹⁰

2702. P-2682 explained that all these events really made her scared, she knew that if she had stayed in the CAR she would have also been killed and her in-laws told her that they could not leave her alone and they did not want to leave her behind so they told her to go with them until the situation went back to normal, and given the situation at the time, she did not really want to stay in the country anyway.⁶⁶⁹¹ P-2682 confirmed being particularly sad the day she left Bangui.⁶⁶⁹² She indicated that when she arrived in Chad, she did not miss anything because she had more or less the things that she wanted, somebody was looking after her, but she was really suffering because of the death of her husband.⁶⁶⁹³

2703. Having regard to the above, the Chamber finds that P-2682 had to flee to Chad in the context of the attack on the Boeing Market, which took place during the Bangui Attack.

⁶⁶⁸⁵ P-2682: T-018, p. 47, line 13 – p. 48, line 17.

⁶⁶⁸⁶ P-2682: T-017, p. 39, line 21 – p. 40, line 1.

⁶⁶⁸⁷ P-2682: T-017, p. 40, lines 2-8.

⁶⁶⁸⁸ P-2682: T-017, p. 40, lines 2-17.

⁶⁶⁸⁹ P-2682: T-017, p. 40, lines 15-17.

⁶⁶⁹⁰ P-2682: T-017, p. 40, line 25 – p. 41, line 2.

⁶⁶⁹¹ P-2682: T-017, p. 39, lines 12-20, p. 45, lines 9-14.

⁶⁶⁹² P-2682: T-017, p. 45, lines 15-17.

⁶⁶⁹³ P-2682: T-017, p. 45, lines 18-25.

iii. Fleeing to other locations in the CAR

2704. The Chamber received evidence on the fleeing of Muslim inhabitants of Cattin and Boeing to other parts of the CAR in the context of the attack in Boeing and Cattin, which took place during the Bangui Attack.

2705. The Chamber recalls that some of Salehou Ndiaye's family members fled to [REDACTED] approximately three to four days after the Bangui Attack.⁶⁶⁹⁴ The Chamber also notes the experience of Odette Namsona who fled to the refugee site at the M'Poko airport in Bangui, as described below.⁶⁶⁹⁵

2706. Odette Namsona, a non-Muslim resident of Bossangoa who was staying with her younger sister in Boeing at the relevant time when 'the children', referring to the Anti-Balaka, entered Bangui, testified that two days after the attack 'the inhabitants of the district' fled, including herself, who went to the airport.⁶⁶⁹⁶ The Chamber notes that while Odette Namsona indicated that Muslims in and around Bangui fled to PK5 running away from *both* the Anti-Balaka and the Seleka,⁶⁶⁹⁷ she seemed to link her own fleeing from Boeing to the Anti-Balaka's arrival thereto: 'I left Boeing when the Anti-Balaka arrived. [...] When they got there, there was fighting going on and people were firing everywhere. We fled and took refuge at the airport',⁶⁶⁹⁸ '[w]hen the Anti-Balaka got to Bangui, two days after their arrival, it was no longer possible to stay at our home. We fled and took refuge at the airport'.⁶⁶⁹⁹

⁶⁶⁹⁴ P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0764, para. 40; P-1528 Second Statement, CAR-OTP-2121-2831-R01, at 2835, para. 26.

⁶⁶⁹⁵ D30-4496: T-290, p. 14, line 6 – p. 15, line 19. In relation to the arrival of 'displaced' people to the airport in Bangui, *see also* the estimates included in Report, CAR-OTP-2110-0460. The Chamber notes that the Ngaïssona Defence objected to this report arguing that the document 'itself contains information on its own lack of reliability' since the figures in it are based on estimates and subject to an update (*see* Annex 1 to Defence Response to the "Prosecution's Eleventh Application for the Submission of Open-source Evidence from the Bar Table" ICC-01/14-01/18-2010-Conf, 29 September 2023, ICC-01/14-01/18-2114-Conf-Anx1, pp. 32-33, row 41). The Chamber notes indeed that the report, issued by the UN Office for the Coordination of Humanitarian Affairs, indicates that the figures are based on estimates. Nonetheless, considering the methodology explained in the report as well as the limited purpose for which the Chamber relies on the estimates included in the report, the Chamber does not see any issue.

⁶⁶⁹⁶ D30-4496: T-290, p. 14, line 6 – p. 15, line 19.

⁶⁶⁹⁷ *See* D30-4496: T-290, p. 18, lines 16-25, p. 20, lines 13-17.

⁶⁶⁹⁸ D30-4496: T-290, p. 20, line 24 – p. 21, line 6.

⁶⁶⁹⁹ D30-4496: T-290, p. 21, line 20 – p. 22, line 1.

2707. Odette Namsona explained that she spent four weeks at the airport together with her children and daughters-in-law; thereafter, she stayed for one week at the ‘foyer’ looking for some work to have a bit of money; and then she went back to her husband in Boeing.⁶⁷⁰⁰

2708. Having regard to the above, the Chamber finds that Muslims from Boeing and Cattin also fled to other locations in Bangui in the context of the attack in Boeing and Cattin on 5 December 2013.

iv. Fleeing to neighbouring countries

2709. In addition to the personal experiences of Salehou Ndiaye and P-2682 fleeing to neighbouring countries, the Chamber heard generally from P-2472, who stated that due to the continued insecurity, many Muslims wanted to leave Bangui and go to neighbouring countries.⁶⁷⁰¹ P-2472 stated that the Chadian army started evacuating people of Chadian origin and collected them with ‘heavily armed armoured vehicles’ from various locations around the CAR.⁶⁷⁰² He also stated that the Anti-Balaka attacked those who were evacuated by road.⁶⁷⁰³ D30-5014 said that the IOM evacuated some people, ‘[t]he president sent some trucks as well to evacuate’, and many countries sent planes ‘to repatriate their nationals’.⁶⁷⁰⁴

2710. The Chamber also heard from Anti-Balaka witnesses who recalled how Muslims were sent to Chad, Cameroon and ‘Congo’ with the assistance of the international and MISCA forces deployed in the CAR at the time. Considering their evidence in its totality below, the Chamber appreciates the scale of the movement of Muslims outside the CAR.

2711. P-0889 recalled that after 5 December 2013, Sangaris and MISCA began to ‘repatriate Muslims out of the territory’.⁶⁷⁰⁵

2712. Jean-Jacques Demafouth considered that ‘people themselves made that request’ and they ensured and assisted those who had resources to take flights while others took the road.⁶⁷⁰⁶

⁶⁷⁰⁰ D30-4496: T-290, p. 21, line 20 – p. 22, line 14.

⁶⁷⁰¹ P-2472 Statement, CAR-OTP-2110-0355-R01, at 0362, para. 40.

⁶⁷⁰² P-2472 Statement, CAR-OTP-2110-0355-R01, at 0362, para. 40.

⁶⁷⁰³ P-2472 Statement, CAR-OTP-2110-0355-R01, at 0362, para. 40.

⁶⁷⁰⁴ D30-5014: T-258, p. 23, line 25 – p. 24, line 10.

⁶⁷⁰⁵ P-0889: T-109, p. 29, lines 18-23.

⁶⁷⁰⁶ P-2328: T-048, p. 5, lines 11-14.

The witness recalled that there were many convoys in the border with Chad, Cameroon and ‘sometimes with Congo’.⁶⁷⁰⁷

2713. P-0876 stated that from 5 December 2013 and until Michel Djotodia’s resignation, convoys and flights were arranged by countries such as Chad and Senegal to get the Muslim citizens out of the country, which is why not many Muslim civilians were left except at Kilometre 5, where they were protected by the Seleka.⁶⁷⁰⁸ He explained that there was a ‘displacement’ of the Muslim population of Bangui towards the hinterland or to other countries.⁶⁷⁰⁹ Specifically regarding Chad, he indicated that there were 400 or 500 large trucks that could transport up to 80 people to Chad or elsewhere and detailed that they used trucks for cattle to transport Muslim ‘Chadian citizens’ who were in Bangui to the hinterland or to Chad.⁶⁷¹⁰

2714. As set out below, the Chamber also had regard to certain witnesses who had a leadership role within the Anti-Balaka at the time and spoke to a continued animosity against the Muslims during these evacuations.

2715. P-0884 explained that the evacuation of the Chadian nationals started in January, February, and lasted ‘until Samba-Panza put an end because she believed that not everyone could leave like that’, ‘[t]hey were also Central Africans and, therefore, they should not necessarily leave the country’.⁶⁷¹¹ He said that the Chadian contingent of FOMAC escorted the Muslim population and shot ‘to make sure the local population wouldn’t attack the convoys’, which would otherwise ‘throw stones and others’.⁶⁷¹² P-0884 clarified that it was mainly the Chadian FOMAC, and no other contingents of the FOMAC, which started to shoot along the convoy until PK12 because they were escorting ‘their own fellow men’ and they wanted to ensure that their compatriots could leave.⁶⁷¹³

⁶⁷⁰⁷ P-2328: T-048, p. 5, lines 14-16.

⁶⁷⁰⁸ P-0876 Interview Transcript, CAR-OTP-2046-0455-R01, at 0462, lines 251-259.

⁶⁷⁰⁹ P-0876 Interview Transcript, CAR-OTP-2046-0562-R01, at 0563-64, lines 37-50.

⁶⁷¹⁰ P-0876 Interview Transcript, CAR-OTP-2046-0562-R01, at 0563-64, lines 37-50; P-0876: T-086, p. 34, line 25 – p. 35, line 7. The Chamber notes that from the context it is clear that the witness referred to the transport of up to 80 people per truck.

⁶⁷¹¹ P-0884: T-057, p. 29, lines 1-8.

⁶⁷¹² P-0884: T-057, p. 29, lines 22-25.

⁶⁷¹³ P-0884: T-057, p. 28, lines 15-25.

2716. Alfred Legrand Ngaya confirmed that as a consequence of the ‘uncontrolled anger’ of the civilian population towards Muslims of PK5 and other Muslims, the Muslim population of PK5 requested the support of the transitional government to be evacuated out of PK5.⁶⁷¹⁴ The witness said that ‘[f]ortunately’, there were international forces protecting the convoy going to Chad.⁶⁷¹⁵ He also indicated ‘[i]t was not all the Muslim communities’, ‘Malian and Senegalese Muslims’ remained and ‘were not bothered’.⁶⁷¹⁶

2717. Alfred Legrand Ngaya, who was in the Anti-Balaka leadership at the time, showed an express discriminatory attitude towards Muslims of Chadian or Sudanese descent when testifying in court. The witness said that it was ‘the Muslims from Chad and Sudan who caused problems’ and that due to their conduct, ‘the solution was that the Chadians should go back to their country’, so ‘convoys were organised for them to leave through the north exit of Bangui’.⁶⁷¹⁷ Alfred Legrand Ngaya indicated that ‘at one point, all Chadian nationals had to return to their country’, they left PK5 and took the road to the northern exit of Bangui, taking with them the properties they had ‘looted from non-Muslims’ and ‘taken to PK5’.⁶⁷¹⁸

v. *Number of displaced persons*

2718. As regards the number of victims, the Prosecution alleges that, at the end of December 2013, there were ‘nearly 100,000’ internally displaced persons in the third district of Bangui, where PK5 is located.⁶⁷¹⁹ It submits that this comprised (i) Muslim civilians of Boeing and Cattin; (ii) ‘thousands’ of Muslim civilians displaced from ‘other areas of Bangui’, who had also been forced to flee their homes due to the Bangui Attack; and (iii) ‘thousands’ of ‘displaced Muslims’ from the provinces, who had been victims of Anti-Balaka attacks there.⁶⁷²⁰

⁶⁷¹⁴ P-0808: T-071, p. 84, lines 2-8.

⁶⁷¹⁵ P-0808: T-071, p. 83, lines 23-24.

⁶⁷¹⁶ P-0808: T-071, p. 84, lines 8-20.

⁶⁷¹⁷ P-0808: T-071, p. 84, lines 8-20.

⁶⁷¹⁸ P-0808: T-071, p. 83, lines 10-24.

⁶⁷¹⁹ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 577.

⁶⁷²⁰ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 577.

2719. Regarding the number of Muslims who fled to PK5, the Chamber notes that a UN report estimates that at the end of December 2013, nearly 100,000 internally displaced persons were refugees in the third arrondissement of Bangui, where PK5 is located.⁶⁷²¹

2720. The Chamber also notes the evidence of Salehou Ndiaye who said that there were others like him that left to PK5 from Boeing and Cattin, in the context of the attacks there.

2721. Salehou Ndiaye said that there were other Muslim men, women and children who left on or after 5 December 2013 because they were targeted and had no alternative but to leave.⁶⁷²² This included those who did not place palm leaves on their front doors and risked being killed if they stayed, as they were not prepared to being attacked and they had no weapons.⁶⁷²³ The majority of these Muslims fled to ‘host families’ in PK5, some stayed in PK5 and others left, some might have returned to Boeing and Cattin two or three years after things calmed down.⁶⁷²⁴ Salehou Ndiaye indicated that some Muslims were able to return to the places where they lived before ‘the events’.⁶⁷²⁵ He was also aware of people who could not go back, including the muezzin of the Boeing Mosque, who still lived at PK5 at the time of the witness’s testimony, another individual crossed to Zongo and died there.⁶⁷²⁶

2722. The Chamber notes that Christian residents of Boeing at the time, namely Thierry Kpademona and P-1705, recalled Muslim families from Boeing fleeing to PK5 in the context of the attack on Boeing, which took place during the Bangui Attack.

2723. Thierry Kpademona, a Gbaya of Christian faith,⁶⁷²⁷ whose family also fled to the airport to seek refuge, stated that many Muslim families fled to PK5 ‘because of the 5th December attack’, fearing that they would be killed in what had ‘now’ become a fight between Christians and Muslims.⁶⁷²⁸ The witness recalled that many Muslims were killed by the Anti-

⁶⁷²¹ Report, CAR-OTP-2110-0460, at 0460. *See also* footnote 6695 above.

⁶⁷²² P-1528 Second Statement, CAR-OTP-2121-2831-R01, at 2834, para. 22.

⁶⁷²³ P-1528 Second Statement, CAR-OTP-2121-2831-R01, at 2834, para. 22.

⁶⁷²⁴ P-1528 Second Statement, CAR-OTP-2121-2831-R01, at 2834, para. 22.

⁶⁷²⁵ P-1528: T-178, p. 48, lines 4-8. The Chamber notes that the witness gave this answer when asked whether he was aware of other Muslims who used to live in Boeing and Cattin and who were able to go back, and therefore considers that he specifically referred to these locations when answering this question.

⁶⁷²⁶ P-1528: T-178, p. 48, lines 9-18.

⁶⁷²⁷ P-1990 Statement, CAR-OTP-2124-0247-R02, at 0250, para. 12.

⁶⁷²⁸ P-1990 Statement, CAR-OTP-2124-0247-R02, at 0252, para. 24.

Balaka because ‘they were caught up by surprise during the attack’, he saw bodies of his Muslim neighbours laying on the ground when the attack had quietened down.⁶⁷²⁹ Thierry Kpademona said that once ‘all the Muslims had fled’, things were ‘calmer’.⁶⁷³⁰

2724. P-1705 said that when ‘the Balaka’ arrived, the two communities were no longer living side by side peacefully and all the Muslims were ‘driven out’.⁶⁷³¹ P-1705 recalled that on 5 December 2013, ‘when there were shots fired’ in Boeing, some people took refuge in Kilometre 5 and others took shelter in their own homes and were killed by the Anti-Balaka, the houses and the mosque were destroyed.⁶⁷³² P-1705 specified that he knew it was the Anti-Balaka who killed them because ‘those who went to see what was going on’ told him about the events.⁶⁷³³

2725. The Chamber notes that elements belonging to Mr Yekatom’s group also attested to the fleeing of Muslim residents of Boeing and Cattin following the group’s attack on these locations but without specifying the numbers.

2726. Notably, P-1339 confirmed that the Muslim traders at the Boeing Market who were unarmed fled and sought refuge in Kilometre 5, ‘where they thought they would have the protection by members of their family’.⁶⁷³⁴ P-1339 said that ‘some of them were helped by the Red Cross so that they could arrive at PK5’.⁶⁷³⁵ P-1339 noted that ‘after the fighting on the 5th’, some people left to go to the airport and some went to the *Foyer de Charité*.⁶⁷³⁶

2727. P-1786, who joined Mr Yekatom’s group at Yamwara after the Bangui Attack,⁶⁷³⁷ recalled that there were ‘no Muslims left in B[oeing]’ after the attack on the Boeing Market.⁶⁷³⁸

⁶⁷²⁹ P-1990 Statement, CAR-OTP-2124-0247-R02, at 0252, para. 24.

⁶⁷³⁰ P-1990 Statement, CAR-OTP-2124-0247-R02, at 0252, para. 24.

⁶⁷³¹ P-1705: T-211, p. 9, line 25 – p. 10, line 6.

⁶⁷³² P-1705: T-211, p. 10, lines 7-20.

⁶⁷³³ P-1705: T-211, p. 10, line 23 – p. 11, line 4.

⁶⁷³⁴ P-1339: T-154, p. 45, line 24 – p. 46, line 10. *See also* P-1339: T-154, p. 43, lines 8-20, where P-1339 indicated that during the fight, Hassan’s brother and sister fled and sought refuge in Kilometre 5.

⁶⁷³⁵ P-1339: T-154, p. 46, lines 8-10.

⁶⁷³⁶ P-1339: T-157, p. 43, lines 7-10.

⁶⁷³⁷ *See* paragraph 3043 below.

⁶⁷³⁸ P-1786 Statement, CAR-OTP-2058-0200-R03, at 0207, para. 40.

2728. Stéphane Chrisostome Dawili, who joined Mr Yekatom's group in December 2013 when they were based in Yamwara,⁶⁷³⁹ testified that after the Bangui Attack, Muslims living in districts such as Boeing fled and gathered around Kilomètre 5, after which there were 'no more Muslims' living in those districts.⁶⁷⁴⁰

2729. The Chamber has also received evidence from witnesses who were in PK5 themselves at the relevant time, namely P-2472 and D29-5014, but who were unable to provide any estimates about the number of people in PK5 that had come from Boeing and Cattin at the relevant time. P-2472 stated that in Boeing, the attacks were intense and many Muslims living there were killed by the Anti-Balaka while 'the survivors' fled to PK5.⁶⁷⁴¹

2730. D29-5014 confirmed that she learnt that Anti-Balaka forces had killed individuals at the Boeing Market and that, as a consequence, many people sought refuge at Kilomètre 5, specifying that after 5 December 2013, while there were 'a few' Muslims that were still in 'the Christian neighbourhood', the 'majority' of the Muslims sought refuge in Kilomètre 5.⁶⁷⁴²

2731. In the Chamber's view, all of the above accounts generally illustrate the fleeing of Muslims from Boeing and Cattin to PK5 in the context of the attacks on 5 December 2013 in these locations.

2732. The Chamber has no accurate estimates of the number of Muslims that lived in Boeing and Cattin before and after the concerned events, except for those provided by Salehou Ndiaye, who stated that before 5 December 2013, around 100 Muslim families were living in Boeing and Cattin.⁶⁷⁴³ Nonetheless, the Chamber notes the abundant evidence on the case record

⁶⁷³⁹ See paragraph 3043 below.

⁶⁷⁴⁰ P-1647: T-194, p. 15, line 23 – p. 16, line 9.

⁶⁷⁴¹ P-2472 Statement, CAR-OTP-2110-0355-R01, at 0359-60, para. 25. The Chamber notes, however, that the witness's source of information is unclear.

⁶⁷⁴² D30-5014: T-258, p. 22, lines 12-21. The Chamber considers that when specifying that 'there were a few [Muslims] that were still in the Christian neighbourhood', the witness was referring to Boeing.

⁶⁷⁴³ P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0760, para. 16.

pointing to the massive displacement of the Muslim population of Bangui to PK5 and to other parts within and outside of the CAR, in the context of the Bangui Attack.⁶⁷⁴⁴

vi. Circumstances further affecting the displaced persons

2733. In assessing the circumstances relevant to the allegations concerning displacement, the Chamber has considered (i) fear and threats to physical security; (ii) the lack of freedom of movement; (iii) the living conditions at PK5; and (iv) the fear of being identified as a Muslim following the events.

2734. As regards the climate of fear and threats to physical security, the Chamber finds that Muslims who fled to PK5 continued to feel threatened by the Anti-Balaka's presence around PK5 and Bangui generally. P-1865, who sought refuge at PK5 at the time, stated that they could not exit PK5 as they were afraid of the Anti-Balaka, who were in the other neighbourhoods of Bangui.⁶⁷⁴⁵

2735. P-2472 indicated that after the Bangui Attack, there were 'continuous attacks by the Anti-Balaka' against the Muslim population in Bangui for about three months, the Muslims living in PK5 were 'encircled' and could not get out, and they spent months unable to sleep, 'in constant fear of being attacked'.⁶⁷⁴⁶

2736. P-1666, a Muslim resident of Mbaïki who fled to PK5 in February 2014,⁶⁷⁴⁷ testified that the Muslims from all the neighbourhoods of Bangui and also from the provinces found themselves together in PK5.⁶⁷⁴⁸ He indicated that it was difficult to go out of the PK5 perimeter, '[y]ou would run the risk of being killed', '[i]t was impossible for those who were there to leave'.⁶⁷⁴⁹ He also indicated that the aim of the Anti-Balaka was 'to eradicate

⁶⁷⁴⁴ See e.g. P-1339: T-155, p. 16, line 22 – p. 17, line 4; P-0889 Interview Transcript, CAR-OTP-2122-7684-R02, at 7685-86, lines 31-78; P-1528 Second Statement, CAR-OTP-2121-2831-R01, at 2834, para. 20; P-1528: T-178, p. 35, lines 2-19; P-0567 Statement, CAR-OTP-2059-0084-R04, at 0106, para. 144; D30-5014: T-258, p. 23, lines 20-24, p. 24, lines 11-18; D30-4496: T-290, p. 18, lines 16-20, p. 20, lines 13-17.

⁶⁷⁴⁵ P-1865 Statement, CAR-OTP-2066-0134-R01, at 0143, para. 45.

⁶⁷⁴⁶ P-2472 Statement, CAR-OTP-2110-0355-R01, at 0362, para. 39.

⁶⁷⁴⁷ P-1666: T-231, p. 30, lines 17-22.

⁶⁷⁴⁸ P-1666: T-231, p. 33, lines 5-9.

⁶⁷⁴⁹ P-1666: T-231, p. 33, lines 15-21.

Kilometre 5’ and that their attacks were regular, coming there almost every day, they surrounded them and had their bases around Kilometre 5.⁶⁷⁵⁰

2737. In the view of the Chamber, this climate of fear contributed to the lack of freedom of movement within and outside of PK5. It made it close to impossible to leave PK5 safely.

2738. Notably, P-0876 [REDACTED] witnessed the ‘desolation’ and indicated that they lived in an ‘enclosure’, they could no longer leave, even if they wanted to, they preferred to stay there and suffer as that meant they could stay alive.⁶⁷⁵¹

2739. P-0475 stated that he knew the Ali Babolo Mosque in the 3rd arrondissement but he did not go there ‘during the crisis’ because entry into KM5 was not possible.⁶⁷⁵² He also indicated that after ‘that date’, PK5 around the 3rd arrondissement became an enclave for those who lived there, including Muslims and Christians; those who lived in PK5 could not come out, and those outside PK5 could not have access to those neighbourhoods.⁶⁷⁵³

2740. The Chamber has also considered the Prosecution’s submission that Mr Yekatom’s group attacked PK5 ‘on several occasions’ during this time, making it impossible to leave without risking being killed.⁶⁷⁵⁴ In the Chamber’s view, the Prosecution did not point to any evidence specific and reliable enough showing that Mr Yekatom’s group was attacking PK5 during this time.⁶⁷⁵⁵ Assessing P-2926’s report and his testimony together in respect of the portions cited by the Prosecution, the Chamber cannot ascertain the source of his knowledge; as he acknowledged in court, ‘when it comes to attacks at PK5, this is not mentioned in the referenced document, but it is also information from various interviews and from what was

⁶⁷⁵⁰ P-1666: T-231, p. 34, lines 11-15.

⁶⁷⁵¹ P-0876 Interview Transcript, CAR-OTP-2046-0562-R01, at 0566-67, lines 134-163. *See also* P-0876 Interview Transcript, CAR-OTP-2046-0500-R01, at 0527, lines 964-966.

⁶⁷⁵² P-0475 Statement, CAR-OTP-2104-0116-R03, at 0136, para. 162; P-0475 Corrections, CAR-OTP-2129-1743, at 1743.

⁶⁷⁵³ P-0475: T-091, p. 57, line 20 – p. 58, line 8. *See also* P-0475: T-090, p. 63, lines 8-16 (the Chamber notes that when asked whether he was aware that there were enclaves of Muslims in a number of locations within CAR, including Carnot, Berbérati, Bossangoa, Yaloké, PK5 and Boda, P-0475 indicated that there was a lot more talk of the enclave at PK5 than the other regions for which he did not have information).

⁶⁷⁵⁴ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 578 *referring to* P-2926, P-1990, P-1786, CAR Panel Final Report 2014, CAR-OTP-2001-5386 and Video, CAR-OTP-2012-0523.

⁶⁷⁵⁵ In this instance, the Chamber is unable to rely on the conclusions contained in the report and the video referenced by the Prosecution insofar as they concern Mr Yekatom’s actions (*see* CAR Panel Final Report 2014, CAR-OTP-2001-5386, at 5406, para. 75; Video, CAR-OTP-2012-0523, at 00:37:08-00:38:02; Translation, CAR-OTP-2118-5547, at 5577, lines 949-972).

being said in Bangui at the time’.⁶⁷⁵⁶ Thierry Kpademona did not mention any attacks in PK5 and P-1786 made a vague reference to attacking the Seleka in PK5 without mentioning the time frame and the context.⁶⁷⁵⁷

2741. At the same time, as set out below, the Chamber finds that the living conditions at PK5 made the environment practically uninhabitable. Witnesses described the living conditions in PK5 as difficult and dire, and highlighted the lack of food, medicines, basic sanitary conditions and rest.

2742. P-1865 stated that people were generous and shared their food; later, the ‘PAM’ distributed oil, rice and sometimes money to buy food, as they had nothing to eat.⁶⁷⁵⁸ P-1865 recalled not sleeping or eating well, the bathrooms were unclean, there was a lot of noise.⁶⁷⁵⁹ Similarly, P-2472 stated that they could not access food nor move outside of PK5 for fear of being attacked by the Anti-Balaka, saying it was easy to recognise a Muslim from the prayer marks.⁶⁷⁶⁰

2743. Catherine Samba-Panza explained that at enclaves such as the one at PK5, which ‘were really not fit for [...] human life’, they had no right to leave, no access to drinking water, food delivery, schooling for children nor to humanitarian organisations, those deceased had to be buried in PK5 and could not be brought outside to be buried elsewhere, and diseases spread.⁶⁷⁶¹

2744. P-0475 confirmed being aware of the ‘precarious living conditions’ of the people living there, which he described as ‘a very sad reality’.⁶⁷⁶²

2745. Moreover, the Chamber has received evidence showing that in the months that followed, the fear of being identified as a Muslim persisted. In the view of the Chamber, this further

⁶⁷⁵⁶ P-2926: T-032, p. 35, lines 13-24 *referring to* P-2926 Report, CAR-OTP-2127-4289, at 4323, para. 74.

⁶⁷⁵⁷ P-1990 Statement, CAR-OTP-2124-0247-R02, at 0254, para. 28; P-1786 Statement, CAR-OTP-2058-0200-R03, at 0207, para. 39.

⁶⁷⁵⁸ P-1865 Statement, CAR-OTP-2066-0134-R01, at 0143, para. 45.

⁶⁷⁵⁹ P-1865 Statement, CAR-OTP-2066-0134-R01, at 0143, para. 47.

⁶⁷⁶⁰ P-2472 Statement, CAR-OTP-2110-0355-R01, at 0363, para. 43.

⁶⁷⁶¹ P-0952: T-250-FRA, p. 63, lines 2-16; T-250-ENG, p. 65, lines 2-13. *See also* P-1823: T-183, p. 35, line 6 – p. 36, line 6 *referring to* Photographs, CAR-OTP-2073-0258; CAR-OTP-2073-0265.

⁶⁷⁶² P-0475: T-090, p. 55, lines 12-23 *referring to* Report, CAR-OTP-2002-0726, at 0734.

reinforced the decision taken by Muslims, such as Salehou Ndiaye and P-2682, to flee to other countries and the fear of coming back to the CAR.

2746. D30-5014 explained that when she went back home to PK5 at least two months after January 2014, she and her children had to raise their veils and wear shorts to disguise themselves so that they would not be easily recognised as Muslims, for their own safety, to save their lives.⁶⁷⁶³ She explained that the fact that she could not wear her usual Muslim clothing on the way back to PK5 made her feel uneasy and uncomfortable, because as a Muslim she has to cover herself up.⁶⁷⁶⁴ She said that ‘the others had to do the same thing’ and ‘if I went to the trouble of disguising myself, it means that the others did the same thing’.⁶⁷⁶⁵

vii. Conclusion

2747. On the basis of the above, the Chamber finds that the majority of Muslims, including Salehou Ndiaye and P-2682, fled Boeing and Cattin to PK5, while some others fled to other parts of the CAR, in the context of the attack by Mr Yekatom’s group on Boeing and Cattin. Muslim persons who fled to PK5 continued to fear for their security because of the presence of the Anti-Balaka around PK5 and Bangui generally. With the influx of Muslims fleeing the attack on Bangui on 5 December 2013, PK5 became overcrowded, uninhabitable, and unsafe. As a result, some Muslims, including Salehou Ndiaye and P-2682, then fled to neighbouring countries fearing for their safety. In this regard, the Chamber recalls the abundant evidence on the case record pointing to the massive displacement of the Muslim population of Bangui to PK5 and to other parts within and outside of the CAR, in the context of the Bangui Attack.

2748. During this period, the people who fled endured the loss of their family members, loss of their home, loss of their belongings, and sense of material and non-material unsafety for prolonged periods. During their stay in PK5, they lived through uninhabitable living conditions that aggravated this loss. P-2682 mourned her husband in this environment.

⁶⁷⁶³ D30-5014: T-258, p. 52, line 23 – p. 53, line 23.

⁶⁷⁶⁴ D30-5014: T-258, p. 53, lines 17-23.

⁶⁷⁶⁵ D30-5014: T-258, p. 53, line 24 – p. 54, line 7.

2749. The Chamber now turns to the link between these Muslims fleeing and actions attributed to Mr Yekatom's group.

2750. The Chamber notes the Yekatom Defence's argument that the Prosecution's case relies on 'dual false premises', first being that the departure of Muslims caused by the events in Boeing and Cattin from 5 December 2013 onward can automatically be attributed to Mr Yekatom's group; and second that the 'military operations' in this period by Mr Yekatom's group were unlawful.⁶⁷⁶⁶

2751. As regards the first argument, the Chamber notes that the Yekatom Defence submits that the Boeing Market events did not lead to the departure of Muslims from Boeing and Cattin,⁶⁷⁶⁷ and the same applies to departures caused by combat between Mr Yekatom's group and 'PK5-based Seleka and/or Muslim self-defence groups'.⁶⁷⁶⁸

2752. This has not been borne out by the evidence. In this respect, the Chamber recalls its evidentiary analysis and findings in respect of the involvement of Mr Yekatom's group in the events at the Boeing Market, Boeing Mosque and Cattin.⁶⁷⁶⁹ The Chamber further recalls its conclusions on the evidence provided by Salehou Ndiaye and P-2682.⁶⁷⁷⁰

2753. As regards the second argument, the Chamber notes that the Yekatom Defence argues that the operations of Mr Yekatom's group on 5 December 2013 were not unlawful and therefore, Mr Yekatom is not liable for Muslims leaving these locations during or due to these operations.⁶⁷⁷¹ Having regard to its conclusions concerning the nature of these operations further below,⁶⁷⁷² the Chamber finds that this argument also has no effect on the conclusions reached herein.

2754. The Chamber notes the Yekatom Defence's argument that multiple armed groups were present and active in Boeing/Cattin, prior to, during and after 5 December 2013 and

⁶⁷⁶⁶ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 401. *See also* paras 402-406.

⁶⁷⁶⁷ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 405.

⁶⁷⁶⁸ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 406.

⁶⁷⁶⁹ *See* sections IV.B.3.i, IV.B.3.ii, IV.B.4 above.

⁶⁷⁷⁰ *See* sections IV.B.5.i, IV.B.5.ii above.

⁶⁷⁷¹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 404.

⁶⁷⁷² *See* paragraphs 3952-3960 below.

therefore, responsibility cannot be ‘automatically attributed’ to Mr Yekatom’s group.⁶⁷⁷³ The Yekatom Defence also points to the ‘multiplicity of reasons’ that caused Muslims of Boeing/Cattin to depart, including (i) ‘indiscriminate reprisal attacks’ on civilians by the Seleka in Boeing/Cattin on 5 December 2013 and the following days;⁶⁷⁷⁴ (ii) ‘rumours of imminent “anti-balaka” attacks on Muslims’;⁶⁷⁷⁵ (iii) the ‘veritable explosion of anti-Muslim hostility and mob violence on the part of the civilian population’ which ‘effectively rendered Bangui (with the exception of PK5) uninhabitable for Muslims’;⁶⁷⁷⁶ and (iv) generalised insecurity that followed the Seleka period.⁶⁷⁷⁷

2755. The Chamber considers that while it is true that responsibility cannot be ‘automatically’ attributed to Mr Yekatom’s group, it is also true that the purported presence of other groups does not negate the responsibility of Mr Yekatom’s group.

2756. Indeed, the surrounding context of the alleged Seleka reprisals, the communal violence, and atmosphere of insecurity cannot be ignored. However, in the view of the Chamber, these circumstances did not intervene in the link between the actions attributed to Mr Yekatom’s group and the fleeing of Muslims. They contributed to it.

2757. The same reasoning applies to the purported presence of other armed groups in Boeing and Cattin at the time. Furthermore, the Chamber has received no reliable evidence that there were other groups present in Boeing and Cattin on 5 December 2013. Significantly, as is made clear by Salehou Ndiaye’s and P-2682’s evidence, these Muslims linked their flight to the events which are attributed to Mr Yekatom’s group and no other.

2758. The Chamber now turns to the Prosecution’s argument that the Muslims in Boeing and Cattin fled also in the context of ‘the crimes that [Mr Yekatom’s] elements continued to commit’ while later based at Yamwara.⁶⁷⁷⁸

⁶⁷⁷³ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 402-403.

⁶⁷⁷⁴ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 407.

⁶⁷⁷⁵ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 408.

⁶⁷⁷⁶ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 409.

⁶⁷⁷⁷ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 410.

⁶⁷⁷⁸ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, paras 573, 576 *referring to, inter alia*, P-1990, P-0487, P-1528. See also [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 411-412.

2759. In this regard, the Chamber has considered Salehou Ndiaye's account concerning his brother-in-law who was interrogated, beheaded, and buried by the 'Anti-Balaka' between 12 and 17 December 2013 in Boeing.⁶⁷⁷⁹ The Chamber also noted Thierry Kpademona's evidence concerning the exhumation of bodies in Boeing.⁶⁷⁸⁰ Without more, the Chamber is unable to conclude that the person that Salehou Ndiaye talked of is the person buried at the location that Thierry Kpademona spoke of. Having considered the description provided by Salehou Ndiaye, the Chamber did not find sufficient indicia linking this incident to the Bangui Attack. Salehou Ndiaye appeared to be referring to events that took place in Boeing between 12 and 17 December 2013 and do not appear to concern in any way the attack by Mr Yekatom's group in Boeing of Cattin on 5 December 2013. Same is true for P-1654's family moving away from Boeing towards the end of December 2013.⁶⁷⁸¹

C. The attack on Bossangoa on 5 December 2013

2760. On 5 December 2013, the same day on which Bangui was attacked by several Anti-Balaka groups,⁶⁷⁸² the town of Bossangoa was attacked by other Anti-Balaka groups, in coordination with those engaged in Bangui (the 'Bossangoa Attack').

2761. Prior to these two attacks, as discussed above, Anti-Balaka groups launched offensives in Bossangoa and villages in its surroundings.⁶⁷⁸³ These offensives were launched with a view to seizing weapons and ammunition to attack Bossangoa and subsequently Bangui.⁶⁷⁸⁴ The Chamber also recalls in this context its discussion of the advance of Anti-Balaka groups towards Bangui.⁶⁷⁸⁵

2762. While the Anti-Balaka advanced through the provinces and were active in the Bossangoa area, the Seleka maintained two checkpoints in Bossangoa town, at the northern entrance⁶⁷⁸⁶

⁶⁷⁷⁹ P-1528 First Statement, CAR-OTP-2048-0757-R05, at 0764-65, paras 41-46.

⁶⁷⁸⁰ P-1990 Statement, CAR-OTP-2124-0247-R02, at 0256-58, paras 38-48.

⁶⁷⁸¹ See paragraph 3243 below.

⁶⁷⁸² See section IV.B above.

⁶⁷⁸³ See section IV.A.6.ii above.

⁶⁷⁸⁴ P-0966: T-116, p. 51, lines 9-19, p. 52, line 14 – p. 53, line 2; P-0966 Statement, CAR-OTP-2031-0241-R03, at 0249, para. 44.

⁶⁷⁸⁵ See section IV.A.6 above.

⁶⁷⁸⁶ P-2049: T-102, p. 19, lines 6-21; T-103, p. 54, lines 11-19, p. 65, line 18 – p. 66, line 10; Map (annotated by P-2049), CAR-REG-0001-0003; P-2453: T-137, p. 17, line 12 – p. 18, line 11 (the witness testified to seeing a checkpoint

and at the southern entrance,⁶⁷⁸⁷ as well as various bases within Bossangoa. When P-1577 [REDACTED] in Bossangoa [REDACTED], he found a clear Seleka checkpoint at the outskirts of Bossangoa that they passed through, but he did not see any manned checkpoints around Bossangoa on that day.⁶⁷⁸⁸

2763. Witnesses testified that Seleka bases were located in the centre of Bossangoa⁶⁷⁸⁹ occupying various institutions, administrative buildings and abandoned private houses.⁶⁷⁹⁰ The locations mentioned by witnesses include: (i) the prefect of Bossangoa's residence,⁶⁷⁹¹ located behind the police station of Bossangoa;⁶⁷⁹² (ii) the Federation of Cattle Rearers

close to the cemetery towards the northern exit of town); P-0966: T-118, p. 3, line 16 – p. 5, line 8; Map (annotated by P-0966), CAR-REG-0001-0004; P-2602 Interview Transcript, CAR-OTP-2118-9664-R01, at 9676-77, lines 403-436 (the witness stated that the secondary position of the Seleka was at the 'KAFA' cemetery). The Chamber notes that P-2602 annotated the satellite image depicting Bossangoa (*see* Satellite image (annotated by P-2602), CAR-OTP-2120-0262), indicating a cemetery to the north side of Bossangoa in the area where the *École Nicolas Bare* and *École de Boro* are located on Map, CAR-OTP-2118-9140. *See also* P-2133 Statement, CAR-OTP-2093-0267-R02, at 0274, para. 58; D30-4496: T-289, p. 22, lines 18-24 (stating that the Seleka checkpoints were at Katanga, Boro, around Kaba neighbourhood, around Bangui and Nana-Bakassa); D30-4608 Statement, CAR-D30-0017-0004-R01, at 0008, para. 32. Photographs taken on 10 December 2013 (*see* Photograph, CAR-OTP-2085-3502; Metadata, CAR-OTP-2085-3503; CAR-OTP-2085-5697; Photograph, CAR-OTP-2085-3512; Metadata, CAR-OTP-2085-3513; CAR-OTP-2085-5703; Photograph, CAR-OTP-2085-3522; Metadata, CAR-OTP-2085-3523; CAR-OTP-2085-5709; Photograph, CAR-OTP-2085-3532; Metadata, CAR-OTP-2085-3533; CAR-OTP-2085-5712; Photograph, CAR-OTP-2085-3542; Metadata, CAR-OTP-2085-3543; CAR-OTP-2085-5718; Photograph, CAR-OTP-2085-3552; Metadata, CAR-OTP-2085-3553; CAR-OTP-2085-5724) depict an abandoned building previously used by the Seleka next to the northern-most entrance to Bossangoa. *See also* P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0792-93.

⁶⁷⁸⁷ P-2049: T-102, p. 19, lines 6-21; D30-4608 Statement, CAR-D30-0017-0004-R01, at 0008, para. 32; P-2453: T-137, p. 17, lines 12-20; D30-4496: T-289, p. 22, lines 18-24.

⁶⁷⁸⁸ P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0793, para. 50; P-1577: T-027, p. 34, line 20 – p. 35, line 7. The Chamber notes that Jo-Brice Ouabi Dana testified that when he arrived in Bossangoa for the second time before the Bossangoa Attack, the Seleka were no longer on the Danagoro bridge (*see* P-0966: T-118, p. 4, line 16 – p. 5, line 8). From his evidence, it is unclear whether Jo-Brice Ouabi Dana was indicating the same location for a checkpoint as the other witnesses.

⁶⁷⁸⁹ D30-4608 Statement, CAR-D30-0017-0004-R01, at 0008, para. 32.

⁶⁷⁹⁰ D30-4514 Statement, CAR-D30-0025-0001-R01, at 0011, lines 319-331; P-2133 Statement, CAR-OTP-2093-0267-R02, at 0274, paras 57-58; D30-4608 Statement, CAR-D30-0017-0004-R01, at 0008, para. 32; D30-4608: T-291, p. 23, line 20 – p. 24, line 5.

⁶⁷⁹¹ D30-4608 Statement, CAR-D30-0017-0004-R01, at 0008, para. 32; D30-4608: T-291, p. 23, line 20 – p. 24, line 5; P-2049: T-102, p. 14, line 17 – p. 15, line 22.

⁶⁷⁹² P-2049: T-102, p. 14, line 17 – p. 15, line 22.

(FNEC) building;⁶⁷⁹³ (iii) the town hall⁶⁷⁹⁴ or the mayor's office;⁶⁷⁹⁵ (iv) the police station,⁶⁷⁹⁶ located opposite of the *École de la Liberté*;⁶⁷⁹⁷ (v) opposite UNICEF;⁶⁷⁹⁸ (vi) the cotton company, SOCOCA or SOCADA, located to the south of the city;⁶⁷⁹⁹ and (vii) the sub-prefect's house.⁶⁸⁰⁰

2764. The Ngaïssona Defence submits that the Seleka also established a base at the *École Boro*.⁶⁸⁰¹

2765. From the evidence before it, in particular as provided by Odette Namsona⁶⁸⁰² and P-2453,⁶⁸⁰³ the Chamber is unable to conclude that this base still existed at the time of the Bossangoa

⁶⁷⁹³ P-2049: T-100, p. 56, line 7 – p. 57, line 9; T-103, p. 56, lines 2-11; D30-4608: T-291, p. 21, lines 10-22 (stating that FNEC is beside the town hall, with a road between the two).

⁶⁷⁹⁴ P-2133 Statement, CAR-OTP-2093-0267-R02, at 0274, para. 58 (mentioning Seleka checkpoints at the entrance of town, the town hall, FNEC, and the building of the SEDIC cotton company, previously called SOCADA); D30-4514 Statement, CAR-D30-0025-0001-R01, at 0011, lines 319-331; D30-4608 Statement, CAR-D30-0017-0004-R01, at 0008, para. 32 (referring to the directorate of labour inspections, located in front of the town hall); D30-4608: T-291, p. 21, line 24 – p. 24, line 5.

⁶⁷⁹⁵ P-2049: T-102, p. 14, line 17 – p. 17, line 20.

⁶⁷⁹⁶ P-2133 Statement, CAR-OTP-2093-0267-R02, at 0274, paras 54-56; D30-4514 Statement, CAR-D30-0025-0001-R01, at 0011, lines 319-331. *See also* P-2200 Statement, CAR-OTP-2088-2146-R04, at 2150, para. 24 (stating that the Seleka '*étaient stationnés près de la gendarmerie*').

⁶⁷⁹⁷ P-2049: T-102, p. 14, line 17 – p. 17, line 20. *See* Map (annotated by P-2049), CAR-REG-0001-0003.

⁶⁷⁹⁸ P-2049: T-102, p. 18, lines 10-14; P-2133 Statement, CAR-OTP-2093-0267-R02, at 0274, paras 57-58.

⁶⁷⁹⁹ P-2133 Statement, CAR-OTP-2093-0267-R02, at 0274, para. 58 (stating that the SEDIC cotton company was previously called SOCADA); D30-4608 Statement, CAR-D30-0017-0004-R01, at 0008, para. 32; D30-4608: T-291, p. 22, line 21 – p. 23, line 7. The Chamber notes that P-2049 appeared to state that the Seleka checkpoint was not located at the SOCOCA or SOCADA sites, also known as '*cellule coton*' (*see* P-2049: T-102, p. 19, lines 6-21). Noting that the SOCOCA site was marked on the map shown to P-2049 as Sangaris base, P-2049 expressed doubt as to whether the Seleka and Sangaris could have shared the same site (*see* P-2049: T-103, p. 55, line 16 – p. 56, line 16; Map, CAR-OTP-2118-9140 (showing 'SDIC Coton RCA (Base SANGARIS)'; *see also* Map (annotated by P-2049), CAR-REG-0001-0003). In this regard, the Chamber takes into account that P-2049 stated that the Sangaris arrived in Bossangoa after the Bossangoa Attack (*see* P-2049: T-103, p. 26, line 7 – p. 28, line 11) and that the map shown to him is dated 23 July 2014, therefore not overlapping with the time period at which Seleka would have been present in Bossangoa.

⁶⁸⁰⁰ D30-4608 Statement, CAR-D30-0017-0004-R01, at 0008, para. 32; D30-4608: T-291, p. 23, line 20 – p. 24, line 1.

⁶⁸⁰¹ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 301 *referring to* P-2049 and D30-4496.

⁶⁸⁰² D30-4496 Statement, CAR-D30-0022-0001-R03, at 0007, para. 39; D30-4496: T-289, p. 17, lines 13-20, p. 65, lines 1-15; T-290, p. 14, lines 6-12, p. 22, lines 9-14 (the witness, who lived behind Boro school but left for Bangui at the end of November 2013 and returned between March and April 2014, stated without specifying the period that Seleka set themselves up at the Boro school and the school behind it, and people living there were not able to cross the courtyard of the school to go to the market).

⁶⁸⁰³ P-2453: T-137, p. 19, lines 10-21 (the witness stated that the Seleka had a base at the Boro school at least in September 2013 and that after the Seleka left for Bangui, the school was no longer a base). The Chamber notes in this regard that the witness fled to the *École de la Liberté* after the first attack in Bossangoa in September 2013, until being transported to Chad on 15 February 2014 (*see* P-2453 Statement, CAR-OTP-2111-0415-R04, at 0427-28, paras 56-57, at 0428, para. 61, at 0433, para. 85, at 0435, para. 97).

Attack. Rather, based on the testimony of P-2049 [REDACTED],⁶⁸⁰⁴ the Chamber concludes that the Seleka briefly had a temporary base in or around Boro school in September 2013.

1. Unfolding of the attack on Bossangoa on 5 December 2013

On 5 December 2013, in coordination with the Anti-Balaka attack on Bangui on the same day, Anti-Balaka elements, divided into two groups led by Florent Kema and Théophile Ndangba, respectively, carried out an attack on the town of Bossangoa. The attack started at approximately 13:00 and lasted until the late afternoon or early evening.

During the attack, the Anti-Balaka targeted residential areas, including the Boro neighbourhood, generally known as the Muslim neighbourhood in Bossangoa, with the intention of showing that the Anti-Balaka were attacking not only Bangui but also in the provinces, and to ‘free’ the town from Seleka and all Muslims, thereby targeting Muslim civilians and drawing no distinction between them and the Seleka. During the attack, the Anti-Balaka was well armed, with some AK-47s and RPGs, as well as hunting weapons.

2766. For the factual findings in this section, the Chamber relies primarily on the evidence of the following witnesses which, subject to discrete aspects discussed below, it finds particularly reliable: Jo-Brice Ouabiro Dana and P-2602, the Anti-Balaka insiders who participated in the Bossangoa Attack; P-2462, P-2657, P-2049 and P-2200, Muslim civilians who were living in Bossangoa during the events.

i. Arrival in Bossangoa

2767. The Anti-Balaka from Gobere arrived near Bossangoa a few days before the Bossangoa Attack. Jo-Brice Ouabiro Dana, an Anti-Balaka element who participated in the Bossangoa Attack, stated that he was secretary for chief Alexis Mandago (also known as ‘Sol Sol’),⁶⁸⁰⁵ who told them that their group was going with Florent Kema and Ndangba to Bossangoa.⁶⁸⁰⁶ The witness testified that the Anti-Balaka arrived 30 kilometres away from Bossangoa between 2 and 3 December 2013 and, as they did not expect to attack Bossangoa on 5 December, had a three-day fast to ask for God’s blessings prior to fighting.⁶⁸⁰⁷

⁶⁸⁰⁴ P-2049: T-102, p. 18, line 21 – p. 19, line 5 (the witness explained that the Seleka had a base at the *École mixte de Boro* for a maximum of two days).

⁶⁸⁰⁵ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0251, para. 58.

⁶⁸⁰⁶ P-0966: T-117-ENG, p. 34, line 24 – p. 35, line 17; T-117-FRA, p. 36, line 27 – p. 37, line 21.

⁶⁸⁰⁷ P-0966: T-116, p. 41, line 11 – p. 42, line 12.

2768.P-2602 stated that the FACA leaders of various Anti-Balaka groups were in contact with each other via phone or via a messenger.⁶⁸⁰⁸ P-2602 stated that four days before the Bossangoa Attack, Anti-Balaka leaders met five kilometres from Bossangoa at the cemetery and voted that on 5 December 2013⁶⁸⁰⁹ they were going to attack Bossangoa, Bouar, and Bangui.⁶⁸¹⁰ P-2602 stated that the attack on Bossangoa was to take place at 14:00 and the attack on Bangui at 05:00.⁶⁸¹¹

2769.P-2602 stated that some military men native to Bossangoa⁶⁸¹² were sent ahead in the night,⁶⁸¹³ they blocked the road for them on the day of the Bossangoa Attack at around 14:00.⁶⁸¹⁴ P-2602 further mentioned that these Bossangoa natives were guiding them to particular areas of Bossangoa during the Bossangoa Attack.⁶⁸¹⁵

ii. Anti-Balaka members involved in the Bossangoa Attack

2770.The evidence as outlined below shows that Florent Kema led the Bossangoa Attack. Florent Kema was under the command of Dedane in Gobere, and was chosen by Dedane as the ComZone of Bossangoa before the Bossangoa Attack. Witnesses stated that ComZone

⁶⁸⁰⁸ P-2602 Interview Transcript, CAR-OTP-2118-9641-R01, at 9660-61, lines 651-692.

⁶⁸⁰⁹ P-2602 Interview Transcript, CAR-OTP-2118-9641-R01, at 9661, lines 669-692.

⁶⁸¹⁰ P-2602 Interview Transcripts, CAR-OTP-2118-9641-R01, at 9662, lines 697-706; CAR-OTP-2118-9664-R01, at 9665, lines 10-17.

⁶⁸¹¹ P-2602 Interview Transcripts, CAR-OTP-2118-9641-R01, at 9662-63, lines 703-738; CAR-OTP-2118-9664-R01, at 9666, lines 57-62.

⁶⁸¹² P-2602 Interview Transcript, CAR-OTP-2118-9545-R01, at 9548, lines 71-72.

⁶⁸¹³ P-2602 Interview Transcript, CAR-OTP-2118-9545-R01, at 9547, lines 36-56.

⁶⁸¹⁴ P-2602 Interview Transcript, CAR-OTP-2118-9545-R01, at 9547, lines 40-43.

⁶⁸¹⁵ P-2602 Interview Transcript, CAR-OTP-2118-9785-R01, at 9801-02, lines 527-552.

Florent Kema⁶⁸¹⁶ was a FACA member⁶⁸¹⁷ and had worked as a PG.⁶⁸¹⁸ After Dedane's death subsequent to the Bangui Attack,⁶⁸¹⁹ Florent Kema took over Dedane's position and became the Anti-Balaka ComZone in the prefecture of Ouham⁶⁸²⁰ and later a member of parliament.⁶⁸²¹

⁶⁸¹⁶ The Chamber notes that Jo-Brice Ouabi Dana did not mention the first name of Kema and refers to him as 'Kema' or 'ComZone Kema'. Considering that the witness explained that Kema was a ComZone in Bossangoa and was a FACA member, the Chamber is of the view that he was referring to Florent Kema (*see* P-0966 Statement, CAR-OTP-2031-0241-R03, at 0247, para. 33). Regarding Florent Kema being the ComZone of Bossangoa without indication of specific dates or periods, *see* P-0889 Interview Transcript, CAR-OTP-2122-8112-R02, at 8135-36, lines 811-854 (stating that Florent Kema was the head of the Anti-Balaka group in Bossangoa and that Maxime Mokom from Zongo was in contact with him); P-2269 Statement, CAR-OTP-2111-0336-R01, at 0354, para. 135 (stating that Ndangba and Kema were ComZones in Bossangoa). *See also* P-0287 Statement, CAR-OTP-2115-0239-R01, at 0264, paras 123-125, at 0265, para. 131, at 0266, para. 137 (stating that during his interview with Florent Kema on 18 April 2015, Florent Kema was the regional coordinator of Ouham and controlling one of the two groups of Anti-Balaka in Bossangoa with Dorassio and Dangba); P-1521: T-082, p. 37, line 18 – p. 38, line 6 (stating that, in 2014, Florent Kema was the prefectural coordinator of Ouham and commander of the zone of Nana-Bakassa); D30-4496 Statement, CAR-D30-0022-0001-R03, at 0009, para. 46 (stating that she knew Florent Kema, former deputy of Bossangoa who was in the Anti-Balaka); P-2133 Statement, CAR-OTP-2093-0267-R02, at 0278, para. 82 (stating that the Anti-Balaka leader in Benzambé went by the name Kema, a former PG); P-0884: T-055, p. 30, lines 3-14 (stating that Florent Kema was military and in Gobere when being shown List, CAR-OTP-2030-0280). Regarding documentary evidence stating that Florent Kema was the ComZone without indication of specific dates or periods, *see* Lists, CAR-OTP-2030-0232, at 0238; CAR-OTP-2046-0631, at 0631.

⁶⁸¹⁷ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0247, para. 33; P-2049: T-100, p. 45, lines 6-16; P-2602 Interview Transcript, CAR-OTP-2118-9579-R01, at 9582, lines 83-90; P-1042 Interview Transcript, CAR-OTP-2107-0591-R01, at 0608, lines 546-553; P-0884: T-055, p. 30, lines 3-14. The Chamber notes that P-2658 stated that Kema was not a soldier (*see* P-2658: T-134, p. 55, lines 5-6). It notes that P-2658's account is contrary to that of other witnesses, and as P-2658 stated that he did not know Kema personally (*see* P-2658: T-135, p. 59, lines 18-25), it does not rely on P-2658's account in this regard.

⁶⁸¹⁸ P-2049: T-100, p. 45, lines 6-16; P-2453 Statement, CAR-OTP-2111-0415-R04, at 0420, para. 26; P-2602 Interview Transcript, CAR-OTP-2118-9579-R01, at 9582, lines 83-90. The Chamber notes that Jo-Brice Ouabi Dana stated that initially when they gathered in Gobere, there were 15 FACA members, mostly from the PG, and one policeman (*see* P-0966 Statement, CAR-OTP-2031-0241-R03, at 0246, para. 28).

⁶⁸¹⁹ *See* paragraph 2917 below.

⁶⁸²⁰ P-1847 First Statement, CAR-OTP-2061-1534, at 1558, para. 151; P-1847: T-023, p. 46, line 13 – p. 47, line 11 (stating that Florent Kema became the Anti-Balaka ComZone in an area in the prefecture of Ouham after Dedane's death); P-2602 Interview Transcript, CAR-OTP-2118-9785-R01, at 9794-96, lines 310-366; P-0287 Statement, CAR-OTP-2115-0239-R01, at 0265, para. 131 (stating that on 18 April 2015, Kema said that he was the regional coordinator of Ouham province); Annex 5.5 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0886, para. 6 (stating that 'the anti-Balaka local group in Bossangoa [...] is commanded by "Kéma", who was appointed in mid-April 2014 and coming from Ben Zambé. His deputies are reportedly "Dorassio" and "Dangba"').

⁶⁸²¹ P-0966: T-116, p. 9, lines 3-9; P-2453 Statement, CAR-OTP-2111-0415-R04, at 0420, para. 26 (stating that Florent Kema was a member of parliament for Bowaye); P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0070, para. 134 (stating that Florent Kema became a member of parliament for Nana-Bakassa II); P-0889 Interview Transcript, CAR-OTP-2122-7872-R02, at 7886, line 482 (stating that Florent Kema is a deputy); P-2602 Interview Transcript, CAR-OTP-2118-9579-R01, at 9582, lines 83-90 (stating that Kema became an MP); P-1847 First Statement, CAR-OTP-2061-1534, at 1558, para. 151 (stating that Florent Kema was elected as member of parliament for Nana-Bakassa; Dedane's deputy was Florent Kema who was very active in the area of Bossangoa); P-2658: T-134, p. 55, lines 7-12 (stating that he heard, whilst he was in Chad, that Kema was elected as an MP).

2771. Jo-Brice Ouabiro Dana testified that Dedane appointed Kema as the Anti-Balaka ComZone⁶⁸²² when they were in Bossembélé before the 5 December 2013 attack on Bossangoa.⁶⁸²³

2772. Théophile Ndangba⁶⁸²⁴ was chosen as ComZone Florent Kema's deputy.

2773. Jo-Brice Ouabiro Dana and P-2602 both stated that Théophile Ndangba was from Kabo and a FACA member.⁶⁸²⁵ Jo-Brice Ouabiro Dana testified that Ndangba was Florent Kema's deputy and was supposed to be chosen as the ComZone of Bossangoa, but Dedane chose Florent Kema as the ComZone.⁶⁸²⁶

2774. P-2602 stated that Théophile Ndangba was the leader of a group in Gobere⁶⁸²⁷ and was under the command of Danboy Dedane.⁶⁸²⁸ P-2602 stated that Florent Kema was senior to Théophile Ndangba when they were based at Gobere.⁶⁸²⁹

2775. As to other Anti-Balaka elements involved in the Bossangoa Attack, Jo-Brice Ouabiro Dana stated that before they set off to attack Bossangoa, ComZone Kema appointed him company chief.⁶⁸³⁰ He kept the register of Anti-Balaka companies and their members and provided

⁶⁸²² P-0966 Statement, CAR-OTP-2031-0241-R03, at 0247, para. 33; P-0966: T-117-ENG, p. 34, line 24 – p. 35, line 17; T-117-FRA, p. 36, line 27 – p. 37, line 21.

⁶⁸²³ P-0966: T-117, p. 32, lines 14-22; T-118, p. 18, line 4 – p. 19, line 7. *See also* P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0303, para. 96; P-0992 First Statement, CAR-OTP-2110-0048-R05, at 0070, para. 134.

⁶⁸²⁴ The Chamber notes that the Confirmation Decision and the Trial Brief state the name as 'Dangba' (*see e.g.* Confirmation Decision, ICC-01/14-01/18-403-Conf-Corr, para. 105; Trial Brief, ICC-01/14-01/18-723-Conf, para. 418). Various witnesses testified about Théophile Ndangba as Anti-Balaka leader, with variations regarding the spelling of the last name (*see* P-2049: T-100, p. 67, lines 13-21; P-0992 Second Statement, CAR-OTP-2128-0288-R02, at 0303, para. 96; D30-4496 Statement, CAR-D30-0022-0001-R03, at 0009, para. 46; P-0889 Statement, CAR-OTP-2034-0463-R02, at 0469, para. 34; P-0889 Interview Transcript, CAR-OTP-2122-7740-R02, at 7751, lines 348-380; [REDACTED] P-2658 Statement, CAR-OTP-2126-0012-R02, at 0027, para. 99; *see also* List, CAR-OTP-2030-0232, at 0232; P-2602 Interview Transcript, CAR-OTP-2118-9500-R01, at 9501-03, lines 14-70). In light of the evidence before it, the Chamber concludes that the witnesses referred to the same person, and uses the name 'Théophile Ndangba' for purposes of its evidentiary analysis.

⁶⁸²⁵ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0251, para. 57; P-0966: T-116, p. 9, lines 3-18 (referring, in the Chamber's conclusion, to the same individual irrespective of the spelling of the name in the prior statement); P-2602 Interview Transcript, CAR-OTP-2118-9500-R01, at 9508, lines 265-266, at 9513, lines 438-446.

⁶⁸²⁶ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0247, para. 36, at 0248, para. 39; P-0966: T-117, p. 32, lines 14-22, p. 33, line 12 – p. 35, line 17.

⁶⁸²⁷ P-2602 Interview Transcript, CAR-OTP-2118-9500-R01, at 9521-22, lines 736-767.

⁶⁸²⁸ P-2602 Interview Transcript, CAR-OTP-2118-9500-R01, at 9522-23, lines 769-773.

⁶⁸²⁹ P-2602 Interview Transcript, CAR-OTP-2118-9785-R01, at 9794-96, lines 310-366.

⁶⁸³⁰ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0251, para. 59.

them to ComZone Florent Kema who would forward those lists to Maxime Mokom in Zongo.⁶⁸³¹

2776.P-2602 stated that Anti-Balaka groups came to Bossangoa from different directions: Théophile Ndangba from Benzambé,⁶⁸³² a group from Ouham-Bac direction led by Alexis Mandago,⁶⁸³³ and Florent Kema's group from Bowaye.⁶⁸³⁴ P-2602 stated that there were Anti-Balaka groups coming from Zere led by Dedane's group and from the airport.⁶⁸³⁵ P-2602, however, later confirmed that Dedane was progressing towards Bangui on 5 December 2013 and was not in Bossangoa⁶⁸³⁶ and that Dedane's elements were not involved in the Bossangoa Attack.⁶⁸³⁷ P-2602 further stated that he did not speak to Dedane on 5 December 2013 on the telephone.⁶⁸³⁸ Concerning the attack from the airport, P-2602 clarified that the airport attacked was the airport in Bangui and that Houranti and Bama participated in the Bangui Attack, not the Bossangoa Attack.⁶⁸³⁹ The Chamber accepts this evidence.

iii. Objectives of the attack

2777.The evidence before the Chamber shows that the goal of the Bossangoa Attack, conducted in coordination with the Bangui Attack, was to chase away the Seleka as well as all Muslims from the town, and from the Ouham prefecture more generally.

⁶⁸³¹ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0247, para. 36; P-0966: T-116, p. 14, line 21 – p. 15, line 13. The witness explained that new lists were drawn up each time they were at a particular locality and before leaving so that they would know the troop levels (P-0966: T-119, p. 6, line 5 – p. 8, line 7).

⁶⁸³² P-2602 Interview Transcript, CAR-OTP-2118-9664-R01, at 9672, line 266, at 9675, lines 372-375.

⁶⁸³³ P-2602 Interview Transcripts, CAR-OTP-2118-9617-R01, at 9638, lines 681-706; CAR-OTP-2118-9683-R01, at 9701, lines 598-605.

⁶⁸³⁴ P-2602 Interview Transcript, CAR-OTP-2118-9664-R01, at 9670-72, lines 205-257.

⁶⁸³⁵ P-2602 Interview Transcript, CAR-OTP-2118-9664-R01, at 9671-76, lines 242-399.

⁶⁸³⁶ P-2602 Interview Transcript, CAR-OTP-2118-9714-R01, at 9175, lines 32-35. The Chamber notes that P-2049, a Muslim civilian who lived in Bossangoa at the relevant time, testified that Dedane participated in the Bossangoa Attack, as he heard that those involved in the Bossangoa Attack were Dedane, 'Dangba' and Florent Kema (*see* P-2049: T-101, p. 33, line 18 – p. 35, line 1). Considering P-2049's remote information on this, and bearing in mind that he sought refuge at the *École de la Liberté* in the course of the attack without seeing Anti-Balaka elements that day (*see* P-2049: T-103, p. 65, lines 2-9), the Chamber does not rely on this aspect of P-2049's testimony.

⁶⁸³⁷ P-2602 Interview Transcript, CAR-OTP-2118-9714-R01, at 9716-17, lines 69-72.

⁶⁸³⁸ P-2602 Interview Transcript, CAR-OTP-2118-9714-R01, at 9716, lines 36-38.

⁶⁸³⁹ P-2602 Interview Transcript, CAR-OTP-2118-9664-R01, at 9670-71, lines 205-231.

2778. In particular, Jo-Brice Ouabiro Dana stated that the objective was to free Bossangoa and then march towards the capital, Bangui, to recapture it.⁶⁸⁴⁰ The witness further stated that their task was to occupy the centre of Bossangoa and free Bossangoa so Christians could live in peace after having sought refuge in the Catholic Church and getting stuck there.⁶⁸⁴¹

2779. P-1577, [REDACTED] who was present in Bossangoa during and after the attack, stated that a few days after the attack on 5 December 2013, he travelled with Anti-Balaka elements who said that they had taken part in the Bossangoa Attack, that they were attacking the Muslims to try to force them out of the area that they were living in, that Bossangoa was theirs and they did not want Muslims there, that the CAR was for Central Africans, and they did not want Muslims in the country.⁶⁸⁴² P-1577 stated that the language used ‘felt a lot harder [...] post the attack on 5 December than on previous occasions’.⁶⁸⁴³

2780. Furthermore, P-2453 testified that when he was caught by the Anti-Balaka on 6 September 2013, he heard the Anti-Balaka discuss among themselves that ‘*Caporal Florent K[ema]*’ had told them ‘to kill all Muslims. Not to leave them alive’.⁶⁸⁴⁴

2781. Aurélien Llorca, member of the CAR Panel, stated that during his interview with Florent Kema on 18 April 2015, Kema, at that time regional coordinator of Ouham province (which includes the town of Bossangoa), stated that the main objective of his group – the Anti-Balaka in Ouham province – was ‘still’ to chase all the Muslims out of Ouham and also to

⁶⁸⁴⁰ P-0966: T-116, p. 52, lines 4-13. The Chamber notes in this regard the evidence of D30-4608 [REDACTED] who stated that the Anti-Balaka’s objective was the liberation of the city, that the Anti-Balaka did not specifically target unarmed Muslim civilians, and that the Christian civilian population was asking for the departure of the Muslims so that the Christians could be ‘free’ (see D30-4608 Statement, CAR-D30-0017-0004-R01, at 0013, para. 69). Bearing in mind that it is unclear on which basis the witness made these assertions, while Jo-Brice Ouabira Dana in contrast had direct insight into this Anti-Balaka’s group’s objectives, the Chamber does not rely on D30-4608 in this regard.

⁶⁸⁴¹ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0252, para. 62. The Chamber notes in this regard that during his testimony, Jo-Brice Ouabira Dana seemed to provide an answer, as recorded in the French transcript, which may be read as negating that liberating the Christians was one of the motives to attack Bossangoa (see P-0966: T-117-FRA, p. 60, lines 5-9). The English transcript reads less ambiguous in its context (see P-0966: T-117-ENG, p. 56, lines 22-24). Overall, the Chamber concludes that rather than denying the liberation of Christians in Bossangoa being one of the reasons for their attack, the witness denied that specifically the alleged burning of Christian houses by the Seleka in the aftermath of their first attack was one of the reason for their renewed attack (see P-0966: T-117-ENG, p. 56, lines 12-21; T-117-FRA, p. 59, line 21 – p. 60, line 4).

⁶⁸⁴² P-1577: T-027, p. 68, line 24 – p. 69, line 11.

⁶⁸⁴³ P-1577: T-027, p. 69, lines 12-20.

⁶⁸⁴⁴ P-2453: T-137, p. 44, line 24 – p. 46, line 25. See also P-2453 Statement, CAR-OTP-2111-0415-R04, at 0422, para. 36.

chase out all the Seleka, and while Florent Kema spoke about this as an ongoing objective, he did not mention from when this had been their main aim.⁶⁸⁴⁵

2782. There is evidence that the Anti-Balaka perceived the Muslims in Bossangoa as being associated with or part of the Seleka, as well as armed. The Ngaïssona Defence submits in this regard that a ‘substantial number’ of individuals in the Muslim population in Bossangoa joined the ranks of the Seleka or collaborated with them, that Muslim civilians bore arms in the months before the Bossangoa Attack, and mixed up with the Seleka.⁶⁸⁴⁶ The Chamber finds that while some Muslims may have joined the Seleka and some collaborated, the great majority of Muslims in Bossangoa did not join and were not otherwise armed at the time of the attack.

2783. In particular, the Chamber notes the testimony of P-2049, who stated that he saw some Muslims of Bossangoa join the Seleka.⁶⁸⁴⁷

2784. P-2200 explained that when the Seleka arrived in Bossangoa, they met with the prefect and three days later, the imam and 11 members of his mosque went to greet them at the prefect’s residence, to bless and advise them as they were in charge of the country, to treat Christians and Muslims equally, also stating that the Christian population was not happy to see the Seleka arrive because they were predominantly opposed to the new Seleka government.⁶⁸⁴⁸

⁶⁸⁴⁵ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0265, para. 131.

⁶⁸⁴⁶ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 304-305.

⁶⁸⁴⁷ P-2049: T-103, p. 41, lines 7-13. P-2049 also commented on a BBC news report of 4 November 2013 according to which ‘[a]t Muslim Friday prayers, some people came into the mosque leaving their shoes outside but not their Kalashnikovs’ (see Press article, CAR-OTP-2001-4118, at 4119), stating that the majority of the Seleka were Muslims and came every Friday to the mosque to pray (see P-2049: T-103, p. 43, line 24 – p. 45, line 12). He confirmed that arms could have been hidden in the mosque, and further stated that the rule was that Muslims cannot enter the mosque with weapons and knives, but no one had the power to prevent the Seleka officials from entering the mosque with weapons (see P-2049: T-103, p. 45, line 15 – p. 46, line 5). P-2049 further commented on a UN mission report according to which on 19 December 2013, Anti-Balaka stole weapons stored in a barn in the Boro neighbourhood belonging to the imam’s deputy (see Report, CAR-OTP-2110-0915, at 0919, para. 24), stating that individuals did join the Seleka at the beginning of the events, but he had not heard that arms were found under the carpets in the prayer hall or the barn of the imam’s deputy in the days or weeks following 5 December 2013 (see P-2049: T-103, p. 68, lines 3-10, p. 72, line 10 – p. 73, line 5). In relation to this report, the Chamber also notes its considerations above (see footnote 3609 above).

⁶⁸⁴⁸ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2150, para. 23.

2785. Other witnesses provided information based on what they heard or what the population's 'feeling' appears to have been at the time.⁶⁸⁴⁹

2786. Specifically, Odette Namsona, neighbourhood chief in the 2nd arrondissement in Bossangoa at the time, stated that Seleka were visiting the houses of Muslims, that she heard the Seleka visited Gara Iné and Bichara who were traders close to the imam, that the Seleka invaded all the districts of the city, especially the Arab quarter, stayed in Muslim compounds, and occupied the Boro school next to the Arab neighbourhood.⁶⁸⁵⁰

2787. D30-4608, without detailing the source for his claims, stated that the large houses in Boro were occupied by the Seleka leaders, the Muslims of Bossangoa had always been armed, even before the arrival of the Seleka, it was 'well known' that there were weapons at mosques, the Seleka gave weapons to the Muslims, and that some of the Muslims joined the Seleka, giving examples of individuals who joined or were armed.⁶⁸⁵¹

2788. Michel Ningando, a priest in Bossangoa who stayed in Bangui for extended periods at the time, heard from some Christian youths that the Seleka gave money and weapons to some local youths, some of which followed them to Bangui while others stayed in Bossangoa and stated that the general feeling amongst the Christian population was that the Muslims were aligned with the Seleka because on their arrival, they went straight to the Muslim neighbourhood Boro, and the Seleka would eat with the Muslims.⁶⁸⁵² The witness believed that not all of the Muslims supported the Seleka.⁶⁸⁵³

⁶⁸⁴⁹ The Chamber notes in this regard that it has before it a typed document, without date or further indication, which indicates at the bottom [REDACTED] and appears to contain notes on various meetings and encounters with individuals (see CAR-OTP-2110-1015). According to the JEM code, it appears to have been provided by [REDACTED]. The identities of any individuals apparently making statements or providing information according to this document are redacted, while the further origin of this item, or the circumstances in which it was prepared, are unclear. On this basis, and in particular in light of evidence before it contradicting the information contained in this document, the Chamber has not relied on this item.

⁶⁸⁵⁰ D30-4496: T-289, p. 17, lines 4-9, p. 45, line 12 – p. 46, line 6; D30-4496 Statement, CAR-D30-0022-0001-R03, at 0003, para. 15.

⁶⁸⁵¹ D30-4608 Statement, CAR-D30-0017-0004-R01, at 0004, paras 25-26; D30-4608: T-291, p. 23, line 20 – p. 24, line 13, p. 52, line 11 – p. 53, line 3.

⁶⁸⁵² P-2652 Statement, CAR-OTP-2126-0175-R01, at 0181, para. 32.

⁶⁸⁵³ P-2652 Statement, CAR-OTP-2126-0175-R01, at 0181, para. 32.

2789. On the basis of the above, and as also outlined in relation to the CAR more generally,⁶⁸⁵⁴ the Chamber concludes that some Muslims in Bossangoa joined the Seleka, and that some Muslims collaborated with the Seleka, but that the great majority did not join the Seleka nor were they armed at the time of the Bossangoa Attack, as further discussed below.⁶⁸⁵⁵ The Chamber considers that this is underscored by the evidence showing that thousands of Muslims indeed fled to the *École de la Liberté*⁶⁸⁵⁶ in light of the Anti-Balaka engaging in the Bossangoa Attack.⁶⁸⁵⁷

iv. The attack on Bossangoa on 5 December 2013

a. Coordination of the Bossangoa Attack with the Bangui Attack

2790. The evidence before the Chamber shows that the Anti-Balaka groups that had come to Bossangoa, upon hearing that the Bangui Attack had taken place, started their attack in Bossangoa to ensure both attacks were coordinated.

2791. In particular, Jo-Brice Ouabiro Dana testified that at 05:00 on 5 December 2013, they heard over RFI radio that Bangui had been attacked.⁶⁸⁵⁸ P-2602 similarly stated that before they attacked Bossangoa, they heard about the Bangui Attack and that some of their men had died.⁶⁸⁵⁹

2792. Jo-Brice Ouabiro Dana stated that at around 06:00 or 07:00,⁶⁸⁶⁰ the ComZones told them that Bangui had been attacked and to be ready.⁶⁸⁶¹ Florent Kema and Romain received instructions in a phone call and relayed that ‘the chiefs, the superiors had told’ them to attack Bossangoa.⁶⁸⁶² The witness stated that Florent Kema did not give them the identity or names of those chiefs.⁶⁸⁶³ The witness stated that after the Bangui Attack, they had to attack

⁶⁸⁵⁴ See paragraphs 732-742 above.

⁶⁸⁵⁵ See paragraphs 2811-2814 below.

⁶⁸⁵⁶ The Chamber notes that witnesses mentioned the name of the school such as ‘*École Liberté*’, ‘*Ecole Liberté*’, ‘*Ecole Liberte*’, ‘*Liberty school*’, ‘*École de Liberté*’. The Chamber considers that they are the different variations of the name referring to the same ‘*École de la Liberté*’, and has used ‘*École de la Liberté*’ for uniformity.

⁶⁸⁵⁷ See paragraphs 2958-2971 below.

⁶⁸⁵⁸ P-0966: T-116, p. 41, line 11 – p. 42, line 24.

⁶⁸⁵⁹ P-2602 Interview Transcript, CAR-OTP-2118-9664-R01, at 9666, lines 57-67.

⁶⁸⁶⁰ P-0966: T-116, p. 44, line 18 – p. 45, line 5.

⁶⁸⁶¹ P-0966: T-116, p. 42, lines 14-24.

⁶⁸⁶² P-0966: T-116, p. 42, line 14 – p. 45, line 5.

⁶⁸⁶³ P-0966: T-116, p. 42, line 25 – p. 43, line 6.

Bossangoa to show that the movement had national reach, and that as the movement had been established in Gobere, the superiors coordinating wanted to ensure that the attack was coordinated so as to give greater visibility to the movement.⁶⁸⁶⁴

2793.P-2602 stated that Théophile Ndangba received calls from Bangui from his Gobere colleagues who were with the chiefs, [REDACTED], who wanted to know why Bossangoa had not been attacked as agreed.⁶⁸⁶⁵ It was explained that they were waiting to launch the attack at 14:00 in line with tradition⁶⁸⁶⁶ that they had consulted.⁶⁸⁶⁷ P-2269, an Anti-Balaka element who participated in the Bangui Attack, stated that, in addition to Bangui, they planned to attack in other regions on 5 December 2013, mentioning Damara and Bossangoa, but some attacks did not take place because ‘they’ needed more time.⁶⁸⁶⁸

2794.P-2602 stated that they were communicating with Richard Bejouane⁶⁸⁶⁹ from Bangui, who was told that they were waiting to attack.⁶⁸⁷⁰ He stated that during or after the Bossangoa Attack, Théophile Ndangba was also in contact with Maurice from the 4th arrondissement at *Cité Jean XXIII*.⁶⁸⁷¹

2795.Furthermore, and bearing in mind Maxime Mokom’s role in coordinating throughout the advance of the various Anti-Balaka groups towards Bangui as well as towards Bossangoa,⁶⁸⁷² the Chamber notes the evidence of P-2602 who stated that on 5 December [REDACTED], Maxime Mokom called [REDACTED] to find out whether [REDACTED].⁶⁸⁷³ P-2602 stated that Maxime Mokom [REDACTED], who gave him Théophile Ndangba’s phone number to enquire about [REDACTED].⁶⁸⁷⁴ P-2602 stated that Maxime Mokom had been calling [REDACTED], to find out what was going on in the CAR

⁶⁸⁶⁴ P-0966: T-116, p. 43, lines 11-20.

⁶⁸⁶⁵ P-2602 Interview Transcript, CAR-OTP-2118-9664-R01, at 9669-70, lines 171-187.

⁶⁸⁶⁶ P-2602 Interview Transcript, CAR-OTP-2118-9664-R01, at 9670, lines 185-203.

⁶⁸⁶⁷ P-2602 Interview Transcript, CAR-OTP-2118-9641-R01, at 9661-62, lines 669-725.

⁶⁸⁶⁸ P-2269 Statement, CAR-OTP-2111-0336-R01, at 0344, para. 58.

⁶⁸⁶⁹ P-2602 Interview Transcript, CAR-OTP-2118-9664-R01, at 9666, lines 40-50.

⁶⁸⁷⁰ P-2602 Interview Transcript, CAR-OTP-2118-9641-R01, at 9663, lines 746-752.

⁶⁸⁷¹ P-2602 Interview Transcript, CAR-OTP-2118-9664-R01, at 9666-67, lines 68-93. P-2602 confirmed that Maurice took part in the Bangui Attack and [REDACTED] was unsuccessful because the ‘professionals’ he brought were not many (see P-2602 Interview Transcript, CAR-OTP-2118-9664-R01, at 9667-68, lines 94-108).

⁶⁸⁷² See sections IV.B.1.ii, IV.B.1.iii above.

⁶⁸⁷³ P-2602 Interview Transcript, CAR-OTP-2118-9714-R01, at 9727-28, lines 450-463.

⁶⁸⁷⁴ P-2602 Interview Transcript, CAR-OTP-2118-9714-R01, at 9728-29, lines 464-514.

and with [REDACTED], and [REDACTED].⁶⁸⁷⁵ P-2602 stated that [REDACTED] were located, but did not know where Maxime Mokom was calling from.⁶⁸⁷⁶

b. Unfolding of the attack

2796. To conduct the attack on Bossangoa, the Anti-Balaka divided into two groups.

2797. Jo-Brice Ouabiro Dana stated that, before the attack, they divided into two groups, one led by Florent Kema and the other by Ndangba.⁶⁸⁷⁷ P-2602 stated that before the Bossangoa Attack, the Anti-Balaka groups were located in and nearby Bossangoa, surrounding the town.⁶⁸⁷⁸

2798. Jo-Brice Ouabiro Dana testified that Florent Kema's group was to attack from behind the Maria radio station.⁶⁸⁷⁹ P-2602 stated that Alexis Mandago's group came from Ouham-Bac direction to block the bridge leading to Bossangoa⁶⁸⁸⁰ and Florent Kema's group came from Bowaye and passed through Benzambé, near Ouham river, crossing Zoudame, and arriving in the Sembe neighbourhood.⁶⁸⁸¹ [REDACTED].⁶⁸⁸² This group included 'Charlie', who P-2602 stated came from Bangui, and was section chief under Florent Kema's command during the Bossangoa Attack.⁶⁸⁸³ P-2602 did not know the number of men Florent Kema had with him.⁶⁸⁸⁴

2799. Jo-Brice Ouabiro Dana stated that he was in [REDACTED] group which took the main road to Bossangoa,⁶⁸⁸⁵ approaching from Benzambé in the north where there was a Seleka base

⁶⁸⁷⁵ P-2602 Interview Transcript, CAR-OTP-2118-9714-R01, at 9729-33, lines 516-654.

⁶⁸⁷⁶ P-2602 Interview Transcript, CAR-OTP-2118-9714-R01, at 9725-27, lines 378-419.

⁶⁸⁷⁷ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0251-52, para. 61; P-0966: T-118, p. 4, line 16 – p. 5, line 8. See Map (annotated by P-0966), CAR-REG-0001-0004.

⁶⁸⁷⁸ P-2602 Interview Transcript, CAR-OTP-2118-9664-R01, at 9671, lines 232-241.

⁶⁸⁷⁹ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0251-52, para. 61; P-0966: T-117, p. 58, lines 7-11.

⁶⁸⁸⁰ P-2602 Interview Transcript, CAR-OTP-2118-9683-R01, at 9701-03, lines 598-663; Satellite image (annotated by P-2602), CAR-OTP-2120-0263.

⁶⁸⁸¹ P-2602 Interview Transcripts, CAR-OTP-2118-9664-R01, at 9680, lines 539-543; CAR-OTP-2118-9683-R01, at 9698-99, lines 500-517.

⁶⁸⁸² P-2602 Interview Transcript, CAR-OTP-2118-9683-R01, at 9699, lines 525-529.

⁶⁸⁸³ P-2602 Interview Transcript, CAR-OTP-2118-9683-R01, at 9689-90, lines 168-219. The Chamber notes that P-2049 stated that one of the persons who led the Bossangoa Attack was 'Charly' (see P-2049: T-101, p. 30, line 25 – p. 33, line 12).

⁶⁸⁸⁴ P-2602 Interview Transcript, CAR-OTP-2118-9683-R01, at 9699, lines 530-537.

⁶⁸⁸⁵ P-0966: T-116, p. 41, line 11 – p. 42, line 12; P-0966: T-117, p. 58, lines 7-11.

near the cemetery.⁶⁸⁸⁶ He stated that they attacked the Seleka posted outside the entrance of Bossangoa,⁶⁸⁸⁷ towards the cemetery.⁶⁸⁸⁸

2800.P-2602 confirmed that Théophile Ndongba was one of the leaders,⁶⁸⁸⁹ who approached Bossangoa through the main road of Benzambé.⁶⁸⁹⁰ P-2602 stated that Théophile Ndongba attacked the secondary position of the Seleka at the Kafa cemetery.⁶⁸⁹¹ P-2602 stated that during the attack, Théophile Ndongba had [REDACTED].⁶⁸⁹²

2801.Jo-Brice Ouabiro Dana stated that they left at 09:00 to attack Bossangoa at 13:00.⁶⁸⁹³ P-2602 stated that it was decided that the Bossangoa Attack was to start at 14:00 in accordance with tradition.⁶⁸⁹⁴ Jo-Brice Ouabiro Dana and P-2602 each stated that they approached from Benzambé in the north where there was a Seleka base near the cemetery⁶⁸⁹⁵ and attacked and fought against the Seleka in military uniform.⁶⁸⁹⁶ Minutes after the attack started at 14:00, Théophile Ndongba was struck by a bullet in his leg.⁶⁸⁹⁷

2802.In light of the above evidence, in particular from witnesses who experienced and participated in the Bossangoa Attack, the Chamber disregards the claim of D30-4608 that the Seleka would have initiated the Bossangoa Attack after the firing of a mortar, supposed to make Christians flee from the bishopric, was unsuccessful.⁶⁸⁹⁸

⁶⁸⁸⁶ P-0966: T-118, p. 3, line 16 – p. 5, line 8.

⁶⁸⁸⁷ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0251-52, para. 61; Map (annotated by P-0966), CAR-REG-0001-0003.

⁶⁸⁸⁸ P-0966: T-118, p. 4, line 16 – p. 5, line 8.

⁶⁸⁸⁹ P-2602 Interview Transcript, CAR-OTP-2118-9525-R01, at 9543-44, lines 622-630.

⁶⁸⁹⁰ P-2602 Interview Transcript, CAR-OTP-2118-9664-R01, at 9671-76, lines 242-399.

⁶⁸⁹¹ P-2602 Interview Transcript, CAR-OTP-2118-9664-R01, at 9676-77, lines 403-438.

⁶⁸⁹² P-2602 Interview Transcript, CAR-OTP-2118-9683-R01, at 9692, lines 292-303. *See also* P-2602 Interview Transcript, CAR-OTP-2118-9664-R01, at 9679-80, lines 511-522 (stating that there could have been roughly [REDACTED] men in the group).

⁶⁸⁹³ P-0966: T-116, p. 41, line 11 – p. 42, line 12; P-0966 Statement, CAR-OTP-2031-0241-R03, at 0251, para. 60.

⁶⁸⁹⁴ P-2602 Interview Transcript, CAR-OTP-2118-9641-R01, at 9662-63, lines 703-738; CAR-OTP-2118-9664-R01, at 9666, lines 57-62, at 9670, lines 185-203.

⁶⁸⁹⁵ P-0966: T-118, p. 3, line 16 – p. 5, line 8; P-0966 Statement, CAR-OTP-2031-0241-R03, at 0251-52, para. 61; Map (annotated by P-0966), CAR-REG-0001-0003; P-2602 Interview Transcript, CAR-OTP-2118-9664-R01, at 9676-77, lines 403-438.

⁶⁸⁹⁶ P-0966: T-118, p. 4, line 16 – p. 5, line 8.

⁶⁸⁹⁷ P-2602 Interview Transcripts, CAR-OTP-2118-9525-R01, at 9543-44, lines 627-649; CAR-OTP-2118-9664-R01, at 9668-69, lines 139-170, at 9680, lines 539-543; CAR-OTP-2118-9683-R01, at 9701, lines 585-597; P-0966: T-118, p. 4, line 16 – p. 5, line 8.

⁶⁸⁹⁸ D30-4608 Statement, CAR-D30-0017-0004-R01, at 0013, para. 68; D30-4608: T-292, p. 16, lines 6-18.

2803. Other witnesses similarly testified to hearing gunshots/detonations from around 13:00⁶⁸⁹⁹ or 14:00.⁶⁹⁰⁰

2804. As they were advancing, the group under lead of Théophile Ndangba attacked the Boro neighbourhood. Boro was one of the Muslim neighbourhoods of Bossangoa.⁶⁹⁰¹ Areas going further south included Arabe and Fulbe.⁶⁹⁰²

2805. Specifically, Jo-Brice Ouabi Dana stated that they went to Boro because this location had been indicated to them as a Seleka post or base, and they found the Seleka there and attacked.⁶⁹⁰³ The witness did not know whether there were Muslims in Boro because he did not know the town.⁶⁹⁰⁴ He testified that while they were advancing towards the Boro neighbourhood, they were struck by bullets by some Seleka in the trees.⁶⁹⁰⁵

2806. P-2602 similarly stated that Théophile Ndangba was already injured but was firing at the Seleka who were shooting at them as the Anti-Balaka progressed through Boro neighbourhood to Moniyondo.⁶⁹⁰⁶ P-2602 also stated that some Seleka were at their secondary positions, others at home, but had weapons.⁶⁹⁰⁷

⁶⁸⁹⁹ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2155, para. 44; P-1577: T-027, p. 40, lines 11-17.

⁶⁹⁰⁰ P-2049: T-103, p. 52, lines 7-23; P-2658 Statement, CAR-OTP-2126-0012-R02, at 0033, para. 131; P-2462: T-059, p. 20, line 13 – p. 22, line 12 (stating that on 5 December 2013 morning, she was at work but was told to return home because there had been an attack in Bangui and that she heard detonations at around 14:00); P-2657: T-104, p. 18, lines 20-22; P-2453: T-138, p. 30, line 9 – p. 31, line 4.

⁶⁹⁰¹ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0264, para. 120; P-2133 Statement, CAR-OTP-2093-0267-R02, at 0283, para. 114; P-2200 Statement, CAR-OTP-2088-2146-R04, at 2149, para. 17 (the witness explained that Boro was mainly inhabited by Mbororo and Haoussa individuals, as well as some Christians, while Arabe was inhabited in the majority by Muslims, in addition to some Christians). *See also* Annex 5.5 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0885, para. 5; P-2652 Statement, CAR-OTP-2126-0175-R01, at 0181, para. 32, at 0186, para. 60.

⁶⁹⁰² *See* Map, CAR-OTP-2118-9140. The Chamber notes that there appear different spellings for ‘Fulbe’, including also ‘Foulbé’, which appear to refer to the same neighbourhood.

⁶⁹⁰³ P-0966: T-118, p. 6, lines 11-21.

⁶⁹⁰⁴ P-0966: T-118, p. 6, lines 11-21.

⁶⁹⁰⁵ P-0966: T-118, p. 7, line 10 – p. 8, line 16.

⁶⁹⁰⁶ P-2602 Interview Transcript, CAR-OTP-2118-9664-R01, at 9679, lines 486-502.

⁶⁹⁰⁷ P-2602 Interview Transcript, CAR-OTP-2118-9664-R01, at 9679, lines 495-513.

2807.P-2049 stated that the Anti-Balaka went to the Arabe and Fulbe quarters to neutralise the Seleka.⁶⁹⁰⁸ P-2049 clarified that on 5 December 2013, he was at the *École de la Liberté* and did not see the Anti-Balaka, but heard from others who witnessed it.⁶⁹⁰⁹

2808.Michel Ningando heard that the Anti-Balaka came from the north of Bossangoa and came close to the Muslim neighbourhood of Boro.⁶⁹¹⁰

2809.P-1577 stated that he was driving [REDACTED] at around 13:00⁶⁹¹¹ and that the Seleka camp was in the main town, at least several kilometres away from where he was.⁶⁹¹² [REDACTED] just as the firing started, P-1577 passed a group of Seleka troops at the marketplace in the centre of town.⁶⁹¹³ The Seleka were in light brown pick-up trucks, and had weapons he could not identify as they were passing.⁶⁹¹⁴ The Seleka was moving in the direction towards where the imam's house was but P-1577 did not know whether they were going to the imam's house.⁶⁹¹⁵

2810.As the Anti-Balaka were attacking, they were well armed. Indeed, P-1577 stated that as he was driving away from the imam's house at around 13:00, the Anti-Balaka were behind them using Kalashnikovs or AK light weapons and RPGs.⁶⁹¹⁶ It was clear that it was coming from the direction of the imam's house and that it was the Anti-Balaka using these weapons.⁶⁹¹⁷ P-2200 similarly saw the Anti-Balaka armed with 'Kalas' (AK) and 'rockets', they were more heavily armed compared to the first attack in September.⁶⁹¹⁸ While P-2602 stated that

⁶⁹⁰⁸ P-2049: T-103, p. 65, line 18 – p. 66, line 10 (stated hearing the explosions from the north in Kaba where the Seleka's checkpoint was situated, near Yole).

⁶⁹⁰⁹ P-2049: T-103, p. 65, lines 7-9, p. 66, lines 11-21.

⁶⁹¹⁰ P-2652 Statement, CAR-OTP-2126-0175-R01, at 0186-87, para. 60.

⁶⁹¹¹ P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0784-85; P-1577: T-027, p. 40, lines 11-16. *See also* Metadata, CAR-OTP-2085-3013 (indicating the create date as '2013:12:05 13:01:03'); CAR-OTP-2085-5499 (indicating the create date as '2013:12:05 13:01:04.84').

⁶⁹¹² P-1577: T-027, p. 62, lines 3-11.

⁶⁹¹³ P-1577: T-027, p. 62, lines 3-11.

⁶⁹¹⁴ P-1577: T-028, p. 31, lines 6-17.

⁶⁹¹⁵ P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0784-85; P-1577: T-027, p. 62, lines 3-11; T-028, p. 30, lines 14-23.

⁶⁹¹⁶ P-1577: T-027, p. 40, lines 2-16. The Chamber notes in this regard that P-1577 [REDACTED] what he thought looked like an unexploded rocket from an RPG on the ground somewhere halfway between the marketplace and the imam's house [REDACTED] (*see* P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0789; P-1577: T-027, p. 60, lines 1-14). *See also* Photograph, CAR-OTP-2085-3382; Metadata, CAR-OTP-2085-3383; CAR-OTP-2085-5646.

⁶⁹¹⁷ P-1577: T-027, p. 40, lines 2-10.

⁶⁹¹⁸ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2157, para. 62.

[REDACTED] FACA in Florent Kema's group had an AK-47 while the rest, civilians, had hunting weapons,⁶⁹¹⁹ he further confirmed that in Théophile Ndangba's group the latter had an automatic weapon (FM-DKM) and [REDACTED] other FACA members also had automatic weapons, in addition to the group having an RPG and a 'Galil', both of which were used during the attack against the Seleka.⁶⁹²⁰ Bearing in mind this witness's role in the attack, the Chamber does not consider his statement about the civilians in his group being armed with hunting rifles to distract from its overall conclusion that the Anti-Balaka conducting the attack was well armed.

2811. In relation to whom the Anti-Balaka attacked while advancing through Bossangoa, the Chamber notes the evidence of Jo-Brice Ouabiro Dana, an Anti-Balaka element who participated in the attack, according to which they assumed that if someone stayed in a house as opposed to fleeing, the person had a weapon to defend himself.⁶⁹²¹ According to Jo-Brice Ouabiro Dana, the attack was against the Seleka who were bearing arms, but he could not know who was military or civilian and fought all individuals bearing arms.⁶⁹²² The Chamber considers this evidence in the context of the same witness's explanation according to which 'whoever was a Muslim was a Seleka' in Bossangoa,⁶⁹²³ and that for Christians of Bossangoa to 'live in peace' and go 'back to their lives', the Anti-Balaka 'cleansed' the houses in Bossangoa because the houses were 'dirty of the Seleka'.⁶⁹²⁴ It can be inferred from the evidence of this witness, who participated in the attack, that no distinction was made between Muslim civilians and members of the Seleka.⁶⁹²⁵

2812. Further in this regard, the Chamber notes that P-2200 stated that as there were not many Seleka at the time of the attack on 5 December 2013, in the afternoon, the Seleka distributed

⁶⁹¹⁹ P-2602 Interview Transcript, CAR-OTP-2118-9683-R01, at 9700, lines 556-567. *See also* P-2602 Interview Transcript, CAR-OTP-2118-9683-R01, at 9692, lines 304-306.

⁶⁹²⁰ P-2602 Interview Transcript, CAR-OTP-2118-9683-R01, at 9693-95, lines 312-405.

⁶⁹²¹ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0252, para. 64.

⁶⁹²² P-0966: T-117, p. 56, line 25 – p. 57, line 5.

⁶⁹²³ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0252, para. 64.

⁶⁹²⁴ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0252, paras 62-63.

⁶⁹²⁵ The Chamber notes in this regard also the evidence of Michel Ningando, who heard from his deputy who was in Bossangoa at the time, that when the Anti-Balaka arrived, they attacked all the Muslims, whether armed or not, as they saw the Muslims as accomplices of the Seleka (*see* P-2652 Statement, CAR-OTP-2126-0175-R01, at 0186-87, para. 61).

weapons to certain Muslim men who knew how to use them, so that they could defend their families.⁶⁹²⁶

2813. P-2602 stated that he saw the Muslim population fleeing to the *École de la Liberté* and that some of them were armed with the same weapons that the Seleka were using, namely the 12-7 mounted on top of vehicles.⁶⁹²⁷ He stated that the Peuhl were also armed and shooting at them.⁶⁹²⁸ P-2602 stated that he did not see any of the Christian population of Bossangoa in the neighbourhood as he advanced; at that time they were at the bishop's house and there was nobody moving.⁶⁹²⁹

2814. On the basis of the above, and contrary to the Ngaïssona Defence's argument that a large proportion of Muslim civilians actively participated in the Bossangoa Attack,⁶⁹³⁰ the Chamber finds that while some Muslim civilians may have been armed during the Bossangoa Attack, the large majority were not, as is also evidenced by their fleeing in great numbers to the *École de la Liberté* in the face of the attack. Regarding the Ngaïssona Defence's arguments on specific alleged victims being armed during the Bossangoa Attack, the Chamber will discuss each of these individuals below.

i. Attack near the Imam Naffi's residence in the Boro neighbourhood

2815. The residence of the imam of Bossangoa, Imam Naffi, was located near the Boro neighbourhood, in the 'Arabe' neighbourhood.⁶⁹³¹ P-2049 described the location of the

⁶⁹²⁶ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2156, para. 57. *See also* P-2652 Statement, CAR-OTP-2126-0175-R01, at 0186-87, paras 60-61 (the witness heard, but was not present at the time to see, that some Muslims from Boro were armed and ready to defend their neighbourhood with the Seleka when the Anti-Balaka came).

⁶⁹²⁷ P-2602 Interview Transcript, CAR-OTP-2118-9705-R01, at 9706-08, lines 29-80. *See also* P-2602 Interview Transcript, CAR-OTP-2118-9785-R01, at 9806, lines 704-711.

⁶⁹²⁸ P-2602 Interview Transcript, CAR-OTP-2118-9705-R01, at 9707-08, lines 55-80.

⁶⁹²⁹ P-2602 Interview Transcripts, CAR-OTP-2118-9683-R01, at 9696-97, lines 446-450; CAR-OTP-2118-9705-R01, at 9706-08, lines 29-80.

⁶⁹³⁰ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 304-308.

⁶⁹³¹ P-2049: T-101, p. 66, line 9 – p. 67, line 18, p. 70, lines 16 – p. 71, line 5 (stating that it was located in the Arabe neighbourhood; the compound was large, with some mango trees within it); P-2200 Statement, CAR-OTP-2088-2146-R04, at 2152, para. 29 (stating that the residence in Arabe was a large property with eight rooms and three large mango trees).

imam's residence and estimated that it could take between seven and 10 minutes to walk from the mosque in Boro to the imam's house.⁶⁹³²

2816. Imam Naffi was warned about the Bossangoa Attack before it started. P-2049 testified that Imam Naffi said that FOMAC had warned him about the attack and to take refuge at the *École de la Liberté* where the FOMAC elements were securing displaced persons at that time.⁶⁹³³

2817. Other witnesses provided similar evidence. P-2200 stated that at around 12:00 on 5 December 2013, 'UDAC' soldiers from Guinea and Cameroon came to the neighbourhood to advise Muslims to shelter in the school.⁶⁹³⁴ P-2200 stated that about 40 or 50 people first sought refuge at his residence.⁶⁹³⁵ P-2200 stated that from 13:00, they began to hear detonations and around one hour afterwards went to the school as the soldiers had advised.⁶⁹³⁶ P-2200 stated that they were escorted by the 'UDAC' soldiers and by the Seleka and it took them around 15 minutes by foot to reach the school.⁶⁹³⁷ P-2200 did not remember the name of the school but it was situated close to Bossangoa tribunal, close to the Muslim quarters and there were only Muslims at the school.⁶⁹³⁸ Taking into account the descriptions by P-2200, the Chamber considers that P-2200 is referring to the *École de la Liberté*.⁶⁹³⁹

2818. P-2453 stated that he was in the *École de la Liberté* on 5 December 2013 but heard that the Congolese soldiers of FOMAC went to the imam's house in the morning to warn that they had encountered Anti-Balaka who were about to launch the attack on the outskirts of

⁶⁹³² P-2049: T-101, p. 67, line 9 – p. 68, line 4.

⁶⁹³³ P-2049: T-103, p. 62, lines 7-24.

⁶⁹³⁴ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2155, para. 44.

⁶⁹³⁵ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2155, para. 44.

⁶⁹³⁶ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2155, para. 44.

⁶⁹³⁷ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2155, para. 44. The Chamber disregards in this context the evidence of P-2602 who stated that the imam from Bossangoa and some of his family members fled to the bishop's house (see P-2602 Interview Transcript, CAR-OTP-2118-9705-R01, at 9706-07, lines 29-42), also bearing in mind that the basis for the witness's assertion in this regard is unclear.

⁶⁹³⁸ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2155, para. 44.

⁶⁹³⁹ See also Map, CAR-OTP-2118-9140; Photograph, CAR-OTP-2085-3402; Metadata, CAR-OTP-2085-3403; CAR-OTP-5652; Photograph, CAR-OTP-2085-4592; Metadata, CAR-OTP-2085-4593; CAR-OTP-2085-6060; Photograph, CAR-OTP-2085-4602; Metadata, CAR-OTP-2085-4602; CAR-OTP-2085-6063; Photograph, CAR-OTP-2085-4612; Metadata, CAR-OTP-2085-4613; CAR-OTP-2085-6069; Photograph, CAR-OTP-2085-4622; Metadata, CAR-OTP-2085-4623; CAR-OTP-2085-6072; Photograph, CAR-OTP-2085-4632; Metadata, CAR-OTP-2085-4633; CAR-OTP-2085-6075.

Bossangoa⁶⁹⁴⁰ and that the Muslim community should gather at the *École de la Liberté*.⁶⁹⁴¹ P-2453 stated that the imam refused at first but people managed to convince him to move to the school and soon thereafter, the witness and others saw a large group led by the imam arriving at the *École de la Liberté*.⁶⁹⁴² P-2453 stated that from the *École de la Liberté*, they saw the Seleka on their vehicles rushing towards the entrance of the town and heard gunshots at around 11:00 coming from that direction, the Anti-Balaka defeated the Seleka posted at this barrier and eventually entered the Boro neighbourhood.⁶⁹⁴³ P-2453 stated that [REDACTED] drove back to Boro and went to the imam's house to tell the Muslim civilians to seek protection at the school.⁶⁹⁴⁴ P-2453 stated that the group led by the imam left Boro as the Anti-Balaka were approaching and started shooting at them, when the group arrived to the school, some had bullet wounds.⁶⁹⁴⁵

2819.P-2658 stated that in the morning of 5 December 2013, MISCA went to the imam and advised him to ask all the Muslims to gather at the *École de la Liberté*, where MISCA was based.⁶⁹⁴⁶ P-2658 identified the imam at the *École de la Liberté* in a photograph.⁶⁹⁴⁷

2820.P-1577 stated that he was at the residence of the imam of Bossangoa⁶⁹⁴⁸ [REDACTED] and when he came back to the imam's house the second time, he noticed that the market and the neighbourhood around the imam's house, normally filled with Muslim residents, was completely empty and there appeared to be no one at or around the imam's house.⁶⁹⁴⁹

⁶⁹⁴⁰ P-2453: T-138, p. 31, lines 5-21.

⁶⁹⁴¹ P-2453: T-138, p. 32, line 5 – p. 33, line 3; P-2453 Statement, CAR-OTP-2111-0415-R04, at 0428-29, paras 62-63.

⁶⁹⁴² P-2453 Statement, CAR-OTP-2111-0415-R04, at 0429, para. 65.

⁶⁹⁴³ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0429, para. 64.

⁶⁹⁴⁴ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0429, para. 65.

⁶⁹⁴⁵ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0429, para. 65.

⁶⁹⁴⁶ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0033, para. 132.

⁶⁹⁴⁷ P-2658: T-135, p. 13, line 23 – p. 14, line 7 *referring to* Photograph, CAR-OTP-2085-4592.

⁶⁹⁴⁸ The Chamber notes that P-1577's indication of the residence on a satellite image seems to locate it slightly north of the Boro school (*see* Satellite image (annotated by P-1577), CAR-OTP-2088-0731; P-1577 Second Statement, CAR-OTP-2088-0717-R01, at 0719; *see also* Map, CAR-OTP-2118-9140). The witness also stated that the imam's house was close to the Muslim trading area (*see* P-1577: T-027, p. 62, line 24 – p. 63, line 14). [REDACTED] Considering the evidence before it, the Chamber concludes that the residence mentioned by P-1577 was that of Imam Naffi.

⁶⁹⁴⁹ P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0784-85.

2821.P-2602 stated that most of the Muslim population fled to *École de la Liberté*.⁶⁹⁵⁰

ii. *A Muslim family fleeing to the Imam Naffi's residence*

During the attack on Bossangoa on 5 December 2013, Batoul Naffi and several other individuals were injured. An Anti-Balaka element forced P-2462 into sexual intercourse, having blindfolded and undressed her, and after the group of five Anti-Balaka he was in had threatened her with their weapons.

Fleeing the imam's residence

2822.P-2462 stated that after hearing detonations at around 14:00, she took the children to the imam's house where there were many people, including women and children.⁶⁹⁵¹ P-2462 stated that she returned home to collect other members of her family, and whilst they were en route to the imam's residence, the people previously gathered there fled, including the imam.⁶⁹⁵²

2823.P-2462 explained that she was with [REDACTED].⁶⁹⁵³ P-2462 explained that none of her family owned arms⁶⁹⁵⁴ and stated that the women in her group were dressed up as Muslims normally would, with scarves on their heads.⁶⁹⁵⁵

2824.P-2462 testified that the Anti-Balaka had surrounded the entire building⁶⁹⁵⁶ and started to shoot; Khadidja Adjaro and Abdel shouted that they had been struck by bullets and the gunshots were so powerful that everybody fled in different directions.⁶⁹⁵⁷ P-2462 said she knew that they were Anti-Balaka because some of them had plaited hair, others wore *gris-gris* and had scarves, others wore military dress.⁶⁹⁵⁸

⁶⁹⁵⁰ P-2602 Interview Transcript, CAR-OTP-2118-9705-R01, at 9706-07, lines 29-42.

⁶⁹⁵¹ P-2462: T-059, p. 22, lines 9-14.

⁶⁹⁵² P-2462: T-059, p. 22, lines 15-21.

⁶⁹⁵³ P-2462: T-059, p. 29, line 11 – p. 30, line 2, p. 34, line 7.

⁶⁹⁵⁴ P-2462: T-060, p. 11, lines 1-6.

⁶⁹⁵⁵ P-2462: T-059, p. 23, lines 4-8.

⁶⁹⁵⁶ P-2462: T-059, p. 22, lines 19-21.

⁶⁹⁵⁷ P-2462: T-059, p. 23, lines 16-22; T-060, p. 30, lines 5-13.

⁶⁹⁵⁸ P-2462: T-059, p. 40, lines 3-13.

2825.P-2657 testified that at around 14:00 on 5 December 2013, she was in her compound when her husband came to inform her about hearing explosions.⁶⁹⁵⁹ P-2657 ran to the house [REDACTED],⁶⁹⁶⁰ where she saw [REDACTED].⁶⁹⁶¹ P-2657 stated that when she arrived, [REDACTED] had already left.⁶⁹⁶²

2826.P-2657 testified that they decided to go to the imam's residence but there were gunshots, Kadidja Adjaro was shot and Abdel Abakar was killed with a bullet wound.⁶⁹⁶³ P-2657 stated that she did not see who shot Khadidja Adjaro and Abdel Abakar, but believed it was the Anti-Balaka as they were the ones 'cracking down on Muslims'.⁶⁹⁶⁴ P-2657 denied being aware that Seleka troops, armed elements, had gone towards the mosque and the imam's residence at the beginning of the Bossangoa Attack.⁶⁹⁶⁵ P-2657 also stated that she saw the body of Atahir [REDACTED], when they left the house of the imam, and that he was shot and killed.⁶⁹⁶⁶

2827.P-2657 testified that she was wearing a top, a '*pagne*', and a headscarf around her head.⁶⁹⁶⁷ P-2657 stated that there were many assailants and that there were some in military outfits, but many were wearing civilian clothing, they were wearing *gris-gris* and they also had red 'head banners'.⁶⁹⁶⁸

2828.The evidence before the Chamber shows that Batoul Naffi was injured in the vicinity of the imam's compound, receiving a bullet wound to the leg and machete wounds to the head, and

⁶⁹⁵⁹ P-2657: T-104, p. 18, line 13 – p. 19, line 11; T-105, p. 21, lines 6-20.

⁶⁹⁶⁰ P-2657: T-105, p. 21, line 6 – p. 22, line 3.

⁶⁹⁶¹ P-2657: T-105, p. 23, lines 5-20.

⁶⁹⁶² P-2657: T-105, p. 23, lines 5-9.

⁶⁹⁶³ P-2657: T-104, p. 18, line 13 – p. 19, line 11, p. 26, line 17 – p. 27, line 6, p. 40, lines 15-23.

⁶⁹⁶⁴ P-2657: T-104, p. 26, line 17 – p. 27, line 6, p. 40, lines 15-20.

⁶⁹⁶⁵ P-2657: T-105, p. 27, lines 4-6.

⁶⁹⁶⁶ P-2657: T-104, p. 40, line 24 – p. 41, line 6.

⁶⁹⁶⁷ P-2657: T-104, p. 25, lines 10-13.

⁶⁹⁶⁸ P-2657: T-105, p. 33, lines 6-12. The Chamber notes in this regard an HRW report which quotes a Boro resident who was interviewed on 6 December 2013 and who stated that the attackers included 'real FACA soldiers and Presidential Guards, armed with AK-47s and RPGs [rocket-propelled grenades], and they were in uniform and wearing the red berets [of the former presidential guard]' (see HRW Report, CAR-OTP-2001-2043, at 2055). In a similar vein, P-2658 stated that before or around September 2013, he saw about 100-200 Anti-Balaka in Benzambé who were all armed and had red headbands and *gris-gris* (see P-2658: T-134, p. 25, line 16 – p. 27, line 5).

that she was found the day after the attack.⁶⁹⁶⁹ According to P-2462, the Anti-Balaka caused Batoul Naffi's injuries.⁶⁹⁷⁰

2829. The evidence further shows that other individuals were also injured during the attack. Specifically, P-2049 confirmed that 14 Muslims who were injured during the Bossangoa Attack were taken to the hospital [REDACTED].⁶⁹⁷¹ P-2657 described how, when reaching the imam's residence after her rape, she saw people who had been struck by bullets [REDACTED].⁶⁹⁷²

2830. P-2453 testified that eight wounded people, all Muslims, arrived at the dispensary at the *École de la Liberté* on 5 December 2013 at approximately 17:00, some arriving at 16:00, others at 16:45, including elderly men and young people with gunshot wounds and a lady with a machete wound.⁶⁹⁷³ While P-2453 did not see how these people were injured, the people arriving to the school said Anti-Balaka were shooting at them, and he further clarified that the injured victims were civilians and did not have weapons with them, otherwise the FOMAC would not have let them enter the school site.⁶⁹⁷⁴ As the small clinic at the *École de la Liberté* would only administer first aid, the ambulance took more serious cases to the prefectural hospital.⁶⁹⁷⁵

2831. P-1577 described meeting a man at the *École de la Liberté* on 5 December 2013 or the day after who told him that he had been shot and left for dead in a burning building, but managed to flee to the *École de la Liberté*.⁶⁹⁷⁶ The man told P-1577 that he was attacked by the Anti-Balaka and that they were mixed forces of traditional Anti-Balaka and more regimented FACA PG.⁶⁹⁷⁷

⁶⁹⁶⁹ P-2049: T-100, p. 71, line 25 – p. 72, line 25; T-101, p. 18, line 23 – p. 19, line 8; T-103, p. 68, line 23 – p. 69, line 9; P-2657: T-104, p. 36, lines 9-22, p. 40, lines 9-11; P-2462: T-059, p. 36, line 13 – p. 37, line 8; P-2200 Statement, CAR-OTP-2088-2146-R04, at 2155, para. 46.

⁶⁹⁷⁰ P-2462: T-059, p. 38, lines 21-24.

⁶⁹⁷¹ P-2049: T-101-ENG, p. 18, line 11 – p. 19, line 18; T-101-FRA, p. 19, line 6 – p. 20, line 18.

⁶⁹⁷² P-2657: T-104, p. 18, line 13 – p. 20, line 10, p. 26, lines 6-16.

⁶⁹⁷³ P-2453: T-136, p. 87, line 3 – p. 88, line 1. [REDACTED]

⁶⁹⁷⁴ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0429, para. 65; P-2453: T-136, p. 84, lines 7-13, p. 87, lines 9-22; T-138, p. 39, line 23 – p. 41, line 19, p. 44, lines 6-14.

⁶⁹⁷⁵ P-2453: T-136, p. 88, lines 2-8.

⁶⁹⁷⁶ P-1577: T-027, p. 57, lines 15-23. See Photograph, CAR-OTP-2085-3092; Metadata, CAR-OTP-2085-3093; CAR-OTP-2085-5547-R01.

⁶⁹⁷⁷ P-1577: T-027, p. 57, lines 15-23.

Events concerning P-2462 and P-2657

2832. The Chamber now turns to the events surrounding the assaults of P-2462 and P-2657. In this context, the Chamber bore in mind in particular its direct impression of these witnesses when providing, in court, their testimonies in an open manner and replete with individual details.

2833. P-2462 testified that as the Anti-Balaka started shooting, everybody fled in different directions.⁶⁹⁷⁸ P-2462 stated that she entered and hid [REDACTED] and that when she felt that it was a bit calm to come out, a group of five ‘Balaka’ came in, threatened her with their weapons.⁶⁹⁷⁹ P-2462 stated that, although she saw the Anti-Balaka who were shooting at her, she did not know whether they were the ones who found her in the house.⁶⁹⁸⁰ The Chamber notes that P-2462 later clarified that she was [REDACTED] and was raped.⁶⁹⁸¹

2834. P-2462 testified that one of them said not to kill her [REDACTED].⁶⁹⁸² Asked how she knew the five people, especially the one who raped her, were Anti-Balaka, P-2462 stated that they were armed, had *gris-gris* and military clothes and spoke Sango.⁶⁹⁸³

2835. P-2462 testified that they said that they must leave, because if they remained there the Seleka might show up, so they blindfolded P-2462 and [REDACTED].⁶⁹⁸⁴ P-2462 stated that [REDACTED] he undressed and removed her skirt and her underpants and he ‘slept’ with her.⁶⁹⁸⁵ P-2462 stated that after he raped her, [REDACTED] he left.⁶⁹⁸⁶

2836. P-2462 explained that [REDACTED] she did not know the person, [REDACTED]⁶⁹⁸⁷ at Boro market and Christian.⁶⁹⁸⁸ P-2462 had no information on how and when [REDACTED] became Anti-Balaka.⁶⁹⁸⁹

⁶⁹⁷⁸ P-2462: T-059, p. 23, lines 17-22; T-060, p. 30, lines 5-13.

⁶⁹⁷⁹ P-2462: T-059, p. 23, line 17 – p. 24, line 4.

⁶⁹⁸⁰ P-2462: T-060, p. 30, lines 15-22.

⁶⁹⁸¹ P-2462: T-060, p. 30, lines 1-13, p. 31, lines 4-12.

⁶⁹⁸² P-2462: T-059, p. 23, line 25 – p. 24, line 4.

⁶⁹⁸³ P-2462: T-060, p. 37, line 11 – p. 38, line 14.

⁶⁹⁸⁴ P-2462: T-059, p. 24, lines 5-9; T-060, p. 31, lines 4-12.

⁶⁹⁸⁵ P-2462: T-059, p. 24, lines 5-9.

⁶⁹⁸⁶ P-2462: T-059, p. 24, lines 12-15.

⁶⁹⁸⁷ P-2462: T-059, p. 25, lines 9-15.

⁶⁹⁸⁸ P-2462: T-060, p. 31, line 17 – p. 32, line 2.

⁶⁹⁸⁹ P-2462: T-060, p. 32, lines 6-8.

2837.P-2462 remained [REDACTED].⁶⁹⁹⁰ P-2462 stated that [REDACTED] she found her mother who was crying and had thought P-2462 was dead and that it was only the following morning that she told her mother the entire story of what had happened to her.⁶⁹⁹¹ P-2462 stated that her mother started crying and said that P-2462 must not kill herself, she suggested things so that P-2462 would get more confidence in herself and decided to take P-2462 to the hospital.⁶⁹⁹²

2838.P-2462 stated that at the hospital, [REDACTED] she received the first results, but lost the later results.⁶⁹⁹³ P-2462 recognised the document that was given to her after her consultation,⁶⁹⁹⁴ and another document drafted by a doctor which was given to her the same day after her consultation.⁶⁹⁹⁵

2839.P-2462, asked about [REDACTED], stated that [REDACTED] they were in the same town in Bossangoa and she married a man [REDACTED].⁶⁹⁹⁶ P-2462 stated that she [REDACTED].⁶⁹⁹⁷ P-2462 stated that she told her that it was the Anti-Balaka but did not give any other details.⁶⁹⁹⁸

2840.P-2657 testified that, as there were gunshots, she ran [REDACTED].⁶⁹⁹⁹ P-2657 stated that seven men came into the house and talked to each other, discussing whether P-2657 should be killed.⁷⁰⁰⁰ One of them proposed that she should be taken ‘to their leader Ngaïssona’.⁷⁰⁰¹ P-2657 also heard them talk about [REDACTED].⁷⁰⁰² P-2657 stated that they were all armed and some were in military outfits while others were not, and they were speaking Gbaya and

⁶⁹⁹⁰ P-2462: T-059, p. 24, lines 12-20.

⁶⁹⁹¹ P-2462: T-059, p. 24, lines 21-25.

⁶⁹⁹² P-2462: T-059, p. 25, lines 1-7.

⁶⁹⁹³ P-2462: T-059, p. 25, lines 17-25.

⁶⁹⁹⁴ P-2462: T-059, p. 26, lines 1-19; Medical report, CAR-OTP-2127-9467 (mentioning (as written): ‘*Une jeune fille [REDACTED] est reçu à [REDACTED] qui a été violée par un anti-balaka lors des evenements qui a eu lieu en date du 05-12-2013 dans la journée*’).

⁶⁹⁹⁵ P-2462: T-059, p. 27, line 14 – p. 28, line 9; Medical report, CAR-OTP-2127-9468 (mentioning (as written): ‘NB : *La patiente a beaucoup saigné et on a constaté aussi la defloration de l’hymène. Après, la patiente a été traité [REDACTED]*’).

⁶⁹⁹⁶ P-2462: T-059, p. 28, line 19 – p. 29, line 10.

⁶⁹⁹⁷ P-2462: T-059, p. 30, lines 3-11.

⁶⁹⁹⁸ P-2462: T-059, p. 30, line 12-16.

⁶⁹⁹⁹ P-2657: T-104, p. 19, lines 4-8.

⁷⁰⁰⁰ P-2657: T-104, p. 19, lines 8-14.

⁷⁰⁰¹ P-2657: T-104, p. 19, lines 15-16.

⁷⁰⁰² P-2657: T-104, p. 22, lines 4-8.

Sango.⁷⁰⁰³ P-2657 stated that [REDACTED].⁷⁰⁰⁴ P-2657 stated that [REDACTED] after a while, five of them went out and [REDACTED] and another man who remained raped her.⁷⁰⁰⁵ P-2657 stated that after they had raped her, they left her in the house and left.⁷⁰⁰⁶

2841. P-2657 stated that two days after the rape, [REDACTED].⁷⁰⁰⁷ Asked about [REDACTED].⁷⁰⁰⁸ P-2657 stated [REDACTED].⁷⁰⁰⁹

2842. Other witnesses support P-2462's and P-2657's accounts. P-2049 testified that [REDACTED], P-2657,⁷⁰¹⁰ and [REDACTED] P-2462, were raped.⁷⁰¹¹ [REDACTED].⁷⁰¹² P-2453 further stated that neither of them ever told him what happened to them in the bush but 'when men take women into the bush, the assumption is that they force them to have sexual intercourse' and because of that rumour, [REDACTED] is still not married because no man is interested in her now.⁷⁰¹³

2843. The Prosecution argues that the testimonies of P-2462 and P-2657 suffice to prove their respective rapes by the Anti-Balaka beyond reasonable doubt and that the evidence of their rape is credible and incontestable.⁷⁰¹⁴ It submits that while Mr Ngaïssona is only charged with the rape of P-2462, the rape of P-2657 is probative to the charge of persecution, the intention of the perpetrators and the Anti-Balaka's criminal policy.⁷⁰¹⁵

⁷⁰⁰³ P-2657: T-104, p. 21, line 11 – p. 22, line 3.

⁷⁰⁰⁴ P-2657: T-104, p. 19, lines 12-18, p. 20, lines 11-19. The Chamber notes in this regard that the Ngaïssona Defence also doubts P-2657's credibility on the basis of her identifying a perpetrator that is said to have died before the Bossangoa Attack (see [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 395 and n. 1353). In the view of the Chamber, even assuming a person [REDACTED] as the person identified by P-2657 were identified as dead before the Bossangoa Attack (see also Decision on the Ngaïssona Defence Request to Exclude Evidence or, Alternatively, to Recall Prosecution Witness P-2657, 5 June 2024, ICC-01/14-01/18-2521-Conf, para. 2), this would not put into doubt P-2657's specific identification of one of the perpetrators of her assault, in particular bearing in mind that the witness was in a position to explain further [REDACTED].

⁷⁰⁰⁵ P-2657: T-104, p. 19, lines 12-20.

⁷⁰⁰⁶ P-2657: T-104, p. 19, lines 20-21.

⁷⁰⁰⁷ P-2657: T-104, p. 24, lines 2-10.

⁷⁰⁰⁸ P-2657: T-104, p. 24, lines 11-18.

⁷⁰⁰⁹ P-2657: T-104, p. 24, lines 19-22.

⁷⁰¹⁰ [REDACTED]

⁷⁰¹¹ P-2049: T-100, p. 73, lines 1-5. [REDACTED]

⁷⁰¹² [REDACTED]. See also [REDACTED].

⁷⁰¹³ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0430, para. 71.

⁷⁰¹⁴ Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, para. 625.

⁷⁰¹⁵ Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, para. 625.

2844. The Ngaïssona Defence challenges the witness's accounts in relation to two main points, namely whether the rapes in fact happened, as well as who the perpetrator of P-2462's assault was. The Chamber will address these arguments in turn.

2845. First, the Ngaïssona Defence argues that the incident of rape with which Mr Ngaïssona is charged has not been established beyond reasonable doubt,⁷⁰¹⁶ due to issues with P-2462's credibility on the basis of inconsistencies in her and with P-2657's account as well as 'implausible' circumstances regarding the rape,⁷⁰¹⁷ and the authenticity of the medical reports which the witness provided.⁷⁰¹⁸

2846. In relation to the first alleged inconsistency, regarding the location where P-2462 was stopped by the Anti-Balaka before being taken to the [REDACTED],⁷⁰¹⁹ the Chamber notes that the witness initially stated she was [REDACTED] when a group of five 'Balaka' came in and threatened her,⁷⁰²⁰ while later clarifying that she was [REDACTED] where she was raped.⁷⁰²¹ The Chamber finds this inconsistency minor.

2847. In relation to the alleged inconsistencies between the accounts of P-2462 and P-2657, the Ngaïssona Defence argues that (i) P-2462 said she [REDACTED]⁷⁰²² while the latter did not [REDACTED],⁷⁰²³ and (ii) P-2657 stated [REDACTED],⁷⁰²⁴ while P-2462 said [REDACTED].⁷⁰²⁵

2848. As regards the first point, the Chamber notes that although one witness mentioned fleeing with the other while the other did not mention the first, both witnesses stated seeing each other on the same day. Considering the circumstances surrounding the witnesses' situations at the time of the attack, the Chamber does not consider these accounts to be inconsistent.

⁷⁰¹⁶ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 269.

⁷⁰¹⁷ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 380-381, 394.

⁷⁰¹⁸ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 382.

⁷⁰¹⁹ Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, para. 381.

⁷⁰²⁰ P-2462: T-059, p. 23, line 17 – p. 24, line 4.

⁷⁰²¹ P-2462: T-060, p. 30, lines 5-13, p. 31, lines 4-12.

⁷⁰²² P-2462: T-059, p. 28, line 19 – p. 29, line 10.

⁷⁰²³ P-2657: T-105, p. 23, lines 5-20.

⁷⁰²⁴ P-2657: T-104, p. 19, line 22 – p. 20, line 2.

⁷⁰²⁵ P-2462: T-059, p. 24, lines 12-15.

2849. In relation to the second point, the Chamber notes that P-2657 did not mention [REDACTED] full name, but in fact mentioned seeing [REDACTED].⁷⁰²⁶ In this regard, the Chamber notes that this is the name of [REDACTED], who was also seeking refuge at the imam's residence on the day of the attack.⁷⁰²⁷ At the same time, P-2462 testified that [REDACTED],⁷⁰²⁸ and indeed [REDACTED].⁷⁰²⁹ On this basis, the Chamber is unable to conclude that P-2657 was in fact referring to [REDACTED] instead of [REDACTED], when stating whom she met at the imam's residence.

2850. The Chamber gives no weight to the Ngaïssona Defence's suggestion that P-2462's description of the rape is 'implausible' because it implies that the Anti-Balaka members involved 'would have abandoned their fighting positions and walked the relatively long distance' from the Foulbé neighbourhood [REDACTED] 'in the middle of combat'.⁷⁰³⁰ Without further, this amounts to nothing more than speculation and does, in any event, not serve to discredit the witness's direct and detailed account of her assault.

2851. The Chamber equally finds no merit in the Ngaïssona Defence's argument that the medical reports provided by P-2462⁷⁰³¹ lack authenticity and probative value.⁷⁰³² Indeed, bearing in mind that in the circumstances, bureaucratic accuracy of medical reports cannot be expected, and that both reports contain information which matches the description of events provided by P-2462, the Chamber considers these reports to be authentic.

2852. Further, the Chamber finds without merit the Ngaïssona Defence's arguments regarding the credibility of P-2462 and P-2657, in relation to them (i) not being forthcoming about [REDACTED]; (ii) having limited first-hand knowledge of events in Bossangoa and the Ouham region in 2013;⁷⁰³³ and (iii) not seeing the alleged victims being killed.⁷⁰³⁴

⁷⁰²⁶ P-2657: T-104, p. 20, line 2. See Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, para. 381, n. 1286.

⁷⁰²⁷ P-2462: T-059, p. 29, line 11 – p. 30, line 2.

⁷⁰²⁸ P-2462: T-059, p. 7, lines 16-18; T-060, p. 6, lines 7-22.

⁷⁰²⁹ [REDACTED]

⁷⁰³⁰ Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, para. 381.

⁷⁰³¹ Medical Reports, CAR-OTP-2127-9467; CAR-OTP-2127-9468. See P-2462: T-059, p. 25, line 17 – p. 28, line 6.

⁷⁰³² [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 382. See also Investigation Notes, CAR-OTP-2130-6350-R01.

⁷⁰³³ Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, para. 394.

⁷⁰³⁴ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 330.

2853. On the first point, the Chamber notes that neither P-2462 nor P-2657 denied [REDACTED] and explained how [REDACTED] when asked.⁷⁰³⁵ Indeed, the witnesses were honest and forthcoming. On the second point, the Chamber does not find that any limited first-hand knowledge of events that are not part of the charged events the witnesses were called to testify about in any way impacts their evidence on their first-hand and direct experience of events these witnesses lived through. On the third point, the Chamber notes that P-2657 testified being with the victims at the time of the attack and seeing their injuries, while P-2462 was with the victims at the time at which the shootings occurred.⁷⁰³⁶ The Chamber found their testimonies regarding the attack at the imam's residence credible, reliable and generally consistent with each other.

2854. Second, and turning to the challenges regarding the identification of the perpetrator of P-2462's assault, the Chamber notes that the Ngaïssona Defence argues that P-2462 and P-2657 were not able to distinguish between members of the Seleka and of the Anti-Balaka, and thus in particular P-2462's identification of the five individuals linked to her assault as Anti-Balaka cannot be relied on.⁷⁰³⁷

2855. At the outset, the Chamber recalls that P-2462 identified the five individuals as Anti-Balaka in the context of giving additional information, explaining she knew they were Anti-Balaka because they were armed, wore military outfits, had plaited hair, *gris-gris*, red turbans, and spoke Sango, which she thought the Seleka could not speak.⁷⁰³⁸ P-2657, when shown photographs and a video, explained that Anti-Balaka had *gris-gris*, weapons, and some had knives, while Seleka had turbans, berets and weapons, and civilians did not carry *gris-gris* or weapons.⁷⁰³⁹ In relation to her assault, P-2657 specified that the seven Anti-Balaka spoke Gbaya and Sango,⁷⁰⁴⁰ and that she heard them say 'Ngaïssona' was their leader, regarding whom she learned later from the airwaves that he was the leader of the Anti-Balaka.⁷⁰⁴¹

⁷⁰³⁵ P-2462: T-060, p. 4, lines 6-17; P-2657: T-105, p. 26, lines 1-6.

⁷⁰³⁶ See paragraphs 2858-2876 below.

⁷⁰³⁷ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 335, nn. 1154, 1158, para. 387.

⁷⁰³⁸ P-2462: T-060, p. 30, line 23 – p. 31, line 3, p. 35, line 2 – p. 38, line 14, p. 39, line 19 – p. 41, line 7, p. 43, line 24 – p. 45, line 18.

⁷⁰³⁹ P-2657: T-105, p. 33, line 13 – p. 36, line 21; Video, CAR-OTP-2112-1385; Photographs, CAR-OTP-2073-0097; CAR-OTP-2073-0107.

⁷⁰⁴⁰ P-2657: T-104, p. 22, lines 2-3.

⁷⁰⁴¹ P-2657: T-105, p. 28, line 4 – p. 30, lines 2.

Considering the above, the Chamber finds that P-2464 and P-2657 were able to identify and distinguish between members of the Seleka and Anti-Balaka, and consequently identified the individuals involved in their respective assaults as Anti-Balaka elements.

2856. Moreover, P-2462 in fact knew the Anti-Balaka element who raped her, identifying him as [REDACTED].⁷⁰⁴² In this regard, the Chamber notes that P-2602 stated that [REDACTED] joined the Anti-Balaka in Gobere after the Seleka had killed [REDACTED], and that he was a section chief under Dedane.⁷⁰⁴³ P-2049 stated that he knew well a [REDACTED].⁷⁰⁴⁴ P-2658 mentioned knowing [REDACTED].⁷⁰⁴⁵ P-2658 further heard from [REDACTED] that [REDACTED] was an Anti-Balaka who had [REDACTED].⁷⁰⁴⁶

2857. The Chamber notes that P-2602 indicated that [REDACTED] went to Bangui for the attack there with Dedane and did not participate in the Bossangoa Attack.⁷⁰⁴⁷ Further the Chamber notes the evidence of [REDACTED].⁷⁰⁴⁸ However, in light of the unambiguous identification of the perpetrator of her sexual assault by P-2462 herself, combined with the other evidence indicating that this person was a member of the Anti-Balaka, the Chamber does not rely on these parts of these witnesses' evidence in this regard. Considering further that P-2462 provided detailed descriptions of what she experienced and explanations of how she identified her assailants, that she provided medical documents attesting to her condition after the rape, and that her account is supported by the evidence of, *inter alia*, P-2657 and [REDACTED], the Chamber finds that P-2462 was attacked by elements of the Anti-Balaka engaged in the Bossangoa Attack and, specifically, that she was forced into sexual intercourse by [REDACTED] who, at the time of the events, was an element of the Anti-Balaka.

Killings

In the course of the attack on Bossangoa on 5 December 2013, the Anti-Balaka killed at least the following 18 persons who were not armed or taking part in hostilities: Khadidja Adjaro;

⁷⁰⁴² P-2462: T-059, p. 25, lines 9-15; T-060, p. 31, line 17 – p. 32, line 2.

⁷⁰⁴³ P-2602 Interview Transcript, CAR-OTP-2118-9683-R01, at 9688, lines 149-167, at 9689-90, lines 198-238.

⁷⁰⁴⁴ [REDACTED]

⁷⁰⁴⁵ P-2658: T-135, p. 14, line 8 – p. 15, line 2.

⁷⁰⁴⁶ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0038, para. 169; P-2658: T-135, p. 14, line 8 – p. 15, line 15.

⁷⁰⁴⁷ P-2602 Interview Transcript, CAR-OTP-2118-9683-R01, at 9688, lines 149-167, at 9691, lines 245-262.

⁷⁰⁴⁸ [REDACTED]

Koursi Abdelrahim; Abdel, also known as Adaye, Abakar; Atahir Abou; ‘C-17’, a taxi driver; Atahir Djime (or Djimet); Halima Hisseini; Hamadou Bouba; Ousman Abacar; Ousman Abacar’s mother; Abdallah Mahamat; Abdelkhadir; Mariam Yamwha; Amadou Oumarou; Abakar; Ismael; Salamatou, a Peuhl; Sale Adim.

2858. The Chamber will now examine the evidence before it on the victims alleged to have been killed during the Bossangoa Attack. On the basis of this evidence, and as further outlined below, the Chamber concludes that the identified victims were civilians and not engaged in hostilities, who were killed by the Anti-Balaka during the Bossangoa Attack. The arguments presented by the Ngaïssona Defence in this context are without merit.

2859. The Chamber notes that the Prosecution argues that at least 18 Muslims known to be civilians were killed during the Bossangoa Attack,⁷⁰⁴⁹ although the evidence suggests that there may have been 28 Muslims killed.⁷⁰⁵⁰

2860. The Ngaïssona Defence argues that (i) the record does not support the allegation of 28 victims as some were counted multiple times and the evidence is insufficient to establish the death of others;⁷⁰⁵¹ (ii) the Anti-Balaka did not attack indiscriminately as it ‘appropriately distinguished between Seleka forces and Muslim civilians’ and ‘solely engaged with the Seleka, or any other persons bearing arms’;⁷⁰⁵² (iii) the Anti-Balaka did not target Muslim civilians, but ‘legitimate military objectives’;⁷⁰⁵³ (iv) the Anti-Balaka took precautionary measures not to target civilians by placing women and children into the ‘*Liberté*’ neighbourhood and recognising the *École de la Liberté* as refuge for civilians, not going after them there;⁷⁰⁵⁴ and (v) the attack was proportionate since the number of alleged victims is low compared to the large number of persons who made it safely to a place of shelter.⁷⁰⁵⁵

2861. The question of how many victims were killed during the Bossangoa Attack is addressed further below. As regards the second and third argument of the Ngaïssona Defence, the Chamber recalls its conclusions above as to what the objective of the Anti-Balaka during the

⁷⁰⁴⁹ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 601.

⁷⁰⁵⁰ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 612.

⁷⁰⁵¹ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 313.

⁷⁰⁵² [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 293-296.

⁷⁰⁵³ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 300-303.

⁷⁰⁵⁴ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 296-298.

⁷⁰⁵⁵ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 309-311.

attack was, namely to chase out the Seleka as well as all Muslims from Bossangoa.⁷⁰⁵⁶ The Chamber further recalls its conclusions as regards the residential areas which the Anti-Balaka progressed into, including specifically the Boro neighbourhood and adjacent areas in the Arabe and Fulbe neighbourhoods.⁷⁰⁵⁷ The Chamber recalls that while Seleka bases were located in the centre of Bossangoa,⁷⁰⁵⁸ the Anti-Balaka attacked the areas mentioned in pursuit of unarmed individuals who were identifiable as Muslims,⁷⁰⁵⁹ with the role of each individual victim being further discussed below. These arguments of the Ngaïssona Defence therefore fail on the basis of the evidence.

2862. In this context, the Chamber also notes the Ngaïssona Defence's suggestion that the fighting would have been 'particularly intense' at the imam's house, for which reason 'it is impossible to discount the possibility that the alleged victims might have been unfortunately killed in cross or friendly fire'.⁷⁰⁶⁰ First, the Chamber recalls P-1577's evidence according to which the closest Seleka base in relation to the imam's residence was three to four kilometres away,⁷⁰⁶¹ and that indeed he did not see any Seleka close to the imam's house [REDACTED],⁷⁰⁶² as well as its finding that the Seleka base at Boro school was there only temporarily during September 2013.⁷⁰⁶³ Second, the Chamber recalls that while P-1577 saw Seleka driving in the direction of the imam's residence, he could not say if they in fact went there.⁷⁰⁶⁴ Third, the Chamber finds that P-1577's reference to an 'intense battle' in the area of the imam's house was made in relation to the number of spent cartridges he found on the ground, the bullet holes in walls, and the blood spatter on ground and walls a few days after the attack,⁷⁰⁶⁵ and not because he was aware of a battle taking place at that location. Fourth, and in any event, the suggestion that victims would have been killed 'in cross or friendly fire' is, with nothing further, purely speculative. On this basis, the Chamber does not follow

⁷⁰⁵⁶ See section IV.C.1.iii above.

⁷⁰⁵⁷ See paragraphs 2796-2809 above.

⁷⁰⁵⁸ See paragraphs 2762-2765 above.

⁷⁰⁵⁹ See paragraphs 2815-2831 above.

⁷⁰⁶⁰ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 335.

⁷⁰⁶¹ P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0789-90; P-1577: T-027, p. 62, lines 3-11.

⁷⁰⁶² P-1577: T-027, p. 62, lines 3-11. The Chamber recalls that this was at around 13:00 on 5 December 2013 (see paragraph 2809 and footnote 6911 above).

⁷⁰⁶³ See paragraphs 2764-2765 above.

⁷⁰⁶⁴ See paragraph 2809 above.

⁷⁰⁶⁵ P-1577: T-027, p. 56, lines 14-19, p. 60, lines 1-19. See also, for example, Photograph, CAR-OTP-3212; Metadata, CAR-OTP-2085-3213; CAR-OTP-2085-5592.

the Ngaïssona Defence's argument that intense fighting between the Anti-Balaka and the Seleka would have taken place in the area of the imam's residence.

2863. In relation to the Ngaïssona Defence's argument that Anti-Balaka would have brought civilians to safety, the Chamber notes that the specific account referenced does not pertain to the Bossangoa Attack but to other Anti-Balaka attacks in the villages around Bossangoa before 5 December 2013.⁷⁰⁶⁶ The Chamber also notes that Jo-Brice Ouabi Dana stated that they did not capture anyone on the day of the Bossangoa Attack,⁷⁰⁶⁷ and that neither Jo-Brice Ouabi Dana nor P-2602 could have placed or mentioned placing people in the school during the Bossangoa Attack.⁷⁰⁶⁸ Further, the fact that Anti-Balaka members may not have attacked civilians within the *École de la Liberté* is, as discussed below, explained by the presence, and interceding, of FOMAC.⁷⁰⁶⁹

2864. The final argument of the Ngaïssona Defence in relation to the attack having been 'proportionate' fails on its flawed submission that proportionality is shown when comparing the number of the alleged victims with the number of civilians who managed to seek shelter at the *École de la Liberté*.⁷⁰⁷⁰ First, this assumes that a legitimate military objective was attacked in the area of the imam's residence which, as stated above, the Chamber does not find to have been the case. Second, the argument fails due to the comparative basis being used: even if a legitimate military objective is targeted, proportionality of such targeting is not assessed by comparing the possible civilian casualties with any – civilian – individuals that were spared.

2865. Turning its discussion to the individual victims killed during the Bossangoa Attack, the Chamber notes that the Prosecution submits that in the context of the Muslim family fleeing

⁷⁰⁶⁶ P-0966: T-116, p. 34, line 23 – p. 35, line 9.

⁷⁰⁶⁷ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0252, para. 64.

⁷⁰⁶⁸ See P-2602 Interview Transcripts, CAR-OTP-2118-9664-R01, at 9676-78, lines 403-484; CAR-OTP-2118-9683-R01, at 9685, lines 53-59. While Jo-Brice Ouabi Dana claimed that they placed women and children in the 'Liberté' neighbourhood '[a]s good Christians' (see P-0966 Statement, CAR-OTP-2031-0241-R03, at 0252, para. 63), he also testified that he did not go further than Boro (see P-0966: T-117, p. 64, lines 1-2). The Chamber thus discards this claim. The Chamber notes that P-2602 mentioned the imam of Bossangoa fleeing to the bishop's house (see P-2602 Interview Transcripts, CAR-OTP-2118-9500-R01, at 9521, lines 708-730; CAR-OTP-2118-9683-R01, at 9684-85, lines 35-43; CAR-OTP-2118-9705-R01, at 9706-07, lines 29-42; CAR-OTP-2118-9737-R01, at 9751-52, lines 471-488).

⁷⁰⁶⁹ See paragraphs 2896-2904 below.

⁷⁰⁷⁰ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 309.

towards the imam's house, as discussed above,⁷⁰⁷¹ four individuals were killed by the Anti-Balaka, namely Khadidja Adjaro, Abdel Abakar and his younger brother Atahir, and Koursi Mahamat, also known as Abdelrahim.⁷⁰⁷²

2866. The Ngaiissona Defence questions the death of these individuals, as well as their role at the time of their death, arguing that (i) Koursi Abdelrahim and Koursi Mahamat are the same person,⁷⁰⁷³ and (ii) two of the four individuals, namely Khadidja Adjaro and Koursi Abdelrahim, were affiliated with the Seleka.⁷⁰⁷⁴

2867. The Chamber will in the following discuss each of these individuals and address the arguments made by the parties as relevant and appropriate.⁷⁰⁷⁵

2868. **Khadidja Adjaro:** P-2657 stated that Khadidja Adjaro was shot in the leg and sought refuge in a house, but the Anti-Balaka followed her to finish her off.⁷⁰⁷⁶ While P-2657 did not see who shot Khadidja Adjaro, she confirmed they were Anti-Balaka.⁷⁰⁷⁷ P-2462 heard Khadidja Adjaro shout that she had been shot.⁷⁰⁷⁸ P-2462 heard [REDACTED] the bullet wounds on the foot and stomach of Khadidja Adjaro's body when it was brought to the school on 6 December 2013.⁷⁰⁷⁹ P-2049 was not present when [REDACTED] Khadidja Adjaro was killed, but stated that she was struck by a bullet on her tibia, and that he saw [REDACTED] a blood trail going into the compound next to the imam's house [REDACTED].⁷⁰⁸⁰ P-2200 stated that [REDACTED] Khadidja Adjaro left with her mother and son-in-law to his house where they were attacked by the Anti-Balaka, with her being shot at and 'finished' with a

⁷⁰⁷¹ See paragraphs 2822-2831 above.

⁷⁰⁷² [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, paras 602-607.

⁷⁰⁷³ [Ngaiissona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 315.

⁷⁰⁷⁴ [Ngaiissona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 305 (regarding Khadidja Adjaro), para. 329 (regarding Koursi Abdelrahim).

⁷⁰⁷⁵ As noted above (see paragraphs 2852-2853 above), the Chamber finds P-2462 and P-2657 credible in their accounts, including as regards the events near the imam's residence.

⁷⁰⁷⁶ P-2657: T-104, p. 18, line 13 – p. 19, line 11, p. 26, line 17 – p. 27, line 6.

⁷⁰⁷⁷ P-2657: T-104, p. 26, line 17 – p. 27, line 7.

⁷⁰⁷⁸ P-2462: T-059, p. 23, lines 16-22.

⁷⁰⁷⁹ P-2462: T-059, p. 32, line 18 – p. 33, line 14, p. 33, line 23 – p. 35, line 2.

⁷⁰⁸⁰ P-2049: T-100, p. 71, line 25 – p. 72, line 25; T-101, p. 9, line 6 – p. 10, line 24. The Chamber notes that HRW Report, CAR-OTP-2001-2043, at 2055 mentions the death of 'Khadija Iné, 35, the wife of Muslim trader Gara Iné', being a sister to 'Adei Abacar'. While the name and family relation to 'Adei Abacar' are not reflected correctly, the Chamber considers this to also refer to the death of Khadidja Adjaro (see also [REDACTED]).

machete.⁷⁰⁸¹ P-2453 heard that Khadidja Adjaro, [REDACTED] wife of Gara Ine and [REDACTED] had passed away.⁷⁰⁸²

2869. As regards the Ngaïssona Defence doubting Khadidja Adjaro's role at the time of her death on the basis of her alleged affiliation with the Seleka, the Chamber notes the Ngaïssona Defence's reliance on Odette Namsona, who stated that she did not see Khadidja Adjaro taking up arms, but 'knew' that Khadidja Adjaro organised marriages between the Seleka and 'local girls' in Bossangoa, which the witness stated knowing because she 'kn[e]w those women quite well' and heard from some of 'our elements' who reported to her about who was organising which event.⁷⁰⁸³ In contrast, P-2462 denied that Khadidja Adjaro could have been part of the Seleka as she was a woman,⁷⁰⁸⁴ while P-2453 denied knowing whether Khadidja Adjaro was armed during the Bossangoa Attack.⁷⁰⁸⁵ As Odette Namsona's hearsay evidence is not supported by any other evidence, the Chamber does not find that Khadidja Adjaro was affiliated with the Seleka.

2870. On the basis of the evidence before it, the Chamber concludes that Khadidja Adjaro was not a member of the Seleka, not engaged in fighting against the Anti-Balaka on 5 December 2013, but was shot and killed while seeking refuge from the attack. The Chamber finds that Khadidja Adjaro was a Muslim civilian killed by the Anti-Balaka during the Bossangoa Attack.

2871. **Koursi Abdelrahim:** At the outset, the Chamber notes that the charges as confirmed by the Pre-Trial Chamber list Koursi Mahamat and Koursi Abdelrahim as two individuals killed during the Bossangoa Attack,⁷⁰⁸⁶ while both the Prosecution and the Ngaïssona Defence argue that they are the same person.⁷⁰⁸⁷ In this regard, the Chamber notes that P-2462 stated that Koursi Mahamat, also called Koursi Abdelrahim, was a trader and deputy mayor of

⁷⁰⁸¹ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2155, para. 46.

⁷⁰⁸² P-2453 Statement, CAR-OTP-2111-0415-R04, at 0430, para. 67. See P-2453: T-138-ENG, p. 37, line 22 – p. 38, line 1; T-138-FRA, p. 38, line 28 – p. 39, line 5.

⁷⁰⁸³ D30-4496 Statement, CAR-D30-0022-0001-R03, at 0004, para. 21; D30-4496: T-289, p. 43, lines 9-15.

⁷⁰⁸⁴ P-2462: T-059, p. 35, lines 3-8.

⁷⁰⁸⁵ P-2453: T-138-ENG, p. 37, line 22 – p. 38, line 1; T-138-FRA, p. 38, line 28 – p. 39, line 5.

⁷⁰⁸⁶ [Confirmation Decision](#), ICC-01/14-01/18-403-Corr-Red, para. 106, n. 252, p. 107.

⁷⁰⁸⁷ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 602; [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 315.

Bossangoa,⁷⁰⁸⁸ while P-2453 testified that Koursi Mahamat Abdelrahim is one and the same person, representative of the traders.⁷⁰⁸⁹ In contrast, P-2049 testified that [REDACTED] Koursi Abdelrahim is a different person from Koursi Mahamat, the former killed during the Bossangoa Attack, the latter in Zere.⁷⁰⁹⁰ Similarly, P-2200 stated that Koursi Abdelrahim, father of five children and third assistant mayor of Bossangoa, was killed during the Bossangoa Attack.⁷⁰⁹¹ He also stated that Koursi Mahamat, husband of [REDACTED] and father of four children, was shot in the legs in the Arabe quarter.⁷⁰⁹² P-2657 in turn stated that Mahamat was killed in the attacks outside Bossangoa before 5 December 2013,⁷⁰⁹³ and she knew that Koursi, who lived in [REDACTED] and was part of the imam's in-laws, was killed on the road to Zere during those attacks.⁷⁰⁹⁴ In light of this evidence, and in particular bearing in mind P-2049's [REDACTED] with Koursi Abdelrahim, the Chamber concludes that Koursi Abdelrahim and Koursi Mahamat are two different individuals. The Chamber also concludes that Koursi Mahamat was not killed during the Bossangoa Attack, but earlier.⁷⁰⁹⁵

2872. Turning to the death of Koursi Abdelrahim, P-2657 stated that she saw Koursi Abdelrahim slaughtered on the road near the compound of the imam's house, and while she did not see the person who killed him, she did see the injuries.⁷⁰⁹⁶ P-2657 further stated that the people who came to collect the body the next day told her that his throat was slit.⁷⁰⁹⁷ P-2049 testified

⁷⁰⁸⁸ P-2462: T-059, p. 29, line 11 – p. 30, line 2, p. 35, lines 3-8.

⁷⁰⁸⁹ P-2453: T-137, p. 26, lines 1-10.

⁷⁰⁹⁰ P-2049: T-101, p. 7, line 11 – p. 8, line 17, p. 60, lines 9-21.

⁷⁰⁹¹ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2155, para. 47.

⁷⁰⁹² P-2200 Statement, CAR-OTP-2088-2146-R04, at 2155, para. 48.

⁷⁰⁹³ P-2657: T-104, p. 10, lines 11-22.

⁷⁰⁹⁴ P-2657: T-104, p. 10, line 24 – p. 11, line 1.

⁷⁰⁹⁵ The Chamber notes that Odette Namsona and D30-4608 mentioned a 'Koursi'. Odette Namsona stated knowing a Koursi who was a major trader, councillor at the town hall, mayor of the 2nd arrondissement, who was shot at some point after 8 September 2013 next to river Youri when he went ahead of young Christian people to a roadblock with a gun in his hand, while after his death, 'the young people took over the neighbourhood and they wanted to burn the houses of Muslims in order to drive them out' and Koursi's wives took up weapons to engage in reprisal but were disarmed by 'the Anti-Balaka' who did not kill them (see D30-4496: T-289, p. 47, lines 13-22, p. 50, line 10 – p. 52, line 8; see also D30-4496 Statement, CAR-D30-0022-0001-R03, at 0004, paras 22-23). The Chamber is unable to conclude, on the basis of this information, which 'Koursi' the witness was talking about. D30-4608 stated that 'Koursi Mahamat or Koursi Abdlerahim' or 'Kourcy Abdlerahim' was a trader in his 40s or 50s who was also councillor at the town hall, and that he heard Koursi had weapons at his home and was killed by some young self-defence persons when he was trying to steal cattle (see D30-4608 Statement, CAR-D30-0017-0004-R01, at 0016, para. 92, at 0017, para. 96; D30-4608: T-291, p. 55, lines 7-25; T-292, p. 54, lines 11-24).

⁷⁰⁹⁶ P-2657: T-104, p. 19, line 20 – p. 20, line 10, p. 25, line 14 – p. 26, line 5.

⁷⁰⁹⁷ P-2657: T-104, p. 26, lines 2-5.

that the throat of [REDACTED] Koursi Abdelrahim was slit as if he were a cow.⁷⁰⁹⁸ Also P-2200 stated that Koursi Abdelrahim was a victim of the Bossangoa Attack, having his throat cut.⁷⁰⁹⁹

2873. In relation to the Ngaïssona Defence's challenge to Koursi Abdelrahim's role at the time of this death in light of his supposed affiliation with the Seleka as well as him attacking young men and his wives bearing weapons on 5 December 2013,⁷¹⁰⁰ the Chamber notes that Faustin Ngamesse stated that Koursi Abdelrahim pointed out Christian traders to the Seleka,⁷¹⁰¹ while Nestor Wiabona said he knew that Koursi financed the Seleka because he had some means during this period.⁷¹⁰² In contrast, P-2453 stated that, because of the pillaging by the Seleka, the imam asked Koursi Abdelrahim as representative of the traders to talk with the Seleka about their bad behaviour, and that he did not get on with the Seleka in any way.⁷¹⁰³ P-2462 stated that Koursi Abdelrahim, a trader, did not belong to the Seleka.⁷¹⁰⁴ As the hearsay evidence of Faustin Ngamesse and Nestor Wiabona is not supported by any other evidence, and in light of the evidence to the contrary, the Chamber does not find that Koursi Abdelrahim was affiliated with the Seleka. Even if there had been such affiliation, the evidence before the Chamber does not support that Koursi Abdelrahim was armed or engaged in active hostilities at the time of his death.

2874. On the basis of the evidence before it, the Chamber concludes that Koursi Abdelrahim was not a member of the Seleka, not engaged in fighting against the Anti-Balaka on 5 December 2013, but was killed while seeking refuge from the attack. The Chamber finds that Koursi Abdelrahim was a Muslim civilian killed by the Anti-Balaka during the Bossangoa Attack.

⁷⁰⁹⁸ P-2049: T-101, p. 7, line 11 – p. 8, line 17, p. 9, lines 6-23.

⁷⁰⁹⁹ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2155, paras 45, 47.

⁷¹⁰⁰ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 305, 329.

⁷¹⁰¹ D30-4514 Statement, CAR-D30-0025-0001-R01, at 0036-37, lines 1199-1205.

⁷¹⁰² D30-4953 Statement, CAR-D30-0026-0001-R01, at 0004, para. 25. The Chamber notes in this regard also that Odette Namsona suggested that 'Koursi' was close to the Seleka commander, acted as interpreter, and was armed, dying at some point after 8 September 2013 (see D30-4496: T-289, p. 19, line 3 – p. 20, line 3, p. 50, line 10 – p. 52, line 8). However, as stated above (see footnote 7095 above), the Chamber is unclear as to whether this refers to Koursi Abdelrahim.

⁷¹⁰³ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0419, para. 21; P-2453: T-137, p. 26, line 11 – p. 27, line 20.

⁷¹⁰⁴ P-2462: T-059, p. 29, line 11 – p. 30, line 2, p. 35, lines 3-8.

2875. **Abdel, also known as Adaye, Abakar:** P-2657 testified that the name of [REDACTED] is ‘Abdel Abakar’, and while she did not see who killed him, she saw him get shot, along with [REDACTED], and saw his body.⁷¹⁰⁵ P-2657 stated he had nothing to do with an armed group, was not armed and was a civilian.⁷¹⁰⁶ P-2657 further clarified [REDACTED].⁷¹⁰⁷ P-2462 stated that she was [REDACTED] ‘Abdel’ when the Anti-Balaka were shooting and he also shouted that he had been shot.⁷¹⁰⁸ ‘Abdel’ was a cattle-breeder and not part of the Seleka, and P-2462 heard [REDACTED] that he was shot in the head.⁷¹⁰⁹ P-2049 testified that Adaye was struck by a bullet when they fled to hide in the compound next to the imam’s house.⁷¹¹⁰ P-2200 stated that Khadidja Adjaro’s son-in-law, Adaye, was killed by a bullet a bit further from Khadidja Adjaro.⁷¹¹¹ P-2453 collected the names of dead Muslim civilians from their relatives at the school, including that of Adaye Abakar.⁷¹¹² In light of the evidence before it, the Chamber concludes that Abdel, also known as Adaye, Abakar was not a member of the Seleka, not engaged in fighting the Anti-Balaka on 5 December 2013, but was killed while seeking refuge from the attack. The Chamber finds that Abdel, also known as Adaye, Abakar was a Muslim civilian killed by the Anti-Balaka during the Bossangoa Attack.

2876. **Atahir Abou:** P-2657 saw the body of ‘Atahir’ when leaving the house of the imam, noticing that he had been killed, they understood he had been shot.⁷¹¹³ P-2462 heard [REDACTED] ‘Abdel’s’ younger brother ‘Atahir’, who was a cattle breeder, that he had a bullet wound to the stomach [REDACTED].⁷¹¹⁴ P-2049 stated the brother of Adaye, Atahir Abou was killed by a bullet.⁷¹¹⁵ P-2453 collected the names of dead Muslim civilians from their relatives at

⁷¹⁰⁵ P-2657: T-104, p. 26, lines 17-24, p. 40, lines 12-20.

⁷¹⁰⁶ P-2657: T-104, p. 40, lines 21-23.

⁷¹⁰⁷ P-2657: T-105, p. 24, lines 7-15, p. 25, lines 11-13.

⁷¹⁰⁸ P-2462: T-059, p. 23, lines 17-22, p. 29, line 11 – p. 30, line 2.

⁷¹⁰⁹ P-2462: T-059, p. 32, line 18 – p. 33, line 14, p. 33, line 23 – p. 35, line 8, p. 38, line 25 – p. 39, line 18.

⁷¹¹⁰ P-2049: T-101, p. 7, line 24 – p. 10, line 24.

⁷¹¹¹ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2155, para. 46.

⁷¹¹² P-2453 Statement, CAR-OTP-2111-0415-R04, at 0429-30, para. 67. The Chamber notes that HRW Report, CAR-OTP-2001-2043, at 2055 mentions the killing of ‘Adei Abacar’, aged 38, being the brother of ‘Khadija Iné, wife of Muslim trader Gara Iné. While [REDACTED] do not strictly correspond to the other evidence before the Chamber, the Chamber concludes that this report also refers to the death of Abdel, also known as Adaye, Abakar.

⁷¹¹³ P-2657: T-104, p. 40, line 24 – p. 41, line 6.

⁷¹¹⁴ P-2462: T-059, p. 32, line 18 – p. 33, line 14, p. 33, line 23 – p. 35, line 8, p. 38, line 25 – p. 39, line 18.

⁷¹¹⁵ P-2049: T-101, p. 7, line 11 – p. 8, line 17, p. 9, lines 6-23.

the school, including that of Atahir Abou.⁷¹¹⁶ In light of the evidence before it, the Chamber concludes that Atahir Abou was not a member of the Seleka, not engaged in fighting the Anti-Balaka on 5 December 2013, but was killed while seeking refuge from the attack. The Chamber finds that Atahir Abou was a Muslim civilian killed by the Anti-Balaka during the Bossangoa Attack.

2877. Further to the four individuals killed as outlined above, P-2200, P-2049 and P-2453 each provided lists of names of the persons killed during the Bossangoa Attack, while P-1577 also received some names of victims from someone else. The Ngaïssona Defence argues in this regard that there is insufficient evidence that the individuals mentioned were killed during the Bossangoa Attack as some individuals were known by several names and counted more than once, the evidence is based on hearsay and not corroborated, and P-2049's evidence is not credible.⁷¹¹⁷ The Chamber is of the view that the evidence before it, including that further outlined below, suffices to establish the death of the individuals mentioned to the requisite standard. In reaching this conclusion, the Chamber has, in particular, considered the sources of the witnesses' knowledge.

2878. P-2200 stated that 18 people were killed during the Bossangoa Attack, including three women, giving the names of Khadidja Adjaro, Koursi Abdelrahim, Koursi Mahamat, Abdallah Mahamat, Abdelkhadir, Mariam Yawha, Amadou Oumarou, Djime Atahir and Abdaye, while not remembering the names of the other victims that day.⁷¹¹⁸ P-2200 stated these Muslims were neither Seleka nor soldiers, and not armed or fighting when they were killed.⁷¹¹⁹ P-2200 also explained that once the Seleka had transported the bodies to the school site, he participated in their burial the day following the attack, seeing the bodies of 18 victims with wounds and blood on their clothes.⁷¹²⁰ As it was too dangerous to leave the school, they did not have clean shrouds in which to wrap the bodies, nor was there the usual washing of the bodies.⁷¹²¹ The 15 men were buried in one communal hole, while the three

⁷¹¹⁶ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0429-30, para. 67.

⁷¹¹⁷ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 313-324.

⁷¹¹⁸ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2155-56, paras 45-55. The Chamber notes its conclusion above that Koursi Mahamat was not killed during the Bossangoa Attack (see paragraph 2871 above).

⁷¹¹⁹ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2156, paras 56-57.

⁷¹²⁰ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2156, para. 59.

⁷¹²¹ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2156-57, para. 59.

women were buried in another.⁷¹²² P-2200 stated that they could not access the usual cemetery because the Anti-Balaka were still around in the town.⁷¹²³

2879.P-2049 stated that 19 people were killed during the Bossangoa Attack, including three women, confirming the names, previously given in his statement, of Khadidja Adjaro, Adaye Abakar, Koursi Abdelrahim, Atahir Abou, Atahir Djime, ‘C-17’ Moussa, Halima Hisseini, Ila Adj, Sali Adj, Yaya Mekomzi, Abakar Moussa, Amadou Bouba, Salamatou Madji, Ismael Amat, Hamid Ali, Ahamat Zakaria, Mahamat Adam, Abdasamat Mounine and Ibrahim Hassan.⁷¹²⁴ P-2049 stated that these victims included Peuhls and herdsmen.⁷¹²⁵

2880.P-2453 provided the names of the following 11 victims which he collected from their relatives at the school, specifying that the victims were Muslims who had stayed in Boro and did not manage to flee with the imam’s group, and were found in the vicinity of the imam’s house: Halima Hisseini, a housewife with children; Abakar; Ismael; Khadidja Adjaro, [REDACTED]; Salamatou, a Peuhl; Adaye Abakar; Sale Adim, a trader; Atahir Djimet, who sold tea and coffee on a small table on the side of the road; Hamadou Bouba, a Peuhl; Koursi Abdelraman Mahamat, the traders’ representative whose throat had been cut; Atahir Abou.⁷¹²⁶

2881.P-1577 spoke with the person who collected the bodies of the people killed during the Bossangoa Attack [REDACTED] states that at least 11 civilians were killed with machetes and gunfire, including Ousman Abacar, a Peuhl; his mother; nine other Muslims, including Khadija Iné; Adei Abacar; Qursi Abdulrahim, 50, trader; Ali Atahir, 45, trader; Jimey Atahir, 42, trader; Aishta Oumar, 38, mother of three children; Nami Yawa, a Mbororo mother of four children; her sister Hawa Yama, a Mbororo mother of six children; Hamidou ‘Seize-Dix-Sept’, a popular motorcycle taximan.⁷¹²⁷ Furthermore, P-1577 returned to the area of the imam’s residence on a couple of days later, where he found hundreds of spent cartridges,

⁷¹²² P-2200 Statement, CAR-OTP-2088-2146-R04, at 2157, para. 59.

⁷¹²³ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2157, para. 59.

⁷¹²⁴ P-2049: T-101, p. 4, line 22 – p. 7, line 1.

⁷¹²⁵ P-2049: T-101, p. 5, lines 11-16.

⁷¹²⁶ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0429-30, para. 67.

⁷¹²⁷ P-1577: T-027, p. 57, lines 9-14. [REDACTED]

bullet holes in walls and blood spatter on the ground and inside the imam's house.⁷¹²⁸ P-1577 [REDACTED] a FOMAC commander [REDACTED] stating in the context of discussing with colleagues whether reinforcements should be sent to the area where the imam lived that they would wait because 'it's a slaughterhouse down there'.⁷¹²⁹

2882. More generally, P-2657 stated that 18 Muslims were buried at the *École de la Liberté* following the Bossangoa Attack, clarifying they could not go to the cemetery as it was far, the situation was unstable, and the Anti-Balaka would attack the Muslims.⁷¹³⁰ P-2462 stated that she was at the *École de la Liberté* on 6 December 2013 when she heard that the Red Cross brought 16 corpses to the school of individuals killed during the Bossangoa Attack, which included two or three women [REDACTED].⁷¹³¹ She did not see the bodies and did not know the exact number of bodies that were brought.⁷¹³² P-2658 stated that the day after the attack, when there was no more fighting, the Muslims collected the bodies in the neighbourhoods of Bossangoa and brought them to the *École de la Liberté*.⁷¹³³

2883. **'C-17', a taxi driver:** P-2453 stated that at some point during the attack, the Anti-Balaka came very close to the *École de la Liberté*, they started shooting in their direction, killing one of the FOMAC soldiers and one of the displaced Muslims, a 23-year-old moto-taxi driver named Husseni, alias 'C-17'.⁷¹³⁴ He was P-2453's friend, not involved with the Seleka, and never carried a weapon.⁷¹³⁵ P-2049 testified that 'C-17', a young man from

⁷¹²⁸ P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0788-89; P-1577: T-027, p. 56, line 14 – p. 57, line 13, p. 60, line 1 – p. 62, line 2. See Photograph, CAR-OTP-2085-3112; Metadata, CAR-OTP-2085-3113; CAR-OTP-2085-5559; Photograph, CAR-OTP-2085-3212; Metadata, CAR-OTP-2085-3213; CAR-OTP-2085-5592; Photograph, CAR-OTP-2085-3382; Metadata, CAR-OTP-2085-3383; CAR-OTP-2085-5646; Photograph, CAR-OTP-2085-3572; Metadata, CAR-OTP-2085-3573; CAR-OTP-2085-5733-R01; Photograph, CAR-OTP-2085-3632; Metadata, CAR-OTP-2085-3633; CAR-OTP-2085-5751; Photograph, CAR-OTP-2085-3982; Metadata, CAR-OTP-2085-3983; CAR-OTP-2085-5859.

⁷¹²⁹ P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0790; P-1577: T-027, p. 41, line 16 – p. 42, line 9. See also Video, CAR-OTP-2085-6486; Transcript, CAR-OTP-2107-6999; Translation, CAR-OTP-2107-7148; Metadata, CAR-OTP-2085-6487; CAR-OTP-2085-6494.

⁷¹³⁰ P-2657: T-104, p. 36, line 23 – p. 37, line 9. The Chamber notes that also Roger de Martial Yagao was informed by MISCA soldiers that probably around 18 Muslims were killed, but he was unsure of the numbers and did not know whether they were Muslim civilians or Seleka (see P-2133 Statement, CAR-OTP-2093-0267-R02, at 0282-83, para. 112).

⁷¹³¹ P-2462: T-059, p. 32, line 18 – p. 33, line 14, p. 33, line 23 – p. 35, line 2, p. 38, line 25 – p. 39, line 18.

⁷¹³² P-2462: T-059, p. 35, lines 9-17.

⁷¹³³ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0034, para. 139.

⁷¹³⁴ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0429, para. 66.

⁷¹³⁵ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0429, para. 66.

Bossangoa, was killed just in front of the mosque during the Bossangoa Attack.⁷¹³⁶ P-2049 could not say whether ‘C-17’'s real name was Abakar Moussa and denied knowing whether ‘C-17’ was armed and fighting along the Seleka.⁷¹³⁷ An HRW report also mentions a ‘popular motorcycle taximan’ called ‘Hamidou “Seize-Dix-Sept”’ among the killed.⁷¹³⁸ The Chamber notes the Ngaïssona Defence’s argument that P-2453 did not in fact witness the killing.⁷¹³⁹ However, the Chamber considers that even if P-2453 did not see the actual killing of ‘C-17’, he specified that the individual was his friend and he described the circumstances in which he was killed. Therefore, and in light of the evidence before it, the Chamber finds that ‘C-17’, a taxi driver from Bossangoa, was a Muslim civilian killed by the Anti-Balaka during the Bossangoa Attack.

2884. **Atahir Djime (or Djimet):** P-2453 stated that Atahir Djimet used to sell tea and coffee on a small table on the side of the road.⁷¹⁴⁰ The Chamber recalls that P-2453 specified that the names of the victims he collected were of Muslims who had stayed in Boro, did not manage to flee with the imam’s group, and were found in the vicinity of the imam’s house.⁷¹⁴¹ P-2049 testified that Atahir Djime was someone who was selling coffee [REDACTED].⁷¹⁴² The name Djime Atahir is among those specifically recalled by P-2200,⁷¹⁴³ while an HRW report also mentions the name of ‘Jimey Atahir’ among those killed on 5 December 2013.⁷¹⁴⁴ On the basis of the above, and further recalling its conclusion that no battle between the Seleka and Anti-Balaka took place in the vicinity of the imam’s residence,⁷¹⁴⁵ the Chamber finds that Atahir Djime or Djimet was a Muslim civilian killed by the Anti-Balaka during the Bossangoa Attack.

2885. **Halima Hisseini:** P-2657 confirmed seeing a woman by the name of ‘Halime’ on the day of the attack, specifying that ‘we only noted that she died, nothing else’.⁷¹⁴⁶ P-2453 stated that

⁷¹³⁶ P-2049: T-101, p. 7, line 11 – p. 8, line 17, p. 30, lines 13-24.

⁷¹³⁷ P-2049: T-101, p. 63, lines 13-16; T-103, p. 69, line 20 – p. 70, line 2.

⁷¹³⁸ HRW Report, CAR-OTP-2001-2043, at 2056. [REDACTED]

⁷¹³⁹ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/15-2736-AnxA-Corr-Red, para. 333, n. 1151.

⁷¹⁴⁰ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0429-30, para. 67.

⁷¹⁴¹ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0429-30, para. 67.

⁷¹⁴² P-2049: T-101, p. 7, line 11 – p. 8, line 17.

⁷¹⁴³ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2156, para. 53.

⁷¹⁴⁴ HRW Report, CAR-OTP-2001-2043, at 2056. [REDACTED]

⁷¹⁴⁵ See paragraph 2862 above.

⁷¹⁴⁶ P-2657: T-104, p. 41, lines 7-12.

Halima Hisseini was a housewife with children.⁷¹⁴⁷ The Chamber recalls that P-2453 specified that the names of the victims he collected were of Muslims who had stayed in Boro, did not manage to flee with the imam's group, and were found in the vicinity of the imam's house.⁷¹⁴⁸ P-2049 confirmed the name of Halima Hisseini as one of the victims of the attack.⁷¹⁴⁹ On the basis of the above, and further recalling its conclusion that no battle between the Seleka and Anti-Balaka took place in the vicinity of the imam's residence,⁷¹⁵⁰ the Chamber finds that Halima Hisseini was a Muslim civilian killed by the Anti-Balaka during the Bossangoa Attack.

2886. **Hamadou Bouba:** P-2453 stated that Hamadou Bouba, among the names of victims he collected, was a Peuhl.⁷¹⁵¹ The Chamber recalls that P-2453 specified that the names of the victims he collected were of Muslims who had stayed in Boro, did not manage to flee with the imam's group, and were found in the vicinity of the imam's house.⁷¹⁵² The Chamber notes that P-2049 confirmed the name of 'Amadou Bouba' as one of the victims of the attack,⁷¹⁵³ and stated that an 'Adamou Bouba' who was a group chief in Zere was victim of the attack in Zere in August 2013.⁷¹⁵⁴ Similarly, also P-2657 and P-2453 knew of a chief called 'Bouba' who was burnt in Zere.⁷¹⁵⁵ According to Faustin Ngamesse, Amadou Boua was 'one of those who rallied with the Seleka'.⁷¹⁵⁶ The Chamber concludes that Bouba, the group chief from Zere, was a different individual than Hamadou Bouba as listed to have been killed during the Bossangoa Attack. On the basis of the above, bearing in mind that Faustin Ngamesse did not provide any basis for his assertion which, in any event, does not, as such, mean that Hamadou Bouba was a Seleka, armed, or actively engaged in hostilities at the time of his death, and further recalling its conclusion that no battle between the Seleka and Anti-

⁷¹⁴⁷ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0429-30, para. 67.

⁷¹⁴⁸ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0429-30, para. 67.

⁷¹⁴⁹ P-2049: T-101, p. 4, line 22 – p. 7, line 1.

⁷¹⁵⁰ See paragraph 2862 above.

⁷¹⁵¹ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0429-30, para. 67.

⁷¹⁵² P-2453 Statement, CAR-OTP-2111-0415-R04, at 0429-30, para. 67.

⁷¹⁵³ P-2049: T-101, p. 6, line 10 – p. 7, line 1.

⁷¹⁵⁴ P-2049: T-100, p. 28, line 21 – p. 29, line 10, p. 32, line 7 – p. 33, line 15; T-102, p. 39, lines 14 – p. 40, line 5.

⁷¹⁵⁵ P-2657: T-104, p. 11, lines 2-11 (the witness stated that Bouba used to live in Zere and was burnt in the house and killed and Bouba's children told the witness that their father was killed and the house was burnt); P-2453: T-136, p. 77, line 7 – p. 78, line 6, p. 79, line 17 – p. 80, line 1 (the witness stated that a chief called Bouba was burnt alive in Zere and [REDACTED] that Bouba was burnt in front of the central mosque).

⁷¹⁵⁶ D30-4514 Statement, CAR-D30-0025-0001-R01, at 0037, lines 1231-1235.

Balaka took place in the vicinity of the imam's residence,⁷¹⁵⁷ the Chamber finds that Hamadou Bouba was a Muslim civilian killed by the Anti-Balaka during the Bossangoa Attack.

2887. Ousman Abacar and Ousman Abacar's mother: P-1577 stated that he was told by the man who picked up the bodies that Ousman Abacar's family had all been killed inside or around the imam's house on 5 December 2013 by the Anti-Balaka, specifically their throats were slit, but denied knowing whether the infants in Ousman's family were killed.⁷¹⁵⁸ P-1577, when asked whether Ousman Abacar's family was related to armed groups, stated that he was under the impression that they were Peuhl herders and did not see any weapons that would indicate them being a part of a military group and that they had handmade bows and arrows.⁷¹⁵⁹ On the basis of the above, and further recalling its conclusion that no battle between the Seleka and Anti-Balaka took place in the vicinity of the imam's residence,⁷¹⁶⁰ the Chamber finds that Ousman Abacar and his mother were killed by the Anti-Balaka during the Bossangoa Attack.

2888. Abdallah Mahamat: P-2200 stated that Abdallah Mahamat died of a bullet to the head.⁷¹⁶¹ It is recalled that P-2200 stated that the Muslims he identified among the dead were neither Seleka nor soldiers, nor armed or fighting when they were killed,⁷¹⁶² and that P-2200 participated in their burial.⁷¹⁶³

2889. Abdelkhadir: P-2200 stated that 'Abdelkhadir' was killed by a bullet to the head while he was leaving his home to seek refuge in the school.⁷¹⁶⁴ It is recalled that P-2200 stated that the Muslims he identified among the dead were neither Seleka nor soldiers, nor armed or fighting when they were killed,⁷¹⁶⁵ and that P-2200 participated in their burial.⁷¹⁶⁶

⁷¹⁵⁷ See paragraph 2862 above.

⁷¹⁵⁸ P-1577: T-027, p. 58, lines 12-23.

⁷¹⁵⁹ P-1577: T-027, p. 58, line 24 – p. 59, line 6.

⁷¹⁶⁰ See paragraph 2862 above.

⁷¹⁶¹ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2155, para. 49.

⁷¹⁶² P-2200 Statement, CAR-OTP-2088-2146-R04, at 2156, paras 56-57.

⁷¹⁶³ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2156-57, para. 59.

⁷¹⁶⁴ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2156, para. 50.

⁷¹⁶⁵ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2156, paras 56-57.

⁷¹⁶⁶ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2156-57, para. 59.

2890. **Mariam Yamwha:** P-2200 stated that Mariam Yawha was a Fulata-Fulbe Mbororo woman who lived in the Fulbe neighbourhood, she died having caught multiple bullets.⁷¹⁶⁷ It is recalled that P-2200 stated that the Muslims he identified among the dead were neither Seleka nor soldiers, nor armed or fighting when they were killed,⁷¹⁶⁸ and that P-2200 participated in their burial.⁷¹⁶⁹

2891. **Amadou Oumarou:** P-2200 stated that Amadou Oumarou, a Mbororo, was killed by a bullet while he was leaving his home in the Fulbe neighbourhood.⁷¹⁷⁰ It is recalled that P-2200 stated that the Muslims he identified among the dead were neither Seleka nor soldiers, nor armed or fighting when they were killed,⁷¹⁷¹ and that P-2200 participated in their burial.⁷¹⁷²

2892. **Abakar:** P-2453 included the name of Abakar in the list of 11 victims which he collected from their relatives at school, specifying that the victims were Muslims who had stayed in Boro and did not manage to flee with the imam's group, and were found in the vicinity of the imam's house.⁷¹⁷³

2893. **Ismael:** P-2453 included the name of Ismael in the list of 11 victims which he collected from their relatives at school, specifying that the victims were Muslims who had stayed in Boro and did not manage to flee with the imam's group, and were found in the vicinity of the imam's house.⁷¹⁷⁴

2894. **Salamatou, a Peuhl:** P-2453 included the name of Salamatou, a Peuhl, in the list of 11 victims which he collected from their relatives at school, specifying that the victims were

⁷¹⁶⁷ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2156, para. 51.

⁷¹⁶⁸ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2156, paras 56-57.

⁷¹⁶⁹ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2156-57, para. 59.

⁷¹⁷⁰ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2156, para. 52.

⁷¹⁷¹ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2156, paras 56-57.

⁷¹⁷² P-2200 Statement, CAR-OTP-2088-2146-R04, at 2156-57, para. 59.

⁷¹⁷³ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0429-30, para. 67. The Chamber notes that P-2049 confirmed the name of 'Abakar Moussa' as having been one of the victims of the attacks (see P-2049: T-101, p. 6, line 17 – p. 7, line 1, p. 7, line 24 – p. 8, line 17).

⁷¹⁷⁴ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0429-30, para. 67. The Chamber notes that P-2049 confirmed the name of 'Ismael Amat' as having been one of the victims of the attacks (see P-2049: T-101, p. 6, line 17 – p. 7, line 1, p. 7, line 24 – p. 8, line 17).

Muslims who had stayed in Boro and did not manage to flee with the imam's group, and were found in the vicinity of the imam's house.⁷¹⁷⁵

2895. **Sale Adim:** P-2453 included the name of Sale Adim in the list of 11 victims which he collected from their relatives at school, specifying that the victims were Muslims who had stayed in Boro and did not manage to flee with the imam's group, and were found in the vicinity of the imam's house.⁷¹⁷⁶

c. End of the hostilities on 5 December 2013

2896. While some Anti-Balaka elements eventually retreated, other Anti-Balaka members advanced further but were stopped by Congolese FOMAC forces near the *École de la Liberté*.

2897. In the Boro neighbourhood, Jo-Brice Ouabiro Dana stated that as some of their elements were struck by bullets, they were compelled to retreat towards Benzambé and other directions.⁷¹⁷⁷

2898. P-2602 stated that Théophile Ndangba's group continued the attack from Boro and retreated when it was near the *École de la Liberté*.⁷¹⁷⁸ P-2602 stated that they attacked the Seleka in Bossangoa at Kafa and from Kafa to Boro, from Boro to Sembé, and from Sembé to the *École de la Liberté*.⁷¹⁷⁹ Florent Kema was behind them, coming from Sembé neighbourhood as the group was arriving opposite the *École de la Liberté*.⁷¹⁸⁰ P-2602 saw the Seleka at the *École de la Liberté* with equipment, vehicles and weapons.⁷¹⁸¹ According to P-2602, the Seleka withdrew to their base at the *École de la Liberté* where the Congolese FOMAC separated the Anti-Balaka and the Seleka, saying in Sango that the fight was over.⁷¹⁸² They retreated, but FOMAC shot at them as they were leaving and some Anti-Balaka elements

⁷¹⁷⁵ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0429-30, para. 67. The Chamber notes that P-2049 confirmed the name of 'Salamatou Madji' as having been one of the victims of the attacks (see P-2049: T-101, p. 6, line 17 – p. 7, line 1, p. 7, line 24 – p. 8, line 17).

⁷¹⁷⁶ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0429-30, para. 67.

⁷¹⁷⁷ P-0966: T-118, p. 7, line 10 – p. 9, line 13.

⁷¹⁷⁸ P-2602 Interview Transcript, CAR-OTP-2118-9683-R01, at 9685, lines 53-59.

⁷¹⁷⁹ P-2602 Interview Transcript, CAR-OTP-2118-9683-R01, at 9695-96, lines 399-412.

⁷¹⁸⁰ P-2602 Interview Transcript, CAR-OTP-2118-9664-R01, at 9680, lines 539-547.

⁷¹⁸¹ P-2602 Interview Transcript, CAR-OTP-2118-9683-R01, at 9684, lines 4-11.

⁷¹⁸² P-2602 Interview Transcript, CAR-OTP-2118-9664-R01, at 9676-78, lines 403-484, at 9681, lines 561-566.

were killed.⁷¹⁸³ P-2602 went back to [REDACTED] but some elements of Théophile Ndangba's group retreated behind the cathedral in Bossangoa.⁷¹⁸⁴ P-2602 did not know what happened to Florent Kema's group after FOMAC stopped them and only later heard about the death of some of them.⁷¹⁸⁵ As also further discussed below, the Chamber does not rely on P-2602's suggestion that the Seleka would have been based at the *École de la Liberté*.⁷¹⁸⁶

2899. P-1577 stated that he heard from FOMAC forces that the only other armed units operating in the area near the market place of the Muslim neighbourhood at the time were the Anti-Balaka.⁷¹⁸⁷ P-1577 knew that the Anti-Balaka came very close to the FOMAC compound and stated that there was public footage of fire fights around the compound.⁷¹⁸⁸ P-1577 [REDACTED] video footage [REDACTED] of a FOMAC commander talking [REDACTED] about the possibility of meeting with the Anti-Balaka to tell them not to attack the school site, but stating at this time [REDACTED] that this was not yet the time to talk, and to first contain the situation, sending reinforcements to the school.⁷¹⁸⁹ P-1577 stated that at around 15:00 or 16:00, [REDACTED] the Anti-Balaka had been stopped from coming into the school.⁷¹⁹⁰

2900. P-2453 stated that on 5 December 2013, he was living in the *École de la Liberté*⁷¹⁹¹ and heard the explosions outside⁷¹⁹² from 14:00 to 16:00 and that the Anti-Balaka approached the premises of the school but the soldiers of FOMAC pushed them back.⁷¹⁹³ P-2453 testified that the Anti-Balaka even killed a Congolese soldier, but no refugee or displaced person was injured inside the school as they were protected by the Congolese soldiers.⁷¹⁹⁴ P-2453

⁷¹⁸³ P-2602 Interview Transcripts, CAR-OTP-2118-9664-R01, at 9682, lines 594-620; CAR-OTP-2118-9683-R01, at 9685, lines 53-59.

⁷¹⁸⁴ P-2602 Interview Transcript, CAR-OTP-2118-9683-R01, at 9685-86, lines 61-103.

⁷¹⁸⁵ P-2602 Interview Transcript, CAR-OTP-2118-9683-R01, at 9700, lines 574-584.

⁷¹⁸⁶ See paragraphs 2764-2765 below.

⁷¹⁸⁷ P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0790.

⁷¹⁸⁸ P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0790.

⁷¹⁸⁹ P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0790; Video, CAR-OTP-2085-6486; Transcript, CAR-OTP-2107-6999; Translation, CAR-OTP-2107-7148, at 7153, lines 119-121, at 7155, lines 174-181; Metadata, CAR-OTP-2085-6487; CAR-OTP-2085-6494.

⁷¹⁹⁰ P-1577: T-027, p. 40, line 11 – p. 41, line 15.

⁷¹⁹¹ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0428, para. 61; P-2453: T-138, p. 42, lines 2-8.

⁷¹⁹² P-2453: T-136, p. 82, line 25 – p. 83, line 10.

⁷¹⁹³ P-2453: T-138, p. 30, line 9 – p. 31, line 4.

⁷¹⁹⁴ P-2453: T-138, p. 30, line 9 – p. 31, line 4.

similarly stated that the Congolese commander at the school called for reinforcement.⁷¹⁹⁵ P-2453 testified that he could not see what was happening outside since the people inside the *École de la Liberté* were ordered to lie down on the ground.⁷¹⁹⁶ P-2453 stated that at around 16:00, the Seleka managed to fight back, took Boro back from the Anti-Balaka, and the Anti-Balaka retreated near the bush at the entrance of Bossangoa, on the side of Boro.⁷¹⁹⁷

2901. In the context of the above, the Chamber notes the Ngaïssona Defence's argument that the Seleka was supported by FOMAC during the Bossangoa Attack, by referring to P-2602 and P-1577.⁷¹⁹⁸

2902. P-2602 mentioned that the Anti-Balaka successfully chased the Seleka away and that the Seleka retreated to the *École de la Liberté* and were protected by FOMAC.⁷¹⁹⁹ The Chamber also notes that Michel Ningando heard that the Anti-Balaka were saying that FOMAC were accomplices of the Seleka.⁷²⁰⁰ P-1577 testified that he had the impression that FOMAC forces had challenged an Anti-Balaka group close to the *École de la Liberté*.⁷²⁰¹

2903. The Chamber notes that P-2049 testified that FOMAC were based both in the *École de la Liberté* and the bishop's house and only left the bishop's house after a FOMAC soldier was attacked.⁷²⁰² P-2049's account is supported by Michel Ningando who stated that around January 2014, a FOMAC soldier was killed and all the FOMAC forces left the bishop's house and went to protect the Muslims in the *École de la Liberté*.⁷²⁰³

2904. In the Chamber's view, the fact of FOMAC interposing between two opposing parties to a conflict and actively protecting civilians seeking refuge on school premises does not equal FOMAC supporting, or fighting alongside, the Seleka, but indeed quite the contrary.

⁷¹⁹⁵ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0429, para. 66.

⁷¹⁹⁶ P-2453: T-138, p. 42, lines 2-8.

⁷¹⁹⁷ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0429, para. 67.

⁷¹⁹⁸ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 292, n. 1019.

⁷¹⁹⁹ P-2602 Interview Transcripts, CAR-OTP-2118-9683-R01, at 9684, lines 4-32; CAR-OTP-2118-9705-R01, at 9709, lines 110-130.

⁷²⁰⁰ P-2652 Statement, CAR-OTP-2126-0175-R01, at 0188, para. 68.

⁷²⁰¹ P-1577: T-027, p. 41, line 16 – p. 42, line 9.

⁷²⁰² P-2049: T-103, p. 27, lines 13-21. The Chamber further notes that P-2049 stated that FOMAC was stationed at the *École de la Liberté* even in September 2013 (see P-2049: T-100, p. 67, line 22 – p. 68, line 11).

⁷²⁰³ P-2652 Statement, CAR-OTP-2126-0175-R01, at 0188, paras 67-68.

2905. Once the Anti-Balaka had been stopped by FOMAC at the height of the *École de la Liberté*, some of its elements retreated from Bossangoa, while others remained in town. Moreover, the evidence suggests that following Michel Djotodia's resignation more Anti-Balaka entered Bossangoa and effectively took control of the town.

2906. Jo-Brice Ouabiro Dana testified that they retreated to Benzambé and the Seleka began retaliating in the neighbourhoods.⁷²⁰⁴ P-2602 stated that Théophile Ndangba retreated to Benzambé, but some elements of the group retreated to behind the cathedral in Bossangoa.⁷²⁰⁵ P-2602 further stated that Théophile Ndangba left for Bangui [REDACTED] after the Bossangoa Attack, after they succeeded gaining control of the situation in Bossangoa.⁷²⁰⁶ P-2602 stated that before Théophile Ndangba left for Bangui, Kema and Mandago were in Bossangoa, they were recovering from having been shot.⁷²⁰⁷ When Théophile Ndangba then left, Kema was in charge.⁷²⁰⁸ According to P-2602, they agreed that some Anti-Balaka should remain in Bossangoa, Benzambé and in the small districts as they thought the Seleka mercenaries from Chad would harm the population.⁷²⁰⁹

2907. P-1577 stated that the battle moved through the town; initially there was gunfire in different places, then slowly in one or two places, then in one just place as the battle subsided.⁷²¹⁰ P-1577 heard [REDACTED] that there was a moment of celebration by the Anti-Balaka close to the church, at a point at which they thought they were in position to control the town.⁷²¹¹ P-1577 also stated that around the area of the *École de la Liberté*, they could see Anti-Balaka elements and when he started to travel out of the centre of the town, the checkpoints had changed from Seleka checkpoints to Anti-Balaka checkpoints.⁷²¹² P-1577 stated that [REDACTED] he observed a mixed group with people looking quite similar to what had been seen before and others more kind of military structured, more uniforms, much heavier

⁷²⁰⁴ P-0966: T-118, p. 13, lines 4-14.

⁷²⁰⁵ P-2602 Interview Transcripts, CAR-OTP-2118-9545-R01, at 9548, lines 89-92; CAR-OTP-2118-9683-R01, at 9685-86, lines 61-103.

⁷²⁰⁶ P-2602 Interview Transcript, CAR-OTP-2118-9545-R01, at 9548, lines 94-95, at 9553, lines 258-261.

⁷²⁰⁷ P-2602 Interview Transcript, CAR-OTP-2118-9737-R01, at 9757, lines 658-673 (the witness stated that Kema was in Sembé, and Mandago in Banda II).

⁷²⁰⁸ P-2602 Interview Transcript, CAR-OTP-2118-9737-R01, at 9757, lines 674-677.

⁷²⁰⁹ P-2602 Interview Transcript, CAR-OTP-2118-9545-R01, at 9548, lines 96-100.

⁷²¹⁰ P-1577: T-027, p. 46, line 22 – p. 47, line 20.

⁷²¹¹ P-1577: T-027, p. 47, lines 12-20.

⁷²¹² P-1577: T-027, p. 48, lines 15-20.

weapons, while in the days after the attack, they did not see Anti-Balaka elements controlling the town in a very structured sense.⁷²¹³

2908.P-1577 [REDACTED] photographs [REDACTED] around Bossangoa, depicting individuals carrying weapons who identified themselves as members of the Anti-Balaka who stated that they would take [REDACTED] to see their central command in Benzambé, yet they were forced to turn back to Bossangoa due to a tree blocking the road.⁷²¹⁴ P-1577 stated that the Anti-Balaka were more numerous and had more weapons [REDACTED], estimating between 50 to 100 armed Anti-Balaka elements along the road and in the villages.⁷²¹⁵

2909.In light of this concrete evidence before it, including from individuals who were among the Anti-Balaka that remained in Bossangoa, the Chamber does not rely on D30-4608's overly generalised statement that there were no Anti-Balaka in Bossangoa in the weeks following 5 December 2013, and that he would have seen them for the first time after the Muslims at the *École de la Liberté* left in April 2014,⁷²¹⁶ or that, in contrast, the Seleka were in the entire town, more concentrated towards Boro.⁷²¹⁷

2910.It appears that following the Bossangoa Attack, also some Seleka remained in Bossangoa. P-1577 stated that as he was circulating the town on 7 December 2013, the Seleka groups had been told to stay in their camp, and he did not see any military in the centre of town.⁷²¹⁸

2911.However, the Seleka did eventually leave the town. Indeed, Jo-Brice Ouabiro Dana testified that they heard on the radio that Michel Djotodia had resigned when he and his group were heading towards Bossangoa, they took a path close to the airport and headed towards the

⁷²¹³ P-1577: T-027, p. 50, lines 1-16.

⁷²¹⁴ P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0791-92; P-1577: T-027, p. 67, line 16 – p. 68, line 15. See e.g. Photograph, CAR-OTP-2085-3442; Metadata, CAR-OTP-2085-3443; CAR-OTP-2085-5670; Photograph, CAR-OTP-2085-4702; Metadata, CAR-OTP-2085-4703; CAR-OTP-2085-6105; Photograph, CAR-OTP-2085-4712; Metadata, CAR-OTP-2085-4713; CAR-OTP-2085-6108; Photograph, CAR-OTP-2085-4722; Metadata, CAR-OTP-2085-4723; CAR-OTP-2085-6114; Photograph, CAR-OTP-2085-4732; Metadata, CAR-OTP-2085-4733; CAR-OTP-2085-6120; Photograph, CAR-OTP-2085-4752; Metadata, CAR-OTP-2085-4753; CAR-OTP-2085-6129; Photograph, CAR-OTP-2085-4762; Metadata, CAR-OTP-2085-4763; CAR-OTP-2085-6135; Photograph, CAR-OTP-2085-4772; Metadata, CAR-OTP-2085-4773; CAR-OTP-2085-6138.

⁷²¹⁵ P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0792; P-1577: T-027, p. 67, line 16 – p. 68, line 7, p. 69, lines 12-20.

⁷²¹⁶ D30-4608: T-292, p. 23, line 15 – p. 24, line 6, p. 63, line 5 – p. 64, line 1.

⁷²¹⁷ D30-4608: T-292, p. 21, line 23 – p. 22, line 17.

⁷²¹⁸ P-1577: T-027, p. 50, lines 1-16.

bishopric to set up post in Bossangoa.⁷²¹⁹ Once they controlled Bossangoa, he was asked by FACA ComZone Florent Kema to write a mission order to allow some FACA Anti-Balaka to establish checkpoints in Bossangoa.⁷²²⁰ Similarly, Michel Ningando stated that the Seleka disappeared from Bossangoa overnight at the time of Michel Djotodia's resignation, and even the Sangaris did not know how the Seleka had left.⁷²²¹ While Roger de Martial Yagao did not recollect the date, he also stated that the armed Seleka left town one night, with Bossangoa remaining under control of the Congolese contingent of MISCA, which was subsequently replaced by the Chadian MINUSCA contingent, the Sangaris, police and the gendarmerie.⁷²²² He further stated that the Anti-Balaka in Bossangoa were living in the 'Camp Chic' neighbourhood behind the municipal stadium, not far from the church where the displaced Christians were staying, occupying the houses of civilians who had fled to the church.⁷²²³ Roger de Martial Yagao got to know the spokesperson of the Anti-Balaka [REDACTED] because he introduced himself as such during meetings.⁷²²⁴

2912. Bearing in mind the above, and also considering its discussion below,⁷²²⁵ the Chamber gives little weight to D30-4608's assertion that some Seleka left with the Muslims from the *École de la Liberté* at the time of their transport from there, or that after the Muslims' departure the Sangaris accompanied the Seleka at night, '*ne voyant plus leur raison d'être depuis le départ des musulmans*'.⁷²²⁶

2913. After the Bossangoa Attack, the Anti-Balaka reported, including on casualties.

2914. Jo-Brice Ouabiro Dana testified that after the Bossangoa Attack, there were many cases of injuries and a report had to be made about these because after every attack, a report on the elements had to be made to the 'superiors'.⁷²²⁷ As to the recipient of the reports, Jo-Brice Ouabiro Dana testified that he thought they reported to the 'superiors' or 'chiefs' whom they

⁷²¹⁹ P-0966: T-118, p. 9, line 25 – p. 10, line 24.

⁷²²⁰ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0252, para. 65.

⁷²²¹ P-2652 Statement, CAR-OTP-2126-0175-R01, at 0188, para. 70.

⁷²²² P-2133 Statement, CAR-OTP-2093-0267-R02, at 0281, para. 101.

⁷²²³ P-2133 Statement, CAR-OTP-2093-0267-R02, at 0277, para. 79.

⁷²²⁴ P-2133 Statement, CAR-OTP-2093-0267-R02, at 0277, paras 79-80.

⁷²²⁵ See paragraphs 2972-2980 below.

⁷²²⁶ D30-4608 Statement, CAR-D30-0017-0004-R01, at 0015, para. 84.

⁷²²⁷ P-0966: T-116, p. 45, lines 8 – p. 46, line 6.

were in the habit of calling, but he did not know to whom they reported.⁷²²⁸ The witness testified that Alexis Mandago was shot and Lamine died, they went to Benzambé where they handed over the injured to Doctors Without Borders to take them to Bossangoa and take care of them.⁷²²⁹ The witness testified that they had lost two chief corporals and also Théophile Ndangba and ‘Charly’ were injured during the attack.⁷²³⁰

2915.P-2602 similarly stated that during the Bossangoa Attack, the group lost two ‘chief corporals’ called Maragot and Eyafio, one element lost his arm and one his hands.⁷²³¹ P-2602 stated that the two military men who died were from Bossangoa, and those who the Anti-Balaka sent first into the town.⁷²³²

2916.P-2602 stated that Alexis Mandago had progressed with his group to block the bridge but did not succeed⁷²³³ and was hit by a bullet behind Bossangoa town hall.⁷²³⁴ P-2602 stated that [REDACTED] he heard that Alexis Mandago was first taken to Benzambé and then to Bossangoa for treatment.⁷²³⁵ P-2602 stated that Théophile Ndangba and ‘Charlie’ were shot during the Bossangoa Attack.⁷²³⁶

2917.Jo-Brice Ouabiro Dana stated that after the Bossangoa Attack, they were recovering in Benzambé and learned that they had been given 500,000 CFA to buy food and medicine⁷²³⁷ and that this money came through the Cameroon border to Bouar.⁷²³⁸ The witness further stated that they organised a meeting of chiefs and Florent Kema decided that two chiefs should be sent to collect the money.⁷²³⁹ When the two chiefs returned, only 180,000 CFA was left as they had used some of the money to buy solar panels to charge cell phones,

⁷²²⁸ P-0966: T-116, p. 45, line 20 – p. 46, line 6.

⁷²²⁹ P-0966: T-116, p. 45, lines 8-19.

⁷²³⁰ P-0966: T-116, p. 45, line 20 – p. 46, line 6; P-0966: T-117, p. 57, lines 10-25.

⁷²³¹ P-2602 Interview Transcript, CAR-OTP-2118-9545-R01, at 9546, lines 9-26.

⁷²³² P-2602 Interview Transcript, CAR-OTP-2118-9545-R01, at 9548, lines 71-72.

⁷²³³ P-2602 Interview Transcript, CAR-OTP-2118-9683-R01, at 9703, lines 682-686.

⁷²³⁴ P-2602 Interview Transcript, CAR-OTP-2118-9683-R01, at 9701, lines 612-620, at 9704, lines 689-694.

⁷²³⁵ P-2602 Interview Transcript, CAR-OTP-2118-9683-R01, at 9704, lines 697-712.

⁷²³⁶ P-2602 Interview Transcripts, CAR-OTP-2118-9525-R01, at 9543-44, lines 627-649; CAR-OTP-2118-9664-R01, at 9668-69, lines 139-170, at 9680, lines 539-543; CAR-OTP-2118-9683-R01, at 9688-89, lines 168-186, at 9701, lines 585-597.

⁷²³⁷ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0253, para. 68.

⁷²³⁸ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0253, para. 68.

⁷²³⁹ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0253, para. 68.

leading to anger and a huge dispute among the elements.⁷²⁴⁰ Jo-Brice Ouabiro Dana stated that he never found out who the money came from.⁷²⁴¹ [REDACTED].⁷²⁴² [REDACTED].⁷²⁴³

2. *Events during and in the aftermath of the Bossangoa Attack*

i. *Destruction of houses and looting of goods following the Bossangoa Attack*

At some point between 5 and 8 December 2013, the Anti-Balaka burned and destroyed residential structures, lived in by Muslims at the time of the attack, in the immediate vicinity of the imam's residence.

2918. The evidence before the Chamber shows that in the aftermath of the Bossangoa Attack, residential structures in Bossangoa were destroyed. Specifically, residential homes in the vicinity of the imam's residence were burned and destroyed by the Anti-Balaka between 5 and 8 December 2013.

2919. According to the CAR Panel Interim Report of 2014, testimonies from eyewitnesses and local authorities showed that there were three waves of destruction in Bossangoa, with a second taking place between 5 December 2013 and 22 January 2014, period during which the destruction of building was related to the attack of Anti-Balaka groups 'in retaliation of actions of Seleka fighters'.⁷²⁴⁴ A third wave of destruction took place, according to the panel, between 22 January and 28 February 2014, committed by 'local groups associated with the anti-Balaka, targeting more specifically the neighbourhood of Boro that is predominantly inhabited by Muslims', and which by the time of the report, 'appear[ed] now almost completely destroyed'.⁷²⁴⁵

2920. Expert witness Lars Bromley analysed satellite imagery with images taken before and after the Bossangoa Attack, 4 and 12 December 2013, concluding that 'the image from 4 December [2013] includes hundreds of structures that exhibit signs of destruction but

⁷²⁴⁰ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0253, para. 68.

⁷²⁴¹ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0253, para. 68.

⁷²⁴² P-0966 Statement, CAR-OTP-2031-0241-R03, at 0253, para. 69.

⁷²⁴³ P-0966 Statement, CAR-OTP-2031-0241-R03, at 0253, para. 69.

⁷²⁴⁴ Annex 5.5 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0885, para. 5.

⁷²⁴⁵ Annex 5.5 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0885, para. 5.

would need comparison with a previously acquired image for verification'.⁷²⁴⁶ The witness further concluded that indications of burning were 'relatively frequent' on both assessed dates and 'at least a few destroyed structures were burned', the image of 4 December 2013 included 'hundreds of structures' exhibiting 'signs of destruction', and 'at least 17 structures were destroyed in various areas [...] by 12 December 2013'.⁷²⁴⁷ Further analysis of satellite imagery from 5 December 2013, 22 January 2014 and 28 February 2014 concluded on 227 destroyed buildings (probable) by 5 December 2013,⁷²⁴⁸ an additional 893 destroyed buildings by 22 January 2014, and a further 114 destroyed buildings by 28 February 2014, leading to a total of 1,234 destroyed structures.⁷²⁴⁹ The CAR Panel concluded accordingly that '1,007 buildings were destroyed between 5 December 2013 and 28 February 2014'.⁷²⁵⁰

2921. P-1577 visited an area in the vicinity of the imam's residence [REDACTED], at which time buildings there were not destroyed, while several of these buildings had been destroyed by the time he returned to the same area around 7 December 2013.⁷²⁵¹ Indeed, [REDACTED] photographs showing signs of burning and destruction which, according to their metadata, were taken on [REDACTED].⁷²⁵² P-1577 explained that the photographs were taken at the buildings very close to the imam's house, and he was told that the Anti-Balaka had looted

⁷²⁴⁶ P-2193 Report, CAR-OTP-2127-6617, at 6622; P-2193: T-019, p. 60, lines 1-24.

⁷²⁴⁷ P-2193 Report, CAR-OTP-2127-6617 at 6620, 6622; P-2193: T-019, p. 25, line 6 – p. 26, line 6. *See also* Annex 1 to P-2193 Report, CAR-OTP-2127-6626, at 6629, Map 2 containing Satellite images, CAR-OTP-2127-6662, CAR-OTP-2127-6663, dated 4 December 2013 (corresponding to TIFF file in CAR-OTP-2127-6689); CAR-OTP-2127-6667, CAR-OTP-2127-6668, dated 12 December 2013 (corresponding to TIFF file in CAR-OTP-2127-6690).

⁷²⁴⁸ These were classified as 'probable' due to the lack of a previous image for comparison (*see* Satellite image, CAR-OTP-2001-5350).

⁷²⁴⁹ P-2193 Report, CAR-OTP-2127-6617, at 6622 *referring to* Satellite image, CAR-OTP-2079-0671; P-2193: T-019, p. 61, line 22 – p. 62, line 11.

⁷²⁵⁰ Annex 5.5 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0885, para. 5.

⁷²⁵¹ P-1577: T-027, p. 63, line 15 – p. 64, line 2.

⁷²⁵² *See e.g.* Photograph, CAR-OTP-2085-3122; Metadata, CAR-OTP-2085-3123; CAR-OTP-2085-5562; Photograph, CAR-OTP-2085-4062; Metadata, CAR-OTP-2085-4063; CAR-OTP-2085-5883; Photograph, CAR-OTP-2085-4082; Metadata, CAR-OTP-2085-4083; CAR-OTP-2085-5889. *See also* P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0783, para. 49, at 0788-90. Regarding Photograph, CAR-OTP-2085-3122, Lars Bromley explained, asked whether it was consistent with the kind of damage he observed in the satellite imagery for Bossangoa, that a pre-image would show the structure with a roof and for the post-image, the big clue would be that the roof was gone and there would be blackened charred remains on the ground, and also some, very subtle but certainly visible, white ash (if the image had been collected while it was still visible), which tends to blow away relatively quickly, but the blackened soot would remain and gradually ablate (*see* P-2193: T-019, p. 26, line 7 – p. 27, line 2, p. 59, lines 11-25). P-2200 stated that Photograph, CAR-OTP-2085-3122 was taken in 'Soumbe' neighbourhood, close to Boro, and believed this house belonged to [REDACTED] an 'old and tired man' who lived in Chad at the time of the witness's statement – according to P-2200, only the Muslim houses were destroyed in this neighbourhood (*see* P-2200 Statement, CAR-OTP-2088-2146-R04, at 2165, para. 95).

and set them on fire during the attack on 5 December 2013.⁷²⁵³ P-1577 stated that there was a recent burning smell and it was very clear that it was a recent fire.⁷²⁵⁴ P-1577 testified that the area close to the imam's house was very clearly a Muslim district and Muslims lived in those homes as [REDACTED] it was filled with individuals who identified themselves as Muslims, other residents also identified this area as the Muslim neighbourhood, and when he returned, there was evidence of Arabic writing on papers strewn around the floor and the names on identification documents had Muslim sounding names.⁷²⁵⁵ The location which P-1577 believed to be a Muslim school, with tablets for teaching children the Koran, was almost razed to the ground, with no roof and all of the walls blackened.⁷²⁵⁶ P-1577 further explained that he found bullet shells and unexploded ammunition in the Muslim trading area quite close to the imam's house, and that shops were looted and items taken.⁷²⁵⁷ P-1577 did not know who was responsible for the looting but was told that it was the Anti-Balaka on the day of the Bossangoa Attack.⁷²⁵⁸

2922. From the satellite imagery depicting 17 structures destroyed or damaged between 4 and 12 December 2013,⁷²⁵⁹ the Chamber notes that five structures were affected in the north-eastern part of Bossangoa, while other structures affected were in the south-western part of Bossangoa.

2923. In addition to the evidence provided by P-1577, P-2200 stated that some 'children' snuck out of the *École de la Liberté* and reported back that the Anti-Balaka were destroying houses.⁷²⁶⁰ According to P-2200, between 5 and 8 December 2013, the Anti-Balaka

⁷²⁵³ Satellite image (annotated by P-1577), CAR-OTP-2088-0731; P-1577 Second Statement, CAR-OTP-2088-0717-R01, at 0719; P-1577: T-027, p. 62, line 24 – p. 63, line 14.

⁷²⁵⁴ P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0783, para. 49, at 0788-90; P-1577: T-027, p. 63, line 15 – p. 64, line 13.

⁷²⁵⁵ P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0788; P-1577: T-027, p. 57, line 23 – p. 58, line 10.

⁷²⁵⁶ P-1577: T-027, p. 56, line 23 – p. 58, line 10, p. 63, line 15 – p. 64, line 2 (concerning Photographs, CAR-OTP-2085-4062; CAR-OTP-2085-4082). When shown the latter photograph, P-2200 also believed that it was probably taken at a Koran school, as there were tablets with writings from the Koran which were particularly used in such schools (see P-2200 Statement, CAR-OTP-2088-2146-R04, at 2163, para. 93).

⁷²⁵⁷ P-1577: T-027, p. 62, line 12 – p. 63, line 14. See Photograph, CAR-OTP-2085-3212; Metadata, CAR-OTP-2085-3213; CAR-OTP-2085-5592; Photograph, CAR-OTP-2085-3382; Metadata, CAR-OTP-2085-3383; CAR-OTP-2085-5646; Photograph, CAR-OTP-2085-4262; Metadata, CAR-OTP-2085-4263; CAR-OTP-2085-5949; Photograph, CAR-OTP-2085-4482; Metadata, CAR-OTP-2085-4483; CAR-OTP-2085-6018.

⁷²⁵⁸ P-1577: T-027, p. 63, lines 8-12.

⁷²⁵⁹ Annex 1 to P-2193 Report, CAR-OTP-2127-6626, at 6629.

⁷²⁶⁰ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2158, para. 65.

destroyed all of the Muslim houses across the entire town, with certain neighbourhoods such as Boro, Arabe and Fulbe almost entirely destroyed.⁷²⁶¹ According to P-2200, the Anti-Balaka specifically targeted Muslim houses, and in areas like Manandou and Soumbe, where many Christians also lived, only the houses of Muslims were destroyed.⁷²⁶²

2924. P-2049 stated that most of the residential houses were set on fire during the Bossangoa Attack, both Christian and Muslim.⁷²⁶³ P-2049 testified that the houses next to and around the mosque and near the market which were inhabited predominantly by Muslims were set alight and also in the Arabe, Foulbé, and Boro neighbourhoods.⁷²⁶⁴ P-2049 stated that he was at the *École de la Liberté* when the houses were set alight, so he did not know how many houses were burnt, although he believed it was the majority.⁷²⁶⁵

2925. The Chamber notes that P-2049 commented on a video⁷²⁶⁶ which shows the destroyed and burnt mosque and residential buildings in Bornou and Foulbé neighbourhoods.⁷²⁶⁷ P-2049 explained that he received the video from another person⁷²⁶⁸ and thought that it was filmed after the Bossangoa Attack as he believed that the mosque shown in the video was destroyed two or three days after 5 December 2013.⁷²⁶⁹ Lars Bromley agreed that the damage to the buildings appearing in the video was consistent with the type of damage he saw in the satellite imagery for Bossangoa, with indications of burning and frequent roofless structures, and stated the video may have been taken some time afterwards, so some of the blackened soot would have washed away in the rains.⁷²⁷⁰ P-2453 stated that the video showed several places within Boro, [REDACTED] that the roof was damaged, and naming owners of the

⁷²⁶¹ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2158, para. 64. *See also* P-2652 Statement, CAR-OTP-2126-0175-R01, at 0188, para. 70.

⁷²⁶² P-2200 Statement, CAR-OTP-2088-2146-R04, at 2158, para. 64. *See also* footnote 7252 above.

⁷²⁶³ P-2049: T-101, p. 25, lines 4-19, p. 26, line 12 – p. 27, line 5.

⁷²⁶⁴ P-2049: T-101, p. 26, line 12 – p. 27, line 5.

⁷²⁶⁵ P-2049: T-101, p. 27, lines 6-17.

⁷²⁶⁶ Video, CAR-OTP-2088-2204; Transcript, CAR-OTP-2127-6281; Translation, CAR-OTP-2127-6408.

⁷²⁶⁷ P-2049: T-101, p. 23, line 8 – p. 25, line 3.

⁷²⁶⁸ P-2049: T-101, p. 41, lines 1-7. P-2049 stated that he knew the people in the video (P-2049: T-101, p. 35, lines 12-20) and that the person who shot the video is called Massa Mewada (P-2049: T-101, p. 40, lines 17-24).

⁷²⁶⁹ P-2049: T-101, p. 24, lines 2-9.

⁷²⁷⁰ P-2193: T-019, p. 27, lines 3-25, p. 58, line 5 – p. 59, line 3 *referring to* Video, CAR-OTP-2088-2204, at 00:01:00-00:04:19; Transcript, CAR-OTP-2127-6281; Translation, CAR-OTP-2127-6408. *See* P-2193 Report, CAR-OTP-2127-6617, at 6622.

other houses depicted in the video.⁷²⁷¹ P-2453 further stated that the houses would normally have had roofs, doors and windows and that in his assessment, the video was filmed after the Bossangoa Attack, as it was only after that attack that the houses in the Boro neighbourhood, intact until 5 December 2013, were pillaged and damaged.⁷²⁷² On the basis of this evidence, the Chamber concludes that the video was filmed at some point after the Bossangoa Attack, without being able to conclude on the specific date.⁷²⁷³

2926. Considering the above, the Chamber gives no weight to an aspect of the testimony of Jo-Brice Ouabiro Dana, who stated that the Anti-Balaka could not have set alight houses and schools on the day of the Bossangoa Attack.⁷²⁷⁴ Indeed, his evidence as such does not undermine the allegation that Anti-Balaka may have been engaged in damaging or destroying structures in the aftermath of the Bossangoa Attack.

2927. Further in this context the Chamber notes the CAR Panel's observation of 'the inscription of "anti-Balaka" on destroyed houses owned by members of the Muslim community in the Boro neighbourhood'.⁷²⁷⁵ Aurélien Llorca, member of the panel, explained in this regard that on 30 April 2014, he took four photographs which 'accurately reflect[ed]' what he saw on that day, with the word 'Anti-Balaka' and machete drawings clearly visible in the copies of better resolution.⁷²⁷⁶ The witness remembered often seeing 'Anti-Balaka' written on other walls in several areas in the CAR.⁷²⁷⁷ On the basis of this evidence, the Chamber is unable to conclude when these inscriptions were made.

2928. In addition to structures being damaged and destroyed, some witnesses testified to the looting of items during or after the Bossangoa Attack.

2929. P-2200, who was at the *École de la Liberté* starting from 5 December 2013, stated that the Anti-Balaka pillaged everything in the Muslim houses, taking the loot back to the Catholic

⁷²⁷¹ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0433, para. 83, at 0433, para. 87; Video, CAR-OTP-2088-2204; Transcript, CAR-OTP-2127-6281; Translation, CAR-OTP-2127-6408.

⁷²⁷² P-2453 Statement, CAR-OTP-2111-0415-R04, at 0433-34, para. 88.

⁷²⁷³ The Chamber notes in this regard that the Ngaïssona Defence argues that the video was created on 29 January 2014 (see Annex A.20 to Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA.20).

⁷²⁷⁴ P-0966: T-117, p. 62, line 18 – p. 64, line 15.

⁷²⁷⁵ Annex 5.5 to CAR Panel Interim Report 2014, CAR-OTP-2001-0835, at 0886, para. 9, at 0886-89.

⁷²⁷⁶ P-0287 Statement, CAR-OTP-2115-0239-R01, at 0264, para. 119; P-0287: T-020, p. 28, line 23 – p. 29, line 19.

⁷²⁷⁷ P-0287: T-020, p. 29, line 20 – p. 30, line 1.

mission, looted Muslim shops in the course of the Bossangoa Attack, and systematically stole or killed all of the Peuhls' animals.⁷²⁷⁸

2930.P-2049 heard that the Anti-Balaka also looted during or after the Bossangoa Attack, explaining that when one day after the Bossangoa Attack he and others went to the Bossangoa stadium, he saw armed people in attires carrying property on their heads [REDACTED].⁷²⁷⁹ P-2049 also testified that he and others at the *École de la Liberté* went outside from time to time and saw some people collect property and pass behind the mosque, carting the items away.⁷²⁸⁰

2931. Without mentioning a specific date, Roger de Martial Yagao stated that in Bossangoa, after most of the Anti-Balaka had left for Bangui, there was less tension, but the Anti-Balaka and some Christian civilians pillaged and destroyed Muslim houses and administrative buildings.⁷²⁸¹ The witness also stated more generally that when the Seleka arrived 'with the Muslim connotation associated with them', the Anti-Balaka and the Christian community turned against the Chadian Muslims by attacking them, pillaging and destroying their houses.⁷²⁸²

2932.P-2453 stated that the French army arrived two or three days after the Bossangoa Attack, and that five days thereafter, the president of the youth asked a French army captain whether some people at the *École de la Liberté* could check the conditions of their houses, which he did later and those that went to check informed others on return that houses had been looted and burned down.⁷²⁸³

2933.P-2462 heard that all the houses [REDACTED]⁷²⁸⁴ had been destroyed and all of their possessions had been looted.⁷²⁸⁵

⁷²⁷⁸ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2157, para. 60, at 2158, paras 64, 66.

⁷²⁷⁹ P-2049: T-101, p. 42, lines 8 – p. 43, line 25.

⁷²⁸⁰ P-2049: T-101, p. 42, lines 8-24.

⁷²⁸¹ P-2133 Statement, CAR-OTP-2093-0267-R02, at 0280, para. 97.

⁷²⁸² P-2133 Statement, CAR-OTP-2093-0267-R02, at 0281, para. 99.

⁷²⁸³ P-2453: T-136, p. 90, line 1 – p. 91, line 6.

⁷²⁸⁴ P-2462: T-059, p. 8, lines 9-10.

⁷²⁸⁵ P-2462: T-059, p. 45, lines 9-14, p. 53, lines 10-12.

2934. Faustin Ngamesse stated that the homes of the Muslims were looted by civilian thieves, after the Muslims had left Bossangoa.⁷²⁸⁶

2935. The Chamber notes that in addition to witnesses stating that destruction and looting was committed by Anti-Balaka elements, other evidence suggests that also Seleka members were involved in destruction of structures.

2936. Specifically, P-2200 stated that the Seleka did not destroy houses when they first arrived, but they destroyed houses in response to Anti-Balaka attacks when fighting the Anti-Balaka.⁷²⁸⁷ Other evidence suggests that Seleka forces were destroying houses in the area of Bossangoa airport around 7 December 2013.⁷²⁸⁸ According to D30-4608, he knew of this incident within a week of the Bossangoa Attack, in which Seleka forces said there were Anti-Balaka elements in certain houses and initiated the burning of houses, specifically around Boro.⁷²⁸⁹ The Chamber finds D30-4608's evidence unclear and illogical considered together with the information from the post insofar as the other information talks of destruction by the Seleka in the area of the airfield, whereas D30-4608 located the destruction within Boro, a predominantly Muslim neighbourhood, stating the Seleka suspected 'auto-defence people' in those houses.

2937. Jo-Brice Ouabiro Dana, an Anti-Balaka element who participated in the Bossangoa Attack, witnessed the Seleka setting fire to grassland on the day of the Bossangoa Attack, stating that the Seleka set fire to the short grass and bushes around the houses in Bossangoa in pursuit of the Anti-Balaka, as opposed to the houses belonging to Muslims, which remained intact.⁷²⁹⁰

2938. In relation to the question of the alleged perpetrators of destruction and looting in Bossangoa during and after the Bossangoa Attack, the Chamber finds no merit in the Ngaïssona

⁷²⁸⁶ D30-4514 Statement, CAR-D30-0025-0001-R01, at 0032, lines 1047-1055.

⁷²⁸⁷ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2151, para. 26.

⁷²⁸⁸ [REDACTED] Post, CAR-OTP-2109-0407 (dated 7 December 2013, at 08:39); Post, CAR-OTP-2109-0535 (dated 7 December 2013, at 08:47 and stating '*Selon nos infos les forces du colonel Saleh (ex Seleka) brûlent des maisons à Bossangoa aéroport*'). See also Satellite image, CAR-OTP-2079-0671 (suggesting (probable) destroyed structures in the area of the Bossangoa airfield as of 5 December 2013 and by 22 January 2014).

⁷²⁸⁹ D30-4608: T-292, p. 18, line 21 – p. 19, line 13 referring to Post, CAR-OTP-2109-0407, p. 88, lines 8-16, p. 89, lines 3-5. See also D30-4608: T-292-FRA, p. 18, line 15 – p. 19, line 4.

⁷²⁹⁰ P-0966: T-118, p. 8, line 20 – p. 9, line 23.

Defence's argument that only because there may have been no eyewitnesses to the destruction or looting, the identity of any perpetrators cannot be established to the requisite standard.⁷²⁹¹ At the same time, the evidence before the Chamber suggests that some destruction and looting in Bossangoa either took place at some point after the time period relevant to the charges,⁷²⁹² or was committed by individuals other than Anti-Balaka members. Therefore, in conclusion and on the basis of the evidence before it, the Chamber finds that the Anti-Balaka burned and destroyed residential structures in the vicinity of the imam's residence at some point between 5 and 8 December 2013.

ii. Destruction of Bossangoa's central mosque

2939. The evidence before the Chamber shows that the central mosque in Bossangoa, to which Muslims went for Friday prayers, was located between Bornou 2 and Arabe neighbourhoods, opposite the Boro market, while smaller mosques were in the neighbourhoods.⁷²⁹³

2940. Witnesses testified both about the date on which the central mosque of Bossangoa was last seen intact, as well as the date on which it was discovered to have been destroyed. The Chamber notes in this regard the Ngaïssona Defence's argument that 'no building along the main road in the Boro neighbourhood was destroyed before 22 January 2014'.⁷²⁹⁴

2941. A video from the end of November 2013 shows an unbroken one-story building with 'Mosquee Centrale de Bossangoa' written on the front wall, with Arabic text below.⁷²⁹⁵ P-2049, asked about this video, thought it showed the central mosque of Bossangoa before its

⁷²⁹¹ See [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 337.

⁷²⁹² See [Confirmation Decision](#), ICC-01/14-01/18-403-Corr-Red, p. 108, specifying the time frame for the charge of 'destruction of the adversary's property' as 'in the context of the attack on Bossangoa on 5 December 2013 and in the days after the attack'.

⁷²⁹³ P-2049: T-101, p. 24, line 11 – p. 25, line 3, p. 28, line 22 – p. 29, line 8, p. 65, line 7 – p. 67, line 8 (the witness stated that the central mosque was located in the Bornou neighbourhood and confirmed Map, CAR-OTP-2118-9140 showing the location of the mosque; he further stated that there were smaller mosques in the neighbourhood); P-2200 Statement, CAR-OTP-2088-2146-R04, at 2148-49, paras 16-17 (the witness stated that there were two mosques, one large, one small, in Bossangoa before the conflict, located in the Boro neighbourhood); P-2133 Statement, CAR-OTP-2093-0267-R02, at 0283, para. 114 (the witness stated that the central mosque of Bossangoa was in Boro); P-2453 Statement, CAR-OTP-2111-0415-R04, at 0418, para. 17 (the witness stated that they had the central mosque in front of Boro market, where all Muslims went for Friday prayers, while there were also smaller mosques to which Muslims went for daily prayers near their homes).

⁷²⁹⁴ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 350 referring to Satellite images, CAR-OTP-2001-5350; CAR-OTP-2079-0671. See also Annex A.19 to Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA.19.

⁷²⁹⁵ Video, CAR-OTP-2108-1031. For the approximate date of the video, and its origin, see [REDACTED].

destruction and that the person calling the Muslims to prayer was Toukroun.⁷²⁹⁶ P-2049 explained that, before the Bossangoa Attack, a person of goodwill painted the mosque, both inside and outside so the colour of the mosque was different from the video.⁷²⁹⁷

2942. P-2462 stated that the central mosque of Bossangoa, located opposite Boro market, was intact on 5 December 2013,⁷²⁹⁸ while P-2453 stated that the central mosque was intact the day before the attack.⁷²⁹⁹

2943. P-2049 believed that Bossangoa's central mosque was destroyed two or three days after 5 December 2013.⁷³⁰⁰ Without mentioning who was responsible for the destruction, P-2049 testified that he was at the *École de la Liberté*, but 'they' saw that no one was protecting the mosque, so they destroyed it, taking off the roofing and looting it.⁷³⁰¹ It is recalled that P-2049 commented on a video in which the destroyed central mosque was depicted,⁷³⁰² in relation to which the Chamber was unable to ascertain the exact date on which the video was filmed, although it considered that it was filmed after the Bossangoa Attack.⁷³⁰³

2944. P-1577 testified that when he returned to the Muslim neighbourhood [REDACTED], the Bossangoa mosque did not appear to be damaged or destroyed,⁷³⁰⁴ whereas the imam's house and the school had been attacked and damaged.⁷³⁰⁵ P-1577 assumed that this was because the mosque was more centrally located, close to the market, and at a distance from the locations that witnesses told P-1577 had been attacked by the Anti-Balaka.⁷³⁰⁶ The Chamber finds P-1577's account particularly persuasive as he returned to the Muslim quarter within a short window of time and was thus able to compare the state of affairs.

⁷²⁹⁶ P-2049: T-101, p. 22, line 21 – p. 23, line 7, p. 24, lines 2-9.

⁷²⁹⁷ P-2049: T-101, p. 23, lines 3-7.

⁷²⁹⁸ P-2462: T-059, p. 41, line 9 – p. 42, line 6.

⁷²⁹⁹ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0432, para. 82. The Chamber notes in this regard that P-2453 was at the *École de la Liberté* at the time (see P-2453 Statement, CAR-OTP-2111-0415-R04, at 0427-28, paras 56-57, at 0428, para. 61, at 0433, paras 83, 85).

⁷³⁰⁰ P-2049: T-101, p. 24, lines 2-9. Concerning other mosques in Bossangoa, P-2049 stated there were also smaller mosques in the neighbourhood which were set alight (P-2049: T-101, p. 28, line 22 – p. 29, line 8).

⁷³⁰¹ P-2049: T-101, p. 24, lines 2-9.

⁷³⁰² Video, CAR-OTP-2088-2204, at 00:03:45-00:04:36.

⁷³⁰³ See paragraph 2925 above.

⁷³⁰⁴ The Chamber found above that the photographs [REDACTED] on the day he went back to the imam's house are dated [REDACTED] in the metadata (see paragraph 2921 above).

⁷³⁰⁵ P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0788-89.

⁷³⁰⁶ P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0789.

2945. P-2200 stated that he heard from ‘the children’ at the *École de la Liberté*, who went out to see what was happening, that approximately four days after the attack, on 9 December 2013, the Anti-Balaka began to attack the two mosques in Bossangoa and destroyed them entirely.⁷³⁰⁷ Without providing a specific date, P-2200 stated that he, accompanied by a few of his faithful and some armed Seleka, subsequently saw that the large mosque had been entirely destroyed.⁷³⁰⁸

2946. Michel Ningando stated that the main mosque of Bossangoa was destroyed and was unsure of the date of the destruction, but believed it was ‘from 5 December [2013] onwards’.⁷³⁰⁹

2947. Some witnesses provided different accounts regarding the date that the central mosque of Bossangoa was destroyed or testified to hearing that the mosque was destroyed by civilians.

2948. Roger de Martial Yagao indicated the date of destruction as being before the Bossangoa Attack. The witness stated that he arrived in Bossangoa at the end of September or early October 2013⁷³¹⁰ and saw that the central mosque of Bossangoa was already destroyed and that he did not know who had destroyed it.⁷³¹¹ The Chamber notes that the witness’s account is not supported by any other evidence and that other witnesses consistently testified that the central mosque of Bossangoa was not destroyed before or on the day of the Bossangoa Attack. It therefore does not find Roger de Martial Yagao reliable on this aspect.

2949. On the other hand, P-2453 stated that he heard that [REDACTED] the man [REDACTED] the central mosque, told the imam that he witnessed the pillaging and damaging of the mosque on 2 January 2014.⁷³¹² P-2453 stated that the man did not say who was responsible.⁷³¹³ P-2453 further stated that in February 2014, their convoy passed in front of the central mosque which had been totally emptied and the roof and the windows had been removed.⁷³¹⁴ P-2453 stated that he did not know who was responsible for damaging the

⁷³⁰⁷ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2158, para. 67.

⁷³⁰⁸ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2158, para. 67.

⁷³⁰⁹ P-2652 Statement, CAR-OTP-2126-0175-R01, at 0188, para. 70.

⁷³¹⁰ P-2133 Statement, CAR-OTP-2093-0267-R02, at 0270, para. 24.

⁷³¹¹ P-2133 Statement, CAR-OTP-2093-0267-R02, at 0283, para. 114.

⁷³¹² P-2453 Statement, CAR-OTP-2111-0415-R04, at 0433, para. 85.

⁷³¹³ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0433, para. 85.

⁷³¹⁴ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0432, para. 82. P-2453 also stated that, when he left the school in the convoy, he did not see the smaller mosques and did not know whether they were damaged.

central mosque.⁷³¹⁵ P-2462 similarly stated that when she left for Chad around 2 or 3 April 2014, she saw the roof of the central mosque of Bossangoa was gone.⁷³¹⁶

2950. P-2602, an Anti-Balaka element who participated in the Bossangoa Attack, stated that they clashed with the Seleka near the mosque, but the mosque was not destroyed during the attack but after the Anti-Balaka had left, he was not there, and that those who were in the town destroyed the mosque, not the Anti-Balaka.⁷³¹⁷ He denied that the Anti-Balaka entered and searched the mosque.⁷³¹⁸

2951. Faustin Ngamesse stated that he did not see it, but heard from young Christians that they had gone to destroy the mosque in Bossangoa.⁷³¹⁹

2952. Odette Namsona testified that the mosque was not destroyed by the Anti-Balaka but by the entire population, young people from the locality, as she was told on her return to Bossangoa by young men who said that the ‘young people of Bossangoa’ were angry because their houses had been torched and their possessions looted.⁷³²⁰

2953. D30-4608 heard that there had been looting and that the mosque in Boro had been destroyed after the Bossangoa Attack.⁷³²¹ D30-4608 did not know who was responsible but one day saw that the mosque had disappeared.⁷³²² As to the timing of the destruction of the mosque, D30-4608 believed that it was after the departure of the Muslims for Chad, since ‘[i]t would have been impossible [...] when the Muslims and Seleka were present’, as ‘we couldn’t have done that without facing reprisals’.⁷³²³

2954. The Chamber notes that witnesses did not provide wholly consistent evidence regarding the date of the destruction of the central mosque. It further notes that witnesses testified to hearing about the destruction of the central mosque, but that there are no eyewitnesses to the

⁷³¹⁵ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0432, para. 82.

⁷³¹⁶ P-2462: T-059, p. 41, line 9 – p. 42, line 6, p. 43, lines 8-12.

⁷³¹⁷ P-2602 Interview Transcript, CAR-OTP-2118-9705-R01, at 9709, lines 107-121, at 9711, lines 184-194, at 9712, lines 234-245.

⁷³¹⁸ P-2602 Interview Transcript, CAR-OTP-2118-9705-R01, at 9709, lines 131-134.

⁷³¹⁹ D30-4514 Statement, CAR-D30-0025-0001-R01, at 0032, lines 1047-1055.

⁷³²⁰ D30-4496: T-289, p. 67, lines 1-24.

⁷³²¹ D30-4608 Statement, CAR-D30-0017-0004-R01, at 0015, para. 82.

⁷³²² D30-4608 Statement, CAR-D30-0017-0004-R01, at 0015, para. 82.

⁷³²³ D30-4608: T-292, p. 25, line 21 – p. 26, line 4.

central mosque's destruction. For all the above reasons, the Chamber is unable to ascertain the exact date of the destruction of the central mosque of Bossangoa. However, the Chamber finds that the central mosque of Bossangoa was intact before the Bossangoa Attack on 5 December and remained intact until at least 8 December 2013. Further, the Chamber concludes that the central mosque had been destroyed by February 2014.

2955. The Chamber notes that P-2200 is the only witness who specifically mentioned that Bossangoa's central mosque was destroyed by the Anti-Balaka. Although the Chamber finds P-2200 credible and reliable, his evidence is limited to what he heard from 'the children', who reported to him seeing the Anti-Balaka destroying the mosque approximately four days after the Bossangoa Attack, on or around 9 December 2013. It further notes that there is no other evidence that supports P-2200's account as to the Anti-Balaka being responsible for the destruction of the central mosque. On the contrary, the Chamber notes that several witnesses testified to having heard that the civilian population of Bossangoa destroyed the mosque.⁷³²⁴ Considering the evidence before the Chamber, it is unable to conclude who was responsible for the destruction of the central mosque of Bossangoa.

iii. Muslim population at the École de la Liberté and its eventual transportation mainly to Chad

During the attack on Bossangoa on 5 December 2013, the Muslim civilian population of Bossangoa fled the attacked neighbourhoods to seek shelter at the École de la Liberté, where their numbers rose into several thousands.

2956. The École de la Liberté is located in the centre of Bossangoa.⁷³²⁵

2957. Already before the Bossangoa Attack, starting from late summer 2013, Muslims from the surrounding villages of Bossangoa started seeking refuge at the École de la Liberté, as

⁷³²⁴ P-2602 Interview Transcript, CAR-OTP-2118-9705-R01, at 9711, lines 187-189, at 9712, lines 234-237; D30-4514 Statement, CAR-D30-0025-0001-R01, at 0032, lines 1047-1055; D30-4496: T-289, p. 67, lines 1-24.

⁷³²⁵ See Map, CAR-OTP-2118-9140 (where 'Ecole Liberté' is located in the Bossangoa centre near the main road and near 'Commissariat de Police' and 'Bâtiment Sous-Préfecture'). See also P-2049: T-100, p. 57, lines 13-24 (the witness stated that the main road separates the FNEC building and the town hall from the École de la Liberté); P-2133 Statement, CAR-OTP-2093-0267-R02, at 0283, para. 113; P-2133 Attestation, CAR-OTP-00001778, at 000001 (the witness stated that the École de la Liberté is located in the city centre of Bossangoa, opposite the town hall and not far from FNEC and the prefectural school); P-0505 Statement, CAR-OTP-2014-0129-R01, at 0133, para. 24 (the witness stated that the École de la Liberté is located 500 metres from the church). While P-2200 did not recall the name of the school he sought refuge in, it was situated close to the Bossangoa tribunal and the Muslim neighbourhoods (see P-2200 Statement, CAR-OTP-2088-2146-R04, at 2155, para. 44).

described by various witnesses.⁷³²⁶ Witnesses also described how after the first attack on Bossangoa in September 2013, Muslims from within Bossangoa equally sought refuge at the school.⁷³²⁷ From the evidence, it appears that before 5 December 2013, several hundred to a thousand Muslims lived in the *École de la Liberté*.⁷³²⁸

2958. On the day of the Bossangoa Attack, more Muslims sought refuge at the *École de la Liberté*.

2959. P-1577 stated that when he visited the *École de la Liberté* [REDACTED], the number of individuals, all who claimed to be Muslims, had risen to the thousands.⁷³²⁹ P-1577 stated that

⁷³²⁶ P-2652 Statement, CAR-OTP-2126-0175-R01, at 0181-82, paras 34-35, at 0183, para. 42 (the witness described that when travelling to Bossangoa in August 2013, he went to the *École de la Liberté* to which all the Muslims from surrounding villages had fled, and that the mayor had given the school to these Muslims as a place of shelter; at that time, this concerned Muslims from surrounding neighbourhoods since Muslims in Bossangoa were in the beginning not affected as the Seleka were protecting them); P-2462: T-059, p. 31, line 9 – p. 32, line 17 (when the witness went to the school, she found there many Muslims from the outskirts, such as Benzambé, Zéré, Koro-M’Poko and Ouham-Bac who she heard had fled from the Anti-Balaka, and she thought they had fled in September); P-2658 Statement, CAR-OTP-2126-0012-R02, at 0033, para. 133, at 0034, para. 143 (the witness stated that many Muslims from Bossangoa and the surrounding villages gathered at the school, with Muslims from Zere, Korompoko and Ouam-Bac taking refuge there before the Bossangoa Attack).

⁷³²⁷ P-2049: T-100, p. 67, line 22 – p. 68, line 11 (the witness explained that people were scared after the attack in September and thought it best to go to the *École de la Liberté* because FOMAC was there and could advise on the safest places to go); P-2453 Statement, CAR-OTP-2111-0415-R04, at 0426, para. 49, at 0427-28, para. 57 (the witness stated that after the attack in Bossangoa in September, more people from the Muslim community moved to the *École de la Liberté*, and that also he and his family sought refuge there later on); P-2658 Statement, CAR-OTP-2126-0012-R02, at 0033, para. 134 (the witness stated that before the Bossangoa Attack, some Muslims who lived around Bossangoa got scared and fled to the *École de la Liberté* because of the first attack launched by the Anti-Balaka). See also D30-4608: T-292, p. 47, line 24 – p. 48, line 10 (the witness stated that people from the surrounding areas, like Bangui road, around Korompoko, Bozoum road and Ouham-Bac were the first people seeking refuge at the school, and confirmed that people were at the *École de la Liberté* [REDACTED] before 5 December 2013).

⁷³²⁸ P-0505 Statement, CAR-OTP-2014-0129-R01, at 0133, para. 24 (the witness stated that he travelled to Bossangoa on 22 September 2013 and estimated that 1,000 Muslims were gathered in a school named ‘*École Liberté*’, fearful of revenge attacks from Christians); P-2652 Statement, CAR-OTP-2126-0175-R01, at 0187, para. 65 (the witness stated that there were less than 1,000 displaced Muslims at the *École de la Liberté* before 5 December 2013); P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0773, paras 17-18; P-1577: T-027, p. 10, lines 4-9, p. 34, line 20 – p. 35, line 13, p. 65, lines 3-22 (the witness stated that during his [REDACTED] visit to Bossangoa [REDACTED], a few hundred people were living around the buildings of the *École de la Liberté*; when he returned to Bossangoa [REDACTED], the displaced camps at both the school and the church were more populated than the first time because people were fleeing attacks from both groups). P-1577 [REDACTED] photographs [REDACTED] which depicted Muslims who had sought refuge at the *École de la Liberté* and who told him that they had fled attacks from the Anti-Balaka who had also killed members of their families (see P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0778; P-1577: T-027, p. 32, line 13 – p. 33, line 20; Photograph, CAR-OTP-2085-1241; Metadata, CAR-OTP-2085-1242; CAR-OTP-2085-2619; Photograph, CAR-OTP-2085-1251; Metadata, CAR-OTP-2085-1252; CAR-OTP-2085-2624; Photograph, CAR-OTP-2085-1261; Metadata, CAR-OTP-2085-1262; CAR-OTP-2085-2627; Photograph, CAR-OTP-2085-1271; Metadata, CAR-OTP-2085-1272; CAR-OTP-2085-2630). The Chamber notes that P-2467 provided a significantly higher estimate, stating that around 4,000 Muslims had sought refuge in a school and tribunal building [REDACTED] (see P-2467 Statement, CAR-OTP-2109-0520-R01, at 0525, para. 26 referring to [REDACTED]). Considering that the other witnesses were more consistent in their estimates of there having been several hundred to a thousand Muslims at the school, the Chamber does not rely on this higher estimate.

⁷³²⁹ P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0791.

those to whom he spoke thought that there were as many as 10,000 Muslims seeking refuge, but that he did not recall seeing that many people there at the time.⁷³³⁰

2960. P-2049 stated that, on 5 December 2013, he was rushing on the road in the midst of gunfire and people were rushing and running in all directions in order to seek refuge.⁷³³¹ After 5 December 2013, all the Muslims were at the *École de la Liberté* and there were no Muslims in the neighbourhood.⁷³³² He stated that for the period that he stayed there, the number of persons at the *École de la Liberté* was about 7,000, including people who came from Bossangoa and the surrounding areas, the World Food Programme, which provided assistance, had this figure.⁷³³³

2961. [REDACTED].⁷³³⁴ P-2453 testified that he saw a crowd of people going towards the *École de la Liberté*, children, elderly people, pregnant ladies and whoever had the strength to get to the camp.⁷³³⁵ P-2200 stated that during the course of the afternoon, all of the inhabitants of the Arabe neighbourhood arrived at the school site, where there were also Muslims from the Boro, Soumbe and Manado neighbourhoods.⁷³³⁶ P-2200 stated that during the Bossangoa Attack, he heard that many Muslims were chased by the Anti-Balaka and that the Seleka found Muslims and brought them to the school site to avoid them being killed.⁷³³⁷

2962. P-2657 confirmed that she arrived at the *École de la Liberté* the evening of the attack on 5 December 2013, and was reunited the next day with her husband and her children,⁷³³⁸ who were all at the *École de la Liberté* with her in-laws.⁷³³⁹ P-2657 stated that there were many people at the *École de la Liberté* but was unable to give a figure because there were people from Bossangoa and people from the surrounding villages who had all gathered there.⁷³⁴⁰

⁷³³⁰ P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0791.

⁷³³¹ P-2049: T-103, p. 63, line 12 – p. 64, line 4.

⁷³³² P-2049: T-103, p. 27, lines 13-21.

⁷³³³ P-2049: T-101, p. 45, lines 5-11.

⁷³³⁴ [REDACTED]

⁷³³⁵ P-2453: T-136, p. 81, line 22 – p. 82, line 24.

⁷³³⁶ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2155, para. 44.

⁷³³⁷ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2157, para. 61.

⁷³³⁸ P-2657: T-105, p. 30, line 18 – p. 31, line 10.

⁷³³⁹ P-2657: T-104, p. 36, lines 7-8.

⁷³⁴⁰ P-2657: T-104, p. 28, line 23 – p. 29, line 2, p. 35, lines 9-15.

There were men, women and children.⁷³⁴¹ P-2657 stated that the people at the *École de la Liberté* were Muslim and there were also some Christians who were married to Muslims.⁷³⁴²

2963. P-2462 testified that the Muslims went to the imam's compound and then they all went to the *École de la Liberté*.⁷³⁴³ P-2462 said that there were about 1,000 people living in the *École de la Liberté*.⁷³⁴⁴ [REDACTED].⁷³⁴⁵

2964. Michel Ningando stated that during the attack, many Muslim civilians died and this led the Muslims from the Boro neighbourhood to flee and join the Muslims from the other villages in the *École de la Liberté*.⁷³⁴⁶ The witness stated that at the *École de la Liberté*, there were 6,000 Muslims.⁷³⁴⁷ He knew the number of the displaced population as they did a census in order to distribute food and other items at the *École de la Liberté*.⁷³⁴⁸

2965. Odette Namsona confirmed hearing that thousands of displaced Muslims sought shelter at the *École de la Liberté* following the Bossangoa Attack.⁷³⁴⁹ She testified that there were no longer any Muslims in town by the time she got back to Bossangoa.⁷³⁵⁰

2966. Aurélien Llorca stated that from the narrative of all interlocutors with whom he met, he understood that the Anti-Balaka had driven out the inhabitants of the Boro neighbourhood who were mostly of the Muslim faith.⁷³⁵¹

⁷³⁴¹ P-2657: T-104, p. 29, lines 12-14.

⁷³⁴² P-2657: T-104, p. 29, lines 3-7.

⁷³⁴³ P-2462: T-060, p. 27, lines 15-20.

⁷³⁴⁴ P-2462: T-059, p. 42, line 25 – p. 43, line 5.

⁷³⁴⁵ [REDACTED]

⁷³⁴⁶ P-2652 Statement, CAR-OTP-2126-0175-R01, at 0186, para. 60.

⁷³⁴⁷ P-2652 Statement, CAR-OTP-2126-0175-R01, at 0187, para. 65.

⁷³⁴⁸ P-2652 Statement, CAR-OTP-2126-0175-R01, at 0187, para. 65.

⁷³⁴⁹ D30-4496: T-290, p. 23, lines 8-21, p. 24, lines 14-20.

⁷³⁵⁰ D30-4496: T-290, p. 23, lines 2-5.

⁷³⁵¹ P-0287: T-020, p. 30, line 11 – p. 31, line 4.

2967. Documentary evidence provides diverse figures on the number of Muslims at the *École de la Liberté* after the Bossangoa Attack, ranging from 4,000⁷³⁵² over 7,000⁷³⁵³ to 8,000⁷³⁵⁴ and 8,500.⁷³⁵⁵

2968. Satellite imagery supports the conclusion that several thousand Muslims sought refuge at the *École de la Liberté*. Specifically, Lars Bromley, expert from UNOSAT, concluded that a tent encampment with over 95 shelters which was not visible in the image from 4 December 2013 had appeared by 12 December 2013.⁷³⁵⁶ According to the witness's analysis, the shelters on the school grounds which had appeared by 12 December 2013 grew in number by 8 January

⁷³⁵² Press article, CAR-2079-1159 (dated 14 January 2014, stating that since the first Anti-Balaka attacks in September and following reprisals by the Seleka, the number of internally displaced people in the two main camps multiplied, with around 4,000 Muslims taking refuge at a school). The Chamber notes that the Ngaissona Defence argued this item has limited probative value due to the lack of clarity on how the information was collected and the hearsay nature of most of its content (see Annex 1 to Defence Response to the "Prosecution's Eleventh Application for the Submission of Open-source Evidence from the Bar Table" ICC-01/14-01/18-2010-Conf, ICC-01/14-01/18-2114-Conf-Anx1, p. 28). The Chamber considers in this regard that it has assessed this item in the context of other evidence before it, and has not based any conclusions on this item alone, or the concrete figures contained therein specifically.

⁷³⁵³ HRW Report, CAR-OTP-2001-7145, at 7157 (reporting that overnight, at least 7,000 Muslims fled their homes, now sheltering in the 'heavily protected École Liberté'); Press article, CAR-OTP-2079-1163 (dated 18 December 2013, stating that there were 1,600 people at the school before 5 December 2013, and 7,000 on 18 December 2013). In relation to the former item, the Chamber notes that the Yekatom Defence opposed its submission in a different context, arguing that it lacks probative value (see Annex A to Yekatom Defence Response to the Prosecution's "Request for the Submission of Evidence from the Bar Table regarding the recruitment and use of child soldiers", 1 April 2022, ICC-01/14-01/18-1346, ICC-01/14-01/18-1379-Conf-AnxA, pp. 10-11). In relation to the latter item, the Chamber notes that the Ngaissona Defence argued it lacks probative value and authenticity (see Annex A to Defence Response to "Prosecution's Fifteenth submission of miscellaneous items of evidence via the "bar table"" ICC-01/14-01/18-2058, ICC-01/14-01/18-2084-Conf-AnxA, pp. 16-17). Regarding these arguments and both items, the Chamber considers that it has assessed the items in the context of other evidence before it, and has not based any conclusions on these items alone, or the concrete figures contained therein specifically.

⁷³⁵⁴ Newsletter, CAR-OTP-2066-0425-R01, at 0427 (dated 10 December 2013, stating that 8,000 displaced of the Muslim community had taken refuge at the *École de la Liberté*). The Chamber notes that the Ngaissona Defence presented observations on this item in a different context (see Annex 1 to Defence Response to the Prosecution's "Request for the Submission of Evidence from the Bar Table regarding the Prevalence of Sexual and Gender Based Violence", ICC-01/14-01/18-1278-Conf-Anx1, pp. 69-70). In any event, the based any conclusions on this item alone, or the concrete figures contained therein specifically.

⁷³⁵⁵ UNHCR Report, CAR-OTP-2127-4124, at 4125-27 (report for the period 17-24 December 2013, identified 8,500 IDPs in Bossangoa at the *École de la Liberté* on 24 December 2013). See also UNHCR Report, CAR-OTP-2127-4086, at 4091 (indicating that since 5 December 2013, 3,750 households were assisted in both the *École de la Liberté* and at the bishopric).

⁷³⁵⁶ P-2193: T-019, p. 22, lines 13-23, p. 23, lines 2-6; P-2193 Report, CAR-OTP-2127-6617, at 6622. See also Annex 1 to P-2193 Report, CAR-OTP-2127-6626, at 6629, Map 2 containing Satellite images CAR-OTP-2127-6662; CAR-OTP-2127-6663, dated 4 December 2013 (corresponding to TIFF file in CAR-OTP-2127-6689); CAR-OTP-2127-6667, CAR-OTP-2127-6668, dated 12 December 2013 (corresponding to TIFF file in CAR-OTP-2127-6690).

2014, and even further by 22 January 2014, to ‘perhaps several hundred tightly grouped tent structures’.⁷³⁵⁷

2969. P-1577 stated that two satellite images of the *École de la Liberté* before and after the Bossangoa Attack⁷³⁵⁸ corresponded to what he witnessed at the time in that camp and that the more populated image corresponded well to his experience of the camp around 7 December 2013 when he visited it.⁷³⁵⁹

2970. On the basis of the evidence as outlined, the Chamber concludes that the numbers of Muslim inhabitants of Bossangoa seeking refuge at the *École de la Liberté* following the Bossangoa Attack rose into the several thousands.

2971. Within the above context, the Chamber finds without merit the Ngaïssona Defence’s argument that Muslim civilians had prepared their move to the *École de la Liberté*, which would suggest ‘that they decided to leave of their own volition *ahead* of the attack, rather than as a consequence of it’.⁷³⁶⁰ The evidence before the Chamber unequivocally shows that the Muslims fleeing to the *École de la Liberté* did so because of the Anti-Balaka attack on 5 December 2013.

⁷³⁵⁷ P-2193: T-019, p. 23, line 7 – p. 25, line 5; P-2193 Report, CAR-OTP-2127-6617, at 6620, 6622. *See also* Reports, CAR-OTP-2005-0197, at 0205; CAR-OTP-2001-2043, at 2062. The Chamber notes that the two reports have identical images and content. They provide that ‘[s]ince July 2013, several hundred displaced Muslim civilians sought shelter within the main buildings of a local school (Ecole Liberté) in the Muslim Boro quarter of Bossangoa’ and that ‘[t]he number of displaced in Boro dramatically increased when over 7,000 local Muslims residents sought emergency shelter and protection at the school which was heavily protected by African Union troops and the ex-Seleka fighters at the time’. The satellite image of 4 December 2013 shows four buildings in the centre that are spaced out and in front of one of the buildings is a blueish rectangular object. The satellite image of 12 December 2013 shows numerous blue and white rectangular objects between and around the buildings. The Chamber notes that in relation of Report, CAR-OTP-2005-0197, the Ngaïssona Defence noted that the satellite images were not put to a satellite imagery expert, and that the absence of sources and methodology deprives the Chamber from any possibility to assess the item’s reliability (*see* Annex 1 to Defence Response to the “Prosecution’s Eleventh Application for the Submission of Open-source Evidence from the Bar Table” ICC-01/14-01/18-2010-Conf, ICC-01/14-01/18-2114-Conf-Anx1, pp. 16-17). The Chamber considers in this regard that it has assessed the information in this report only within the context of the evidence provided by a satellite imagery expert, as described. It has further not relied on other aspects of this report for purposes of reaching conclusions.

⁷³⁵⁸ *See* Report, CAR-OTP-2001-2043, at 2062.

⁷³⁵⁹ P-1577: T-027, p. 66, lines 10-19. The Chamber notes in this regard also the evidence of P-2467, [REDACTED] who believed that the images reflected the locations [REDACTED] displaced Muslims who had fled to Bossangoa (*see* P-2467 Statement, CAR-OTP-2109-0520-R01, at 0522, para. 13, at 0525, para. 26).

⁷³⁶⁰ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 356.

2972. In relation to what appears to be a challenge to the individuals at the *École de la Liberté* being civilians or being in a position of insecurity during their time there, the Chamber notes the Ngaïssona Defence's argument that (i) 'Muslim civilians at *École [de la] Liberté* were under the protection of FOMAC forces and Seleka elements',⁷³⁶¹ (ii) Seleka elements were armed in the photograph [REDACTED] at the *École de la Liberté* on 6 December 2013;⁷³⁶² and (iii) since Seleka elements often wore plain civilian clothes, it cannot be excluded that other non-identifiable elements were present at the school.⁷³⁶³

2973. P-2602 stated that the Seleka who remained after [REDACTED] drove them out were at the *École de la Liberté* and protected by the MISCA,⁷³⁶⁴ and that some of the Muslim population fleeing to the school were armed with the same weapons as the Seleka were using.⁷³⁶⁵ According to P-2602, he saw Seleka with vehicles and weapons within the grounds of the school on 5 December 2013.⁷³⁶⁶

2974. D30-4608 claimed that the Seleka were at the *École de la Liberté* to protect Muslims as wherever there were Muslims, protection was offered by the Seleka, that the Sangaris never even started disarming the Seleka at the school, that the civilian Muslims at the school were armed and always carried their weapons when walking around.⁷³⁶⁷ D30-4608 heard it said that the 'indigenous' populations found refuge in the *École de la Liberté* so that they could be taken care of and for fear of being attacked by the Anti-Balaka, which he took to be untrue as the Muslims supported the Seleka.⁷³⁶⁸ The Chamber is of the view that D30-4608 provided no source for his overly generalised assertions, which also included his personal assessments, for which reason the Chamber attaches no weight to these claims.

⁷³⁶¹ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 375.

⁷³⁶² [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 302 referring to Photograph, CAR-OTP-2085-5082; Annex A.16 to Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA.16 referring to Photographs, CAR-OTP-2088-2206; CAR-OTP-2085-5082; Video, CAR-OTP-2073-1299.

⁷³⁶³ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 302.

⁷³⁶⁴ P-2602 Interview Transcript, CAR-OTP-2118-9545-R01, at 9546, lines 27-30.

⁷³⁶⁵ P-2602 Interview Transcript, CAR-OTP-2118-9705-R01, at 9707-08, lines 39-80. See also P-2602 Interview Transcript, CAR-OTP-2118-9785-R01, at 9806, lines 704-711.

⁷³⁶⁶ P-2602 Interview Transcript, CAR-OTP-2118-9683-R01, at 9684, lines 18-29, at 9685, lines 44-50.

⁷³⁶⁷ D30-4608 Statement, CAR-D30-0017-0004-R01, at 0014, paras 78-79; D30-4608: T-292, p. 20, lines 17-25, p. 21, lines 10-13.

⁷³⁶⁸ D30-4608 Statement, CAR-D30-0017-0004-R01, at 0014, para. 79.

2975. In any event, and in contrast to the above, P-2453 stated that the Sangaris forbade the Seleka bearing arms, that the Seleka were forced to remain in the military base in Sembe, while within the *École de la Liberté* no one bore arms except the FOMAC soldiers.⁷³⁶⁹ [REDACTED].⁷³⁷⁰

2976. P-2049 stated that the Seleka had a base at the police station located opposite the *École de la Liberté*⁷³⁷¹ but after the Bossangoa Attack, they were no longer based there, they were forced to leave when FOMAC arrived.⁷³⁷²

2977. P-2200 stated that when the Sangaris arrived at the school after the attack, they disarmed the few Seleka who had taken refuge there, as well as confiscated machetes from the Muslims and even the slingshots used by the Peuhl shepherds.⁷³⁷³ Once disarmed, all the last remaining Seleka left.⁷³⁷⁴

2978. Michel Ningando stated that after 5 December 2013, the Seleka fled to stay next to the *École de la Liberté* and in the town hall near the school.⁷³⁷⁵ FOMAC blocked the Seleka from entering the school.⁷³⁷⁶ The witness heard that weapons were found under some of the Muslims' mats in the school, but he did not see this when he went to the school to distribute food.⁷³⁷⁷

2979. The Chamber also notes that, without providing a detailed account of where the weapons were amassed, P-1577 [REDACTED] photographs⁷³⁷⁸ [REDACTED] depicting the

⁷³⁶⁹ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0432, paras 79-80; P-2453: T-138, p. 39, lines 17-21.

⁷³⁷⁰ [REDACTED]

⁷³⁷¹ P-2049: T-102, p. 14, line 17 – p. 15, line 22. *See also* Map, CAR-OTP-2118-9140; Map (annotated by P-2049), CAR-REG-0001-0003. *See also* P-2200 Statement, CAR-OTP-2088-2146-R04, at 2150-51, para. 24; D30-4514 Statement, CAR-D30-0025-0001-R01, at 0011, lines 319-331.

⁷³⁷² P-2049: T-102, p. 16, lines 3-10.

⁷³⁷³ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2157, para. 63.

⁷³⁷⁴ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2157, para. 63.

⁷³⁷⁵ P-2652 Statement, CAR-OTP-2126-0175-R01, at 0187, para. 64.

⁷³⁷⁶ P-2652 Statement, CAR-OTP-2126-0175-R01, at 0187, para. 64.

⁷³⁷⁷ P-2652 Statement, CAR-OTP-2126-0175-R01, at 0187, para. 64.

⁷³⁷⁸ Photograph, CAR-OTP-2085-4642; Metadata, CAR-OTP-2085-4643; CAR-OTP-2085-6081; Photograph, CAR-OTP-2085-4652; Metadata, CAR-OTP-2085-4653; CAR-OTP-2085-6084; Photograph, CAR-OTP-2085-4662; Metadata, CAR-OTP-2085-4663; CAR-OTP-2085-6090; Photograph, CAR-OTP-2085-4672; Metadata, CAR-OTP-2085-4673; CAR-OTP-2085-6093.

weapons that were collected by FOMAC and stored either at the FOMAC compound or another compound for displaced persons.⁷³⁷⁹

2980. On the basis of the above, the Chamber concludes that to the extent there may have been some armed individuals within the premises of the *École de la Liberté* initially, they were quickly disarmed by FOMAC and Sangaris forces.

The Muslim civilians that had sought refuge at the *École de la Liberté* remained confined to the school premises for fear of threats by the Anti-Balaka, staying there in cramped and generally dire conditions. The Muslim civilians at the *École de la Liberté* were dependent on the protection of international forces for their safety and could not leave the school premises venturing into Bossangoa without risk to their person.

2981. In the period following the Bossangoa Attack, and until their transportation from Bossangoa in February and April 2014, as discussed further below, the Muslim inhabitants of Bossangoa that had sought refuge at the *École de la Liberté* were confined to the school premises in fear of threats by the Anti-Balaka.

2982. At the outset, the Chamber recalls its analysis above according to which part of the Anti-Balaka groups remained in Bossangoa following the Bossangoa Attack.⁷³⁸⁰ Even if the Anti-Balaka were not in control of the town completely, the Chamber finds without merit the Ngaïssona Defence's suggestion that the Anti-Balaka retreated from Bossangoa on 5 December 2013 and therefore could not have posed a direct threat or exercise any control over Muslim civilians at the *École de la Liberté*.⁷³⁸¹

2983. Indeed, the evidence before the Chamber shows the contrary. P-1577 testified that in the aftermath of the attack, they could see Anti-Balaka elements especially around the area of the school.⁷³⁸² P-1577 confirmed that the camp was protected by African Union troops surrounding it from different locations, presumably to protect them from attack from the Anti-Balaka.⁷³⁸³ P-1577 testified that people were allowed to leave the school but if, for example, they wanted to travel and pick things up from their homes, they had to go with an

⁷³⁷⁹ P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0791.

⁷³⁸⁰ See paragraphs 2896-2909 above.

⁷³⁸¹ See [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 376.

⁷³⁸² P-1577: T-027, p. 48, lines 15-20.

⁷³⁸³ P-1577: T-027, p. 67, lines 11-15.

armed guard and not travel too far away from the protection of the camp for fear of being attacked.⁷³⁸⁴

2984. P-2200 stated that the school was protected by several different military contingents, first Cameroonian and Guinean soldiers who were replaced by Chadian soldiers and that the Sangaris patrolled the town.⁷³⁸⁵ P-2200 stated that the situation for Muslims in Bossangoa at that time was like being in prison, in that they were encircled from all sides by the Anti-Balaka who had established their positions at several places in the town in such a way that those in the school did not dare to leave.⁷³⁸⁶ P-2200 further stated that they sometimes saw the Anti-Balaka pass on motorbikes in front of the school to trouble them and that when the Chadian soldiers started to guard the site, the Anti-Balaka stopped coming because the soldiers shot at them as soon as they approached.⁷³⁸⁷ P-2200 stated that the bishop visited and told him not to leave the site in order to remain safe.⁷³⁸⁸

2985. Further, P-2200 stated that they could not go to the market, instead the Christians came to the *École de la Liberté* to sell chicken and fish, and there were no problems with the Christians who came to sell their produce.⁷³⁸⁹ P-2200 stated that if they left the school, the Muslims risked confrontations with Christian families who supported the Anti-Balaka and threw stones at them.⁷³⁹⁰ A Christian person from P-2200's area, whose name P-2200 did not remember, warned them not to leave because the Anti-Balaka were hunting down Muslims.⁷³⁹¹ P-2200, however, also stated that some Muslim 'children' snuck out of the school to see what was happening in their areas and reported back to him.⁷³⁹²

⁷³⁸⁴ P-1577: T-027, p. 67, lines 4-10.

⁷³⁸⁵ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2159, para. 69.

⁷³⁸⁶ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2159, para. 72.

⁷³⁸⁷ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2159, para. 71.

⁷³⁸⁸ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2159, para. 74.

⁷³⁸⁹ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2159, para. 73.

⁷³⁹⁰ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2159, para. 72.

⁷³⁹¹ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2159, para. 72.

⁷³⁹² P-2200 Statement, CAR-OTP-2088-2146-R04, at 2158, para. 65.

2986. Odette Namsona testified that FOMAC elements ensured the safety of the Muslims at the school, protecting them from the Anti-Balaka, since FOMAC thought that ‘these boys had come out of the bush and were furious’ and were going to attack the Muslims.⁷³⁹³

2987. P-2049 stated that the Sangaris arrived in Bossangoa after the Bossangoa Attack but did not assure the safety of both communities, only patrolling the bishop’s house, while FOMAC elements ensured security at the *École de la Liberté*.⁷³⁹⁴ P-2049 stated that FOMAC were based at the *École de la Liberté* and the bishop’s house but left the latter after a FOMAC element was attacked.⁷³⁹⁵ P-2049 and others left the school from time to time to seek rest under a mango tree across the road from the school.⁷³⁹⁶ He further stated that FOMAC informed them that people should not leave the compound and that they could only provide protection for those within the *École de la Liberté*.⁷³⁹⁷

2988. P-2657 testified that when she arrived at the *École de la Liberté* on the night of the Bossangoa Attack, the gunshots and firing had stopped and they were under FOMAC’s protection.⁷³⁹⁸ P-2657 said that FOMAC asked them not to go out but to remain within the school and not to leave without their instructions since they were only responsible for those who were within the school, providing protection from the Anti-Balaka.⁷³⁹⁹ P-2657 further said that the school was almost like a prison.⁷⁴⁰⁰

2989. P-2462 felt safe within the school as the Congolese FOMAC soldiers were maintaining security⁷⁴⁰¹ and said it was unsafe to go outside of the school for security reasons.⁷⁴⁰² P-2462 testified that the people staying at the *École de la Liberté* did not leave as they needed protection, all of the houses had been destroyed and their possessions had been looted, ‘so it was practically impossible for the displaced people to return home’.⁷⁴⁰³

⁷³⁹³ D30-4496: T-290, p. 25, line 20 – p. 26, line 5.

⁷³⁹⁴ P-2049: T-103, p. 27, line 13 – p. 28, line 11.

⁷³⁹⁵ P-2049: T-103, p. 27, lines 13-21.

⁷³⁹⁶ P-2049: T-101, p. 42, lines 8-24.

⁷³⁹⁷ P-2049: T-101, p. 46, lines 1-22.

⁷³⁹⁸ P-2657: T-104, p. 28, lines 5-11.

⁷³⁹⁹ P-2657: T-104, p. 29, line 24 – p. 30, line 7.

⁷⁴⁰⁰ P-2657: T-104, p. 37, lines 10-16.

⁷⁴⁰¹ P-2462: T-059, p. 42, lines 9-13.

⁷⁴⁰² P-2462: T-059, p. 47, lines 6-10.

⁷⁴⁰³ P-2462: T-059, p. 45, lines 7-14.

2990. Michel Ningando stated that around January 2014, a FOMAC soldier was killed⁷⁴⁰⁴ and all the FOMAC forces left the bishop's house and went to protect the Muslims in the *École de la Liberté*.⁷⁴⁰⁵ The witness stated that people could not leave either site as it was too dangerous and that the Anti-Balaka were attacking the Muslims and the Seleka were attacking the Christians.⁷⁴⁰⁶

2991. Roger de Martial Yagao stated that MINUSCA were outside the school to protect the Muslims from Anti-Balaka attacks.⁷⁴⁰⁷ He stated that after the armed Seleka left town one night, the town remained under control of the Congolese contingent of MISCA, subsequently replaced by the Chadian MINUSCA contingent, the Sangaris, police and gendarmerie.⁷⁴⁰⁸

2992. P-2602 stated that if the Muslims had remained in their neighbourhoods, they would have been killed, since a military professional would understand what it meant to face an unarmed person, but a civilian – 'those civilians who are angry and joined the A[nti-Balaka]' – would not and kill them.⁷⁴⁰⁹

2993. P-2453 stated that a day or so after the Bossangoa Attack, the Sangaris arrived that came to the *École de la Liberté* to reassure the community, stating that they had nothing to fear, should stay calm and could leave and go about their normal business and activities, but people were scared and no one dared to leave.⁷⁴¹⁰ P-2453 testified that the French Sangaris stated that they were, from that moment, in charge of security in Bossangoa and organised many patrols in town, and they would also escort civilians who needed to leave the school or the bishop's house.⁷⁴¹¹ P-2453 stated that the Seleka were forced to remain in the military base in Sembe and left after a few weeks and that he did not see the Anti-Balaka again after 5 December 2013.⁷⁴¹² At the same time, P-2453 stated that it was not safe for Muslims to return to their neighbourhoods, the Congolese soldiers advised them not to try to go back

⁷⁴⁰⁴ P-2652 Statement, CAR-OTP-2126-0175-R01, at 0188, para. 67.

⁷⁴⁰⁵ P-2652 Statement, CAR-OTP-2126-0175-R01, at 0188, para. 68.

⁷⁴⁰⁶ P-2652 Statement, CAR-OTP-2126-0175-R01, at 0187-88, para. 66.

⁷⁴⁰⁷ P-2133 Statement, CAR-OTP-2093-0267-R02, at 0283, para. 113; P-2133 Attestation, CAR-OTP-00001778, at 000001.

⁷⁴⁰⁸ P-2133 Statement, CAR-OTP-2093-0267-R02, at 0281, para. 101.

⁷⁴⁰⁹ P-2602 Interview Transcript, CAR-OTP-2118-9785-R01, at 9805, lines 664-686.

⁷⁴¹⁰ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0432, para. 79; P-2453: T-136, p. 90, line 1 – p. 91, line 6.

⁷⁴¹¹ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0432, para. 79; P-2453: T-136, p. 90, line 1 – p. 91, line 6.

⁷⁴¹² P-2453 Statement, CAR-OTP-2111-0415-R04, at 0432, para. 80.

home ‘because we would risk being attacked by the Anti-Balaka who were still present in the area’.⁷⁴¹³ P-2453 stated that also after the ‘Chadians’ had left Mbaïki, they were kept as prisoners inside the school, they had nothing to go back to since their houses and mosques had been destroyed and they could not go back to work.⁷⁴¹⁴

2994. In light of the consistent evidence above according to which Muslims at the *École de la Liberté* were specifically advised not to leave the school for risk of being attacked by the Anti-Balaka, the Chamber does not consider credible the account of D30-4608 who alleged that Muslims were not threatened since the Seleka were roaming the city, while Christians at the bishopric had no possibility of leaving.⁷⁴¹⁵ This same witness also stated that the Anti-Balaka conducted attacks on the *École de la Liberté* after the Bossangoa Attack, according to him targeting the Seleka who had withdrawn around the school for fear of the Muslims possibly being attacked.⁷⁴¹⁶ Similarly, and also bearing in mind the dire living conditions at the school as further outlined below, the Chamber accords no weight to Faustin Ngamesse’s suggestion that the Muslims stayed at the school even though it was not dangerous for them to leave.⁷⁴¹⁷ It is clear from the evidence before the Chamber that the Muslims at the school did not remain there having been in a position to genuinely choose between remaining or not. The Ngaïssona Defence’s argument that Muslim civilians had the possibility to leave the school premises and that there is no evidence that Anti-Balaka elements were the reason why they remained in the school⁷⁴¹⁸ is dismissed in this same context.

2995. The Prosecution also argues that the threat that the Muslims received was real as a Muslim was killed after leaving the *École de la Liberté*.⁷⁴¹⁹ Three witness gave evidence on this incident.

2996. Without providing a specific date or period, P-2049 testified that a young person called Yaya at the *École de la Liberté* left to check his house which was near the Bornou school and the mosque, and in the evening those at the bishopric called to say that a young Muslim had

⁷⁴¹³ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0434, para. 93; P-2453: T-136, p. 90, line 1 – p. 91, line 6.

⁷⁴¹⁴ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0435, para. 96.

⁷⁴¹⁵ D30-4608 Statement, CAR-D30-0017-0004-R01, at 0014, para. 80.

⁷⁴¹⁶ D30-4608: T-292, p. 49, lines 14-22, p. 50, lines 4-7, p. 88, lines 1-6.

⁷⁴¹⁷ D30-4514 Statement, CAR-D30-0025-0001-R01, at 0033-34, lines 1086-1105.

⁷⁴¹⁸ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 369.

⁷⁴¹⁹ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 642.

been killed in the Bornou neighbourhood.⁷⁴²⁰ The next morning, they called the Sangaris who found and brought the body back for burial within the Bossangoa tribunal, and people were afraid to leave the school at the risk of death.⁷⁴²¹

2997. Similarly, P-2453 stated that Yaya Makonzi, a Muslim who was with them at the school, insisted on going back to his neighbourhood to check on his house.⁷⁴²² P-2453 stated that after two days, Yaya had still not returned, so a group of youths reported it to MISCA, who called the Sangaris and one went with his men to look for him.⁷⁴²³ P-2453 stated that they found his body in the neighbourhood, he had been killed by machete; the person returned to the school and asked a few youths to help recuperate his body.⁷⁴²⁴ P-2453 stated that when they brought his body back to the school, it was already covered, so P-2453 did not look at it, and that he was buried in the compound of the tribunal next to the school as there was no space to bury him at the school and it was not safe to go their cemetery.⁷⁴²⁵

2998. P-2658 stated that three Muslims who left the *École de la Liberté* were killed and the body of only one of them, 'Yayah', was found by the French army.⁷⁴²⁶ P-2658 stated that the three left despite being advised by MISCA not to leave the *École de la Liberté*.⁷⁴²⁷

2999. The Chamber considers that P-2049, P-2453 and P-2659 all referred to the same individual having been killed after leaving the *École de la Liberté*. Whereas P-2462 heard that a young person who took care of the toilets at the camp left one day and had been killed on that day, not knowing who killed him,⁷⁴²⁸ it is unclear whether P-2462 is also referring to this individual. The Chamber, however, notes that there is no evidence as to who killed this individual.

⁷⁴²⁰ P-2049: T-101, p. 46, lines 1-22.

⁷⁴²¹ P-2049: T-101, p. 46, lines 1-22.

⁷⁴²² P-2453 Statement, CAR-OTP-2111-0415-R04, at 0434, para. 94.

⁷⁴²³ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0434, para. 94.

⁷⁴²⁴ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0434, para. 94.

⁷⁴²⁵ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0434, para. 94.

⁷⁴²⁶ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0036, para. 153.

⁷⁴²⁷ P-2658 Statement, CAR-OTP-2126-0012-R02, at 0036, para. 153.

⁷⁴²⁸ P-2462: T-059, p. 45, lines 15-22.

3000. Considering the evidence before it, and contrary to the Ngaïssona Defence's argument,⁷⁴²⁹ the Chamber concludes that Muslims at the *École de la Liberté* were unable to leave the school for fear of threats by the Anti-Balaka. The Chamber recalls in this regard its conclusion as to the one of the objectives which the Anti-Balaka pursued with its attack on Bossangoa, namely to 'free' Bossangoa from the Seleka and all the Muslims,⁷⁴³⁰ its analysis of the Anti-Balaka groups remaining in Bossangoa following the Bossangoa Attack, as well as its conclusion that more Anti-Balaka took control of the town following Michel Djotodia's resignation.⁷⁴³¹ Even if the Anti-Balaka were not in control of the town completely before that, the Muslim civilians at the *École de la Liberté* were dependent on the protection of international forces for their safety and could not leave the school premises venturing into Bossangoa without risk to their person.

3001. Witnesses privy to the situation at the *École de la Liberté* described the deplorable living conditions at the school premises.

3002. P-1577 stated that the *École de la Liberté* was 'very densely populated', with no significant latrines or sanitation available, a typical scene of a displaced camp, that is, a very busy place with people cooking outdoors, the smell of cooking, lots of crying, uncomfortable people, and dirty children.⁷⁴³²

3003. Photographs [REDACTED] illustrate well his description of the dire conditions at the school.⁷⁴³³

3004. P-2049 testified that after the Bossangoa Attack at the *École de la Liberté*, 'PAM' or the WFP provided food, but 'the situation was quite difficult' and the WFP could not feed everybody,⁷⁴³⁴ while MSF provided health assistance, 'ACF' took care of their hygiene and

⁷⁴²⁹ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 354.

⁷⁴³⁰ See section IV.C.1.iii above.

⁷⁴³¹ See paragraphs 2905-2906 above.

⁷⁴³² P-1577: T-027, p. 66, line 20 – p. 67, line 3.

⁷⁴³³ See e.g. Photograph, CAR-OTP-2085-4492; Metadata, CAR-OTP-2085-4493; CAR-OTP-2085-6021; Photograph, CAR-OTP-2085-4562; Metadata, CAR-OTP-2085-4563; CAR-OTP-2085-6048.

⁷⁴³⁴ P-2049: T-101, p. 47, line 22 – p. 48, line 7.

general cleanliness, and UNICEF took care of the education component, and HCR distributed accessories to women.⁷⁴³⁵

3005. P-2462 said that since they were not at home, living conditions were necessarily difficult, it was the cool season and they did not have good food, only rice every day.⁷⁴³⁶ She similarly stated that the WFP provided assistance, bringing tarpaulins for shelters, rice, blankets, mats, oil, and salt.⁷⁴³⁷ From tarpaulins, MSF built washrooms for the men and women which one had to queue to access.⁷⁴³⁸ She further stated that MSF built two ‘water points’, which operated morning and evening but they did not have enough vessels to store water.⁷⁴³⁹ P-2462 further said that MSF opened a clinic with two staff assisted by people locally recruited in the camp, but things did not operate as they should.⁷⁴⁴⁰ She testified that UNICEF set up a tent with toys for the children and recruited people in the camp to supervise the children, but that no proper education or schooling was given.⁷⁴⁴¹

3006. P-2453 stated that although the *École de la Liberté* was very big, comprised of six buildings, it was not enough to accommodate all of them, so some stayed in tents outside.⁷⁴⁴² He stated that he was sleeping on a mat on a classroom floor with many other people, the women and children on one side and the men on the other, and that only a few people who had arrived in early September had mattresses.⁷⁴⁴³ P-2453 stated that, as before the Bossangoa Attack, they relied on the UNHCR for food, water and hygienic supplies, while MSF took care of medical treatment and ensured clean water.⁷⁴⁴⁴ P-2453 stated that [REDACTED] within the *École de la Liberté*, [REDACTED].⁷⁴⁴⁵ P-2453 stated that there were many children amongst

⁷⁴³⁵ P-2049: T-101, p. 44, lines 7-22.

⁷⁴³⁶ P-2462: T-059, p. 43, line 14 – p. 44, line 3.

⁷⁴³⁷ P-2462: T-059, p. 42, lines 14-24.

⁷⁴³⁸ P-2462: T-059, p. 43, lines 14-25.

⁷⁴³⁹ P-2462: T-059, p. 44, lines 1-3.

⁷⁴⁴⁰ P-2462: T-059, p. 44, lines 6-16.

⁷⁴⁴¹ P-2462: T-059, p. 44, line 17 – p. 45, line 1.

⁷⁴⁴² P-2453 Statement, CAR-OTP-2111-0415-R04, at 0434, para. 91.

⁷⁴⁴³ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0434, para. 91.

⁷⁴⁴⁴ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0434, para. 90.

⁷⁴⁴⁵ P-2453: T-136, p. 85, line 20 – p. 86, line 9. The Chamber notes that [REDACTED], CAR-OTP-2111-0439 indicates as [REDACTED].

the displaced and some UNHCR employees would play with them but no formal education was provided.⁷⁴⁴⁶

3007.P-2658 stated that there were many Muslims gathered at the *École de la Liberté*.⁷⁴⁴⁷ [REDACTED].⁷⁴⁴⁸ [REDACTED].⁷⁴⁴⁹

3008.P-2657 testified that while they were at the *École de la Liberté*, HCR provided food and built latrines.⁷⁴⁵⁰ She said that there was a ‘water point’ and also a small health centre and that whenever there were serious health cases, FOMAC would transport the sick people to the hospital.⁷⁴⁵¹ She further said they did not have any problems with water and were provided with the necessary food supplies.⁷⁴⁵² P-2657 also testified that some people slept inside while others slept on the verandas and that tents had been distributed to them, as well as blankets and mats, and some people went back to their homes and brought back mats.⁷⁴⁵³

3009.P-2200 stated that, at the beginning, they used the school toilets or those in the tribunal opposite the school, but the ‘water point’ was very far away and that around two months after arrival, the HCR or OCHA installed latrines and two large water cisterns, and distributed sugar, flour, rice and soap, and that a French doctor came to the site and a hospital was improvised in the tribunal.⁷⁴⁵⁴

3010.Michel Ningando stated that the living conditions in both the *École de la Liberté* and the bishopric were very difficult, there were a lot of people, sleeping on top of one another, while humanitarian workers had installed some tarpaulin shelters.⁷⁴⁵⁵ He further stated that they were not able to provide them with enough water and food and that it was the same situation at the bishopric; the displaced people just wanted to leave the sites.⁷⁴⁵⁶

⁷⁴⁴⁶ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0434, para. 92.

⁷⁴⁴⁷ [REDACTED]

⁷⁴⁴⁸ [REDACTED]

⁷⁴⁴⁹ [REDACTED]

⁷⁴⁵⁰ P-2657: T-104, p. 29, line 24 – p. 30, line 3, p. 31, lines 3-6, p. 35, lines 7-8.

⁷⁴⁵¹ P-2657: T-104, p. 30, line 23 – p. 31, line 10.

⁷⁴⁵² P-2657: T-104, p. 31, lines 3-10.

⁷⁴⁵³ P-2657: T-104, p. 34, line 25 – p. 35, line 6.

⁷⁴⁵⁴ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2159, para. 70.

⁷⁴⁵⁵ P-2652 Statement, CAR-OTP-2126-0175-R01, at 0187-88, para. 66.

⁷⁴⁵⁶ P-2652 Statement, CAR-OTP-2126-0175-R01, at 0187-88, para. 66. He gave an example of the cost of one cigarette in the sites being 300 francs instead of 25 francs.

3011. Roger de Martial Yagao stated that the imam of Bossangoa was managing the organisation of the IDP camp at the school and that some displaced people were staying in some classrooms with their families, and single men and women were in separate classrooms, while some people were staying outside in tents.⁷⁴⁵⁷ The witness also stated that many Muslims had fled to the school with their merchandise and that they had set up a sort of small market within the area of the school.⁷⁴⁵⁸

3012. The Chamber gives no weight in the context of the overwhelming evidence to the contrary to D30-4608's assertion that Muslims who lived at the school, since they were the ones selling commodities at the market, were able to withstand more than individuals who had fled to the church and could no longer buy commodities at the market.⁷⁴⁵⁹

3013. The evidence before the Chamber suggests that in the aftermath of the Bossangoa Attack, meetings were held involving various participants, including members of the Anti-Balaka and of the Seleka.

3014. D30-4608 knew of a mediation meeting at the *École de la Liberté* attended [REDACTED].⁷⁴⁶⁰ P-2049 stated that one meeting was held with the Sangaris which told them that they intended to organise a meeting between the leaders of the Anti-Balaka, Seleka, the imam, and the bishop.⁷⁴⁶¹

3015. P-2049 stated that a meeting was held in the presence of the Seleka leaders, Anti-Balaka leaders, the bishop and his team, and the imam and his team, as shown in a photograph taken in January 2014.⁷⁴⁶² In this regard, D30-4608 stated that after the Bossangoa Attack, [REDACTED] a crisis meeting was convened by the bishop [REDACTED] while the Seleka and Muslims wanted that the bishopric IDP site be evacuated since they thought the Anti-

⁷⁴⁵⁷ P-2133 Statement, CAR-OTP-2093-0267-R02, at 0283, para. 113.

⁷⁴⁵⁸ P-2133 Statement, CAR-OTP-2093-0267-R02, at 0283, para. 113.

⁷⁴⁵⁹ D30-4608: T-292-ENG, p. 49, lines 3-9; T-292-FRA, p. 48, lines 8-14.

⁷⁴⁶⁰ D30-4608 Statement, CAR-D30-0017-0004-R01, at 0011, para. 50.

⁷⁴⁶¹ P-2049: T-101, p. 32, line 23 – p. 33, line 12. *See also* P-2200 Statement, CAR-OTP-2088-2146-R04, at 2159, para. 74; D30-4608: T-292, p. 26, lines 19-21.

⁷⁴⁶² P-2049: T-100, p. 18, line 12 – p. 19, line 21; T-101, p. 32, line 23 – p. 33, line 12. *See* Photograph, CAR-OTP-2088-2206. [REDACTED]

Balaka had mixed with the refugees.⁷⁴⁶³ D30-4608 stated there were [REDACTED].⁷⁴⁶⁴ Faustin Ngamesse, who said he was still in Bangui at the time, recognised the imam of Bossangoa, the prefect, Atakoli, the chief of Sembe III, the chief of Bac, ‘Monseigneur’, the chief of Sara, and stated that this was a meeting of reconciliation and social cohesion.⁷⁴⁶⁵ According to Roger de Martial Yagao, the photograph was taken at the [REDACTED], identifying several people including a Seleka whose name he did not know, a Sangaris soldier whose name he did not know, [REDACTED], a Congolese MISCA [REDACTED], the imam, [REDACTED], then-prefect [REDACTED], Seleka [REDACTED], the bishop of Bossangoa, and [REDACTED], the representative of the neighbourhood chiefs.⁷⁴⁶⁶

3016. The Chamber concludes from the above evidence that while there may have been meetings with representatives of various groups and organisations, they clearly remained without result, and certainly did not lead to the creation of conditions which would have allowed Muslims confined to the *École de la Liberté* to return to their homes.

Eventually, in light of the prevailing insecurity as well as the dire and cramped living conditions at the *École de la Liberté*, all Muslims staying at the school were transported away from Bossangoa to Chad in two separate convoys, leaving in February and April 2014, respectively, following which Bossangoa was emptied of its Muslim population.

3017. Many Muslims remained in the dire conditions at the *École de la Liberté* for months.

3018. For example, P-2462 stated that she stayed at the school for about four months from 5 December to 2 or 3 April.⁷⁴⁶⁷ P-2657 stated that they remained at the school for four months and a few days and eventually left to Chad because of the crisis and because they were enclaved.⁷⁴⁶⁸ She testified that many people – she thought even the imam – refused to leave, but some could not handle the living conditions anymore, so the majority took the decision to leave.⁷⁴⁶⁹

⁷⁴⁶³ D30-4608 Statement, CAR-D30-0017-0004-R01, at 0011, para. 49; D30-4608: T-292, p. 62, lines 13-23.

⁷⁴⁶⁴ D30-4608 Statement, CAR-D30-0017-0004-R01, at 0011, para. 49.

⁷⁴⁶⁵ D30-4514 Statement, CAR-D30-0025-0001-R01, at 0033, lines 1072-1082 *referring to* Photograph, CAR-OTP-2088-2206.

⁷⁴⁶⁶ P-2133 Statement, CAR-OTP-2093-0267-R02, at 0277-78, para. 81.

⁷⁴⁶⁷ P-2462: T-059, p. 43, lines 8-12.

⁷⁴⁶⁸ P-2657: T-104, p. 30, line 23 – p. 31, line 2, p. 37, lines 10-16.

⁷⁴⁶⁹ P-2657: T-104, p. 37, lines 10-16, p. 38, lines 17-21.

3019.[REDACTED].⁷⁴⁷⁰ [REDACTED].⁷⁴⁷¹

3020.P-2200 stated that he lived at the school for two months and 17 days, until his departure for Chad.⁷⁴⁷² P-2200 stated that the Anti-Balaka had killed many Muslims, stolen and killed their livestock and destroyed their houses, so ‘we’ could not stay in the CAR, particularly without the protection of the Chadian soldiers.⁷⁴⁷³

3021.P-2453 stated that they could not continue to live in the conditions at the school and felt like they did not have a home anymore, so they wanted to be evacuated.⁷⁴⁷⁴

3022.D30-4608 testified that [REDACTED] life was ‘blocked’, goods could not be sold at the market and there was no socialising, so it was necessary to ‘go back’ and ‘take up life again in Chad’.⁷⁴⁷⁵ He testified that a loss of trust and a position of insecurity led to the departure of Muslims from Bossangoa.⁷⁴⁷⁶

3023.Eventually, convoys were organised to transport the Muslims confined to the *École de la Liberté* away from Bossangoa.

3024.P-2200 stated that HCR employees came to the school to take a census and suggested to take them to Bambari or Chad and that in the first trip, 600 people were transported with 14 vehicles to Chad.⁷⁴⁷⁷

3025.[REDACTED]⁷⁴⁷⁸ [REDACTED].⁷⁴⁷⁹ [REDACTED].⁷⁴⁸⁰ [REDACTED].⁷⁴⁸¹

3026.P-2453 stated that after the ‘Chadians’ were transported to Chad in convoys of trucks, the rest of the Muslims remained at the school and were subsequently transported.⁷⁴⁸² P-2453

⁷⁴⁷⁰ [REDACTED]

⁷⁴⁷¹ [REDACTED]

⁷⁴⁷² P-2200 Statement, CAR-OTP-2088-2146-R04, at 2158, para. 68.

⁷⁴⁷³ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2160, para. 77.

⁷⁴⁷⁴ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0435, para. 96.

⁷⁴⁷⁵ D30-4608: T-292, p. 35, line 11 – p. 36, line 16.

⁷⁴⁷⁶ D30-4608: T-292, p. 34, lines 9-21.

⁷⁴⁷⁷ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2160, para. 76.

⁷⁴⁷⁸ [REDACTED]

⁷⁴⁷⁹ [REDACTED]

⁷⁴⁸⁰ [REDACTED]

⁷⁴⁸¹ [REDACTED]

⁷⁴⁸² P-2453: T-138, p. 51, line 12 – p. 52, line 10.

stated that OCHA, MSF and UNICEF took a census of all the people remaining and determined that there were 517 of them, and that the majority wanted to be evacuated out of Bossangoa.⁷⁴⁸³ UNHCR, OHCA and MISCA organised their transport to Chad on 14 February 2014.⁷⁴⁸⁴ P-2453 testified that they could not leave with all of their personal belongings since there was not enough space in the vehicles, they could only take rucksacks with some substantial essential items and had to abandon other belongings.⁷⁴⁸⁵ P-2453 stated that approximately 20 vehicles, including large trucks and private vehicles, escorted by the Cameroonian MISCA contingent transported them to the Chadian border.⁷⁴⁸⁶

3027. P-2049 testified that the Chadian government dispatched lorries to Bossangoa to ‘repatriate its nationals’ to Chad and that some Central Africans joined the ‘Chadians’ and left with them.⁷⁴⁸⁷ P-2049 said that in April, OCHA organised a meeting with the HCR at which arrangements were made for people to be taken to Bambari, but since it was not possible to guarantee security in Bambari, the imam of Bossangoa negotiated with OCHA to instead take people to Paoua, and eventually the conclusion was that there was also no security in Paoua and the decision was taken to bring the people to Chad, leading to a group of 517 persons being brought to Chad [REDACTED].⁷⁴⁸⁸

3028. As to the second convoy, P-2462 testified that leaders held meetings with officials of the HCR and asked that people be evacuated because of the prevailing insecurity, following which trucks were brought to transport them to a safe place in Chad.⁷⁴⁸⁹ P-2462 explained that 517 people were transported in the second convoy, and she knew the exact figure because [REDACTED] the headcount in the camp asked for by the HCR.⁷⁴⁹⁰ P-2462 stated that the Chadian elements of MISCA provided security for them during the transport.⁷⁴⁹¹

⁷⁴⁸³ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0435, para. 96; P-2453: T-136, p. 83, line 24 – p. 84, line 5; T-138, p. 51, line 12 – p. 52, line 10.

⁷⁴⁸⁴ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0435, para. 97.

⁷⁴⁸⁵ P-2453: T-136, p. 93, lines 7-16.

⁷⁴⁸⁶ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0435, para. 97; P-2453: T-138, p. 51, line 12 – p. 52, line 10.

⁷⁴⁸⁷ P-2049: T-101, p. 47, line 22 – p. 48, line 19.

⁷⁴⁸⁸ P-2049: T-101, p. 47, line 22 – p. 48, line 19.

⁷⁴⁸⁹ P-2462: T-059, p. 45, line 23 – p. 47, line 3.

⁷⁴⁹⁰ P-2462: T-059, p. 46, line 10 – p. 47, line 3.

⁷⁴⁹¹ P-2462: T-059, p. 46, lines 13-16.

3029. P-2200 initially refused to leave, but felt unsafe after the first convoy left, and as the Chadian soldiers were about to leave Bossangoa, they insisted that he leave with them.⁷⁴⁹² P-2200 stated that the second convoy left two months after the first and around 500 of them left in 13 vans.⁷⁴⁹³ P-2200 stated that the Anti-Balaka were not involved in the transport.⁷⁴⁹⁴ He stated that he noticed the presence of the Anti-Balaka along the route until the border, adding that without the escort by Chadian soldiers, they would not have been able to pass.⁷⁴⁹⁵

3030. Other witnesses spoke more generally of the transportation of Muslims. Michel Ningando stated that around March to April 2014, the Muslims at the *École de la Liberté* asked to be ‘evacuated’ to Chad, that UNHCR arranged the transport, and the Muslims left for Gore in Chad.⁷⁴⁹⁶ Roger de Martial Yagao stated that due to the severity of the attacks on the Muslim community by the Anti-Balaka, the IOM transported Muslims to Chad and Paoua; he recalled that there were many Chadian Muslims in Bossangoa due to the influx, into the CAR, of supporters of former Chadian president Hissene Habré.⁷⁴⁹⁷ P-2657 stated that the HCR organised the transport and FOMAC guaranteed their safety by taking them to the border.⁷⁴⁹⁸

3031. Bearing in mind the evidence above, the Chamber gives no weight to the suggestion of Faustin Ngamesse according to which Muslims decided to leave Bossangoa for Chad despite peace having returned,⁷⁴⁹⁹ or to that of D30-4608 who, in any event, contradicted himself when stating, on the one hand, that the Muslims left because under the Seleka no longer any trade was possible and that the Seleka left *after* the Muslims, while saying, on the other hand, that without Seleka, the Muslims feared for their lives as there was no longer any protection.⁷⁵⁰⁰

⁷⁴⁹² P-2200 Statement, CAR-OTP-2088-2146-R04, at 2160, para. 76.

⁷⁴⁹³ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2160, para. 77.

⁷⁴⁹⁴ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2160, para. 80.

⁷⁴⁹⁵ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2160, para. 77.

⁷⁴⁹⁶ P-2652 Statement, CAR-OTP-2126-0175-R01, at 0189, para. 77.

⁷⁴⁹⁷ P-2133 Statement, CAR-OTP-2093-0267-R02, at 0280-81, para. 98.

⁷⁴⁹⁸ P-2657: T-104, p. 37, lines 17-23.

⁷⁴⁹⁹ D30-4514 Statement, CAR-D30-0025-0001-R01, at 0033-34, lines 1086-1105.

⁷⁵⁰⁰ D30-4608 Statement, CAR-D30-0017-0004-R01, at 0015, para. 84.

3032. Following the transports, and in line with the Anti-Balaka's objective to 'free' Bossangoa not only from Seleka, but from all Muslims, there were no Muslims left in Bossangoa. P-0567 stated that the UN COI missions to the provinces started in [REDACTED] 2014 and that [REDACTED] there was no Muslim population in Bossangoa.⁷⁵⁰¹ P-2232 stated that there were no Muslims in the provincial areas, Bossangoa, Yaloké, on the Bossangoa axis, and the Bouar axis.⁷⁵⁰²

3033. P-2049 was still a refugee in the refugee camp in Chad at the time of his testimony, being at the disposition of the UNHCR since his arrival there.⁷⁵⁰³ P-2049 testified that he really had the desire to return home, that his country remained his country where he had relatives, but peace was not restored in Bossangoa and he had no home to return to, no means to rebuild a house, and no way to survive, which was why he preferred to stay in the refugee camp.⁷⁵⁰⁴

3034. P-2462 said that she has not returned to Bossangoa since and she and the rest of her family lived in refugee camps.⁷⁵⁰⁵ P-2462 testified that she no longer lives like she used to – they sleep on the tarpaulins in tents built by HCR, she sleeps on a wooden bed; her school life has been destroyed; her mother suffers a lot because she does not know what to do [REDACTED], so the living conditions for them are extremely difficult.⁷⁵⁰⁶

3035. P-2657 confirmed that she was still living in Chad and had been for approximately eight years.⁷⁵⁰⁷ With respect to their living conditions, P-2675 stated that for the moment, they did not have any problems and were under the protection of HCR.⁷⁵⁰⁸ P-2657 further stated that when she and other Muslims arrived, they had tents and after that houses were built from mud bricks and that she was appointed to make meals for children, for students.⁷⁵⁰⁹ P-2657 stated that three of her children were provided with education, while two were not.⁷⁵¹⁰ Asked

⁷⁵⁰¹ P-0567 Statement, CAR-OTP-2059-0084-R04, at 0096, para. 76.

⁷⁵⁰² P-2232: T-077, p. 63, line 23 – p. 64, line 11.

⁷⁵⁰³ P-2049: T-101, p. 49, lines 1-6.

⁷⁵⁰⁴ P-2049: T-101, p. 51, line 22 – p. 52, line 7.

⁷⁵⁰⁵ P-2462: T-059, p. 51, lines 7-17.

⁷⁵⁰⁶ P-2462: T-059, p. 52, lines 5-14.

⁷⁵⁰⁷ P-2657: T-104, p. 38, lines 22-25.

⁷⁵⁰⁸ P-2657: T-104, p. 39, lines 1-3.

⁷⁵⁰⁹ P-2657: T-104, p. 39, lines 4-10.

⁷⁵¹⁰ P-2657: T-104, p. 39, lines 19-21.

whether she would want to go back to Bossangoa, P-2657 testified that she did not even think about it and was scared to go back after having suffered these atrocities.⁷⁵¹¹

3036. Michel Ningando stated that until the time of his statement, it was hard for Muslims to return to Bossangoa since all their houses were destroyed so they do not have any place to stay and the local youth and the Anti-Balaka would also not allow the Muslims to return, with the Anti-Balaka still playing a role in Bossangoa.⁷⁵¹²

3037. P-2200 stated that many Muslim refugees in Chad who would like to return but dare not, out of fear of the Anti-Balaka.⁷⁵¹³

D. The events at Yamwara on and around 24 December 2013

1. Elements and structure at Yamwara

Mr Yekatom's group established a base at Yamwara at one point in December 2013 following the attack on Bangui on 5 December 2013. Elements who had not participated in this attack joined Mr Yekatom's group at Yamwara after 5 December 2013. Considerable number of elements received accommodation in the school buildings or in provisory shelters around the premises of Yamwara, including Cœur de Lion.

3038. The evidence shows that following the Bangui Attack, some Anti-Balaka elements began occupying the school compound at the Yamwara school and surrounding houses located in Boeing, Bangui, less than one kilometre from the M'Poko airport (hereinafter: 'Yamwara').⁷⁵¹⁴

3039. The Prosecution submits that Mr Yekatom established a base in Yamwara after the Bangui Attack, billeting around 1,000 elements there.⁷⁵¹⁵ The Yekatom Defence posits that by mid-

⁷⁵¹¹ P-2657: T-104, p. 39, lines 13-15.

⁷⁵¹² P-2652 Statement, CAR-OTP-2126-0175-R01, at 0189, para. 77.

⁷⁵¹³ P-2200 Statement, CAR-OTP-2088-2146-R04, at 2163, para. 89.

⁷⁵¹⁴ Map, CAR-D29-0003-0052, at 0053-54. *See also* Map, CAR-OTP-2118-9146 (written as 'Ecole kokoro2'); P-1990 Statement, CAR-OTP-2124-0247-R02, at 0251, para. 20; P-1716: T-148, p. 9, line 22 – p. 10, line 2 (stating that the school is around Kokoro II and the *Cité de la Paix* neighbourhoods). P-1654 placed it about one kilometre from his house (*see* P-1654 Statement, CAR-OTP-2053-0112-R04, at 0116, para. 30).

⁷⁵¹⁵ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, paras 471, 653.

December 2013, Mr Yekatom's group arrived at Yamwara and set up their base there, and more precisely around 13 December 2013.⁷⁵¹⁶

3040. As regards the timeframe, the evidence suggests that, between 6 and 20 December 2013, certain individuals identified as Anti-Balaka, including Mr Yekatom's group, started arriving at Yamwara.⁷⁵¹⁷

3041. Elements who had been with Mr Yekatom in Zongo, travelled with him in the bush, and participated in the Bangui Attack arrived at Yamwara during this time. For example, Cœur de Lion,⁷⁵¹⁸ Habib Beina,⁷⁵¹⁹ and Bojos⁷⁵²⁰ were with Mr Yekatom in Zongo and continued with him in the bush in the CAR, and were at Yamwara.

⁷⁵¹⁶ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 423 *referring, inter alia, to* Video, CAR-OTP-2065-3412, at 00:00:10-00:00:18; Transcript, CAR-OTP-2118-0005, at 0006, lines 12-13; Translation, CAR-OTP-2125-0470, at 0472, lines 12-13. The Chamber notes that this video appears to have been shot in the field in the middle of Yamwara; the school buildings can be seen in the background, together with elements dressed in part civilian and part military attire. It shows Rodrigue Momokama (the journalist uses the name 'Rodrigue') speaking with the journalist, saying that their elements ('*nos éléments*'), who were in the bush, have been brought 'here' ('*on le fait ramener ici*'). He said that they have deployed about 100 elements at PK9 towards the route to Mbaïki (*see* Transcript, CAR-OTP-2118-0005, at 0006, lines 12-13, 17-18).

⁷⁵¹⁷ P-0884: T-055, p. 74, line 22 – p. 75, line 7; P-1858 Statement CAR-OTP-2063-0050-R04, at 0056, para. 39; P-0954 Statement, CAR-OTP-2048-0171-R03, at 0176, para. 36; P-0954: T-166, p. 23, lines 1-4; P-1705: T-211, p. 12, lines 16-20; P-1990 Statement, CAR-OTP-2124-0247-R02, at 0253, para. 25; P-0888: T-120, p. 53, lines 2-9. *See also* P-1339 who stated that Mr Yekatom's group arrived at Yamwara between 5-20 December 2013. The Chamber notes that he was unclear on whether Mr Yekatom's group returned to the bush before arriving at Yamwara. He was nonetheless certain that Mr Yekatom's group arrived in Yamwara at least as of 20 December 2013 (*see* P-1339: T-155, p. 25, lines 1-14, p. 29, lines 2-11; T-159, p. 77, line 1 – p. 78, line 21; p. 86, line 24 – p. 88, line 21, p. 92, lines 4-8; T-160, p. 21, line 5 – p. 22, line 2).

⁷⁵¹⁸ *See* paragraphs 3062-3071, 3078 below.

⁷⁵¹⁹ Stéphane Chrisostome Dawili recognised Habib Beina in a video (*see* P-1647: T-194, p. 54, line 13 – p. 55, line 9 *referring to* Video, CAR-OTP-2094-7618, at 00:09:45-00:10:12). P-1647 also recognised Habib Beina at the location close to Yamwara wearing a black shirt (*see* P-1647: T-194, p. 39, lines 10-25 *referring to* Video, CAR-OTP-2065-3897, at 00:00:00-00:01:00). [REDACTED] P-1786 recognised him in a video (*see* P-1786: T-197, p. 42, line 9 – p. 43, line 19 *referring to* Video, CAR-OTP-2012-0523, at 00:09:06). P-1786 and Stéphane Chrisostome Dawili recognised him in a list of Mr Yekatom's elements (*see* P-1786: T-197, p. 61, line 15 – p. 63, line 3 *referring to* List, CAR-OTP-2039-0063, at 0064; P-1647: T-194, p. 35, line 14 – p. 36, line 6 *referring to* List, CAR-OTP-2101-3241, at 3242). P-1839 recalled him at Yamwara (*see* P-1839: T-170, p. 17, lines 15-17). The Chamber notes the challenges to this list brought forward by the Yekatom Defence (*see* [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 269). As reference to this list here is made only in the context of discussing the evidence of a witness, the Chamber does not consider necessary to address these challenges.

⁷⁵²⁰ P-1839: T-172, p. 9, lines 4-6.

3042. Elements that joined Mr Yekatom's group after Zongo including Junior Saragba,⁷⁵²¹ Patrick Junior Keapex-Ozoui,⁷⁵²² Rodrigue Momokama,⁷⁵²³ Abdoulaye Mahamat aka Alkanto,⁷⁵²⁴ Rodrigue Satan,⁷⁵²⁵ Heritier Azou,⁷⁵²⁶ Max Maïdanda,⁷⁵²⁷ Salvador Manoumana,⁷⁵²⁸ Honorine Mbafalo,⁷⁵²⁹ 'Cynthia',⁷⁵³⁰ and P-1339⁷⁵³¹ were also at Yamwara.⁷⁵³²

⁷⁵²¹ P-1339: T-151, p. 41, line 21 – p. 42, line 8.

⁷⁵²² P-1647: T-194, p. 35, line 14 – p. 36, line 6 *referring to* List, CAR-OTP-2101-3241, at 3242; P-1839: T-170, p. 55, line 4 – p. 56, line 3. The Chamber refers to its considerations of this list above (*see* footnote 7519 above).

⁷⁵²³ P-1786: T-197, p. 61, line 15 – p. 62, line 2 *referring to* List, CAR-OTP-2039-0063, at 0663. P-1786 recognised him in a video, *see* P-1786: T-197, p. 42, line 9 – p. 43, line 19 *referring to* Video, CAR-OTP-2012-0523, at 00:09:06, 00:35:27, 00:46:29; P-1786 Statement, CAR-OTP-2058-0200-R03, at 0211-0212, para. 64 (b), (f) and (o). Stéphane Chrisostome Dawili recognised Momokama in a video with Mr Yekatom and Habib Beina at the location close to Yamwara, *see* P-1647: T-194, p. 39, lines 10-22 *referring to* Video, CAR-OTP-2065-3897, at 00:00:00-00:01:00. P-1839 recognised Momokama on a list and said that he was part of Mr Yekatom's group when she was in it herself, *see* P-1839: T-170, p. 55, line 4 – p. 56, line 3 *referring to* List, CAR-OTP-2094-3642, at 3642. P-0954 stated that Mr Yekatom's 'right-hand man' was Rodrigue Momokama, *see* P-0954 Statement, CAR-OTP-2048-0171-R03, at 0185, para. 80.

⁷⁵²⁴ *See* paragraphs 3072, 3074-3078 below.

⁷⁵²⁵ P-1786: T-197, p. 61, line 15 – p. 62, line 23 *referring to* List, CAR-OTP-2039-0063-R03, at 0064; P-1839: T-170, p. 55, line 4 – p. 56, line 3 *referring to* List, CAR-OTP-2094-3642, at 3642.

⁷⁵²⁶ P-1647: T-194, p. 35, line 14 – p. 36, line 6 *referring to* List, CAR-OTP-2101-3241, at 3244. The Chamber refers to its considerations of this list above (*see* footnote 7519 above). Stéphane Chrisostome Dawili recognised Heritier Azou in videos (*see* P-1647: T-194, p. 54, line 13 – p. 55, line 9 *referring to* Video, CAR-OTP-2094-7618 at 00:09:45, p. 36, line 9 – p. 38, line 22 *referring to* Video, CAR-OTP-2065-4849, at 00:03:45). P-1839 recognised Heritier Azou on a list and said that he was part of Mr Yekatom's group when she was in it herself (*see* P-1839: T-170, p. 55, line 4 – p. 56, line 3 *referring to* List, CAR-OTP-2094-3642, at 3642).

⁷⁵²⁷ P-1786: T-197, p. 62, lines 10-21 *referring to* List, CAR-OTP-2039-0063, at 0664; P-1647: T-194, p. 35, line 14 – p. 36, line 6 *referring to* List, CAR-OTP-2101-3241, at 3244. The Chamber refers to its considerations of this list above (*see* footnote 7519 above). Max Maïdanda (also spelt Maidana) introduces himself in Video, CAR-OTP-2065-3172, at 00:00:26-00:01:35; Transcript, CAR-OTP-2118-5654, at 5656, line 27. P-1786 recognised Maïdanda in a video (*see* P-1786: T-197, p. 63, line 25 – p. 65, line 22 *referring to* Video, CAR-OTP-2065-4849, at 00:02:36).

⁷⁵²⁸ P-1786: T-197, p. 61, line 15 – p. 63, line 5 *referring to* List, CAR-OTP-2039-0063, at 0664; P-1647: T-194, p. 35, line 14 – p. 36, line 6 *referring to* List, CAR-OTP-2101-3241, at 3244. The Chamber refers to its considerations of this list above (*see* footnote 7519 above). P-1647 recognised him in a video and said that he was a FACA member (*see* P-1647: T-195, p. 12, line 23 – p. 13, line 15 *referring to* Video, CAR-OTP-2065-0806, at 00:00:00-00:00:15).

⁷⁵²⁹ P-1339, T-152, p. 22, lines 19-23. P-1339 recalled Honorine Mbafalo and her sister Ndaeshe (also spelt Ndège) being part of Mr Yekatom's group in 'the bush' in 2013 and also recognised the former in a video as wearing military clothing and a cap in a video taken in 2014 (*see* P-1339, T-156, p. 25, line 11 – p. 29, line 18 *referring to* Video, CAR-OTP-2094-7618, at 00:10:32-00:10:34).

⁷⁵³⁰ P-1839: T-171, p. 66, lines 14-25, p. 69, lines 15-20; T-172, p. 61, line 22 – p. 63, line 11; P-1339, T-152, p. 22, lines 19-23. P-1339 recognised 'Cynthia' in a video (*see* P-1339, T-155, p. 25, line 15 – p. 27, line 8 *referring to* Video, CAR-OTP-2065-1055, at 00:54:00).

⁷⁵³¹ P-1339, T-159, p. 77, line 20 – p. 78, line 21.

⁷⁵³² *See also* P-1647: T-194, p. 33, line 24 – p. 35, line 9 *referring to* List, CAR-OTP-2039-0063, at 0063-64, p. 35, line 13 – p. 36, line 8 *referring to* List, CAR-OTP-2101-3241, at 3244, p. 36, line 9 – p. 39, line 8 *referring to* Video, CAR-OTP-2065-4849, at 00:00:00-00:00:51, 00:02:05, 00:03:17, 00:03:45, p. 39, lines 10-25 *referring to* Video, CAR-OTP-2065-3897, at 00:00:00, recognising Mr Yekatom, Cœur de Lion, Habib Beina, Alban Goliatha, Abdoulaye, Iblock, Heritier and Momokama in video-stills; P-1786 Statement, CAR-OTP-2058-0200-R03, at 0205, para. 26. Regarding the list, CAR-OTP-2101-3241, the Chamber refers to its considerations of this list above (*see* footnote 7519 above). P-1839 said that Max Maïdanda and Bodios were chief of sections at Yamwara (*see* P-1839:

3043. Some elements who had not participated in the Bangui Attack joined Mr Yekatom's group at Yamwara after 5 December 2013. For example, P-1786 said that he joined Mr Yekatom's group at Yamwara after the Bangui Attack, [REDACTED].⁷⁵³³ Stéphane Chrisostome Dawili, a FACA member, stated that he joined 'the Anti-Balaka' after speaking with Cœur de Lion at Yamwara at least as of 19 December 2013 as a company commander;⁷⁵³⁴ and that when he joined, Yamwara was already a base.⁷⁵³⁵ P-1839 said that she joined Mr Yekatom's group after 5 December 2013 when they had already set up operations at Yamwara.⁷⁵³⁶

3044. In addition to the aforementioned, other elements from Mr Yekatom's group identified by witnesses present there include Aristide Beina,⁷⁵³⁷ Ephraïm Odimba-Youngaïna,⁷⁵³⁸ Alban Goliatha,⁷⁵³⁹ Cheveux de la Mort,⁷⁵⁴⁰ and Jean Baptiste Seda.⁷⁵⁴¹

3045. As regards the purpose of setting up a base at Yamwara, the Chamber heard P-1839 who said that it was to liberate the country from the Seleka mercenaries.⁷⁵⁴²

3046. Yamwara included three school buildings that contained classrooms. P-1839, who stayed at Yamwara at the time, said that there was a large football pitch and a 'fountain' in the middle of the school, with buildings on both sides.⁷⁵⁴³ In addition, audio-visual evidence before the

T-172, p. 7, lines 8-21, p. 9, lines 4-6). *See also* Video, CAR-OTP-2065-3897, where P-1339, P-1647, and P-1839 identified Mr Yekatom, Momokama, and Habib Beina being together near Yamwara (*see* P-1339: T-156, p. 20, line 12 – p. 22, line 15; P-1839: T-171, p. 67, line 14 – p. 68, line 4; P-1647: T-194, p. 39, line 10 – p. 40, line 10). *See also* Video, CAR-OTP-2065-4849 where P-1786 and P-1339 identified Mr Yekatom, Cœur de Lion, and Habib; P-1786 stating that the place is in front of Cœur de Lion's place at Yamwara; P-1786: T-197, p. 63, line 25 – p. 69, line 3; P-1339: T-156, p. 22, line 17 – p. 23, line 5.

⁷⁵³³ P-1786: T-197, p. 20, line 8 – p. 22, line 24. [REDACTED]

⁷⁵³⁴ P-1647: T-194, p. 8, line 14 – p. 9, line 14; P-1647 Statement, CAR-OTP-2050-0654-R02, at 0658, para. 30.

⁷⁵³⁵ P-1647: T-194, p. 22, lines 13-17.

⁷⁵³⁶ P-1839: T-170, p. 40, lines 10-13; T-172, p. 66, line 21 – p. 67, line 5.

⁷⁵³⁷ P-1839: T-170, p. 55, lines 4-17, p. 56, lines 1-3 *referring to* List, CAR-OTP-2094-3642, at 3642; P-1647: T-194, p. 35, line 14 – p. 36, line 6 *referring to* List, CAR-OTP-2101-3241, at 3242; P-0954 stated that one of Mr Yekatom's 'key commanders' was Aristide Beina (*see* P-0954 Statement, CAR-OTP-2048-0171-R03, at 0185, para. 80). Regarding the list, CAR-OTP-2101-3241, the Chamber refers to its considerations above (*see* footnote 7519 above).

⁷⁵³⁸ P-1839: T-170, p. 55, lines 4-19, p. 56, lines 1-3 *referring to* List, CAR-OTP-2094-3642, at 3642.

⁷⁵³⁹ P-1647: T-194, p. 35, line 14 – p. 36, line 6 *referring to* List, CAR-OTP-2101-3241, at 3244. The Chamber refers to its considerations of this list above (*see* footnote 7519 above). P-1647 recognised Goliatha in a video (*see* P-1647: T-194, p. 36, line 9 – p. 37, line 9 *referring to* Video, CAR-OTP-2065-4849, at 00:02:05).

⁷⁵⁴⁰ P-1839: T-171, p. 66, lines 10-13. P-1339 recognised Cheveux de la mort in a video and said that she was part of Mr Yekatom's group (*see* P-1339, T-154, p. 19, lines 20-24, p. 24, line 22 – p. 26, line 1 *referring to* Video, CAR-OTP-2012-0523, at 00:10:20 (*referring to* her as 'Cheveux noirs')).

⁷⁵⁴¹ P-1647: T-194, p. 35, line 14 – p. 36, line 2 *referring to* List, CAR-OTP-2101-3241, at 3244. The Chamber refers to its considerations of this list above (*see* footnote 7519 above).

⁷⁵⁴² P-1839: T-170, p. 40, lines 10-13; T-172, p. 66, line 21 – p. 67, line 5, p. 73, lines 10-17.

⁷⁵⁴³ P-1839: T-170, p. 21, lines 13-17. *See also* P-1716 Statement, CAR-OTP-2053-0062-R05, at 0068, para. 34.

Chamber shows that the interior layout of the premises also included mango trees, next to a water well.⁷⁵⁴⁴

3047. Some of Mr Yekatom's elements, but not all, lived in the school buildings that used to be classrooms.⁷⁵⁴⁵ P-1786 said that the elements did not have any rooms so it was decided to lodge them in these various school buildings.⁷⁵⁴⁶ P-1839 added that she could not say that 'all' elements were living at Yamwara; while there were those that lived 'within the base itself', some were in certain zones for their own security.⁷⁵⁴⁷

3048. As regards the approximate number of elements staying at Yamwara at the relevant time, the evidence suggests that there were approximately 1,000 elements present at Yamwara in December 2013, including those from Mr Yekatom's group. In its assessment, the Chamber has used the estimates provided by P-1786, Stéphane Chrisostome Dawili and P-1839 about the sizes of their respective sections and companies. According to P-1786, there were about 1,000 Anti-Balaka elements at Yamwara.⁷⁵⁴⁸ He further stated that there were 10 companies⁷⁵⁴⁹ with four sections each and each section had about 30 men.⁷⁵⁵⁰ Stéphane

⁷⁵⁴⁴ P-1839: T-172-FRA, p. 61, lines 23-27 (*'poussaient de l'eau au niveau de la fontaine'*); T-172-ENG, p. 57, line 19 – p. 58, line 2 (*'spring from where you could draw water'*). See also P-1990: T-237, p. 6, line 24 – p. 8, line 4 where P-1990 agreed that there was a water fountain in front of the house of the school principal, which was used by the people in the surrounding area who had no access to running water. See also Photograph, CAR-OTP-2126-1400, an aerial picture of Yamwara that was shown to P-1990, who agreed that this shows the water fountain in the centre of the school; P-1716: T-148, p. 28, lines 6-10. See also Photographs, CAR-OTP-2126-1324, CAR-OTP-2126-1379, CAR-OTP-2126-1219, and CAR-OTP-2126-1400.

⁷⁵⁴⁵ P-1839: T-170, p. 21, lines 18-24; P-1839: T-172, p. 5, line 23 – p. 6, line 6 referring to CAR-OTP-2066-1468; P-1786: T-197, p. 28, line 2 – p. 30, line 6, p. 36, line 5 – p. 37, line 13 (stating that the Video, CAR-OTP-2005-0129, at 00:21:30, 00:21:38 shows the Yamwara school); Satellite image (annotated by P-1786), CAR-OTP-2058-0216; Video, CAR-OTP-2005-0129; Drawing, CAR-OTP-2041-0775. See also Photographs of the classroom buildings, CAR-OTP-2126-1297, CAR-OTP-2126-1300, and CAR-OTP-2126-1362.

⁷⁵⁴⁶ P-1786: T-197, p. 28, lines 13-19 referring to Photograph, CAR-OTP-2095-5556, dated 12 December 2013. The photograph shows a person armed with a rifle and a bullet jacket standing in front of two buildings with a gathering of individuals dressed in part-military part-civilian attire. Stéphane Chrisostome Dawili also recognised the location in this photograph with the two schoolroom buildings in the back as Yamwara. P-1647 recognised the person in this photograph as someone who was in his 'class' and was a policeman (see P-1647: T-194, p. 16, line 20 – p. 17, line 5, p. 18, lines 3-6). See also Photograph, CAR-OTP-2095-5517 taken on the same day, 12 December 2013, that appears to depict part of the group that has gathered under a tree, dressed in part-military, part-civilian attire, armed with machetes.

⁷⁵⁴⁷ P-1839: T-170-ENG, p. 21, lines 20-24; T-170-FRA, p. 20, line 28 – p. 21, line 4 (*'qui sont au sein de la base'*).

⁷⁵⁴⁸ P-1786 Statement, CAR-OTP-2058-0200-R03, at 0205, para. 26.

⁷⁵⁴⁹ P-1786 Statement, CAR-OTP-2058-0200-R03, at 0205, para. 26; P-1786 later testified that there were about 11 or 12 sections led by military officers, see P-1786: T-197, p. 60, line 17 – p. 61, line 6.

⁷⁵⁵⁰ P-1786 Statement, CAR-OTP-2058-0200-R03, at 0205, para. 26. P-0954 did not know the exact number of elements present at Yamwara in Mr Yekatom's group but said that they were 'in huge numbers' (see P-0954: T-166, p. 21, line 19 – p. 22, line 16).

Chrisostome Dawili stated that there were about 120 people in his company⁷⁵⁵¹ but said that there were ‘thousands’ of ‘Anti-Balaka’ at Yamwara and most of them lived at the school compound,⁷⁵⁵² and did not know how many companies there were.⁷⁵⁵³ P-1839 gave the example of Alkanto, who was the chief of the 1st company, 1st division and was commanding 30 people in his section.⁷⁵⁵⁴

3049. In this respect, the Chamber has also considered the testimony of Lars Bromley, an expert in satellite imagery analysis who examined images of Yamwara during the relevant period and concluded that ‘[n]o obvious gatherings of individuals’ were visible between the period of 5 December 2013 and 15 January 2014.⁷⁵⁵⁵ This seems to suggest that while there were numerous elements gathered at Yamwara during this time, they were either not as numerous as to appear in aerial images, or otherwise stayed confined to the school buildings during the day, in which case, the capacity of the classrooms could suggest the size of the group.

3050. Having regard to the above, the Chamber finds that considerable number of elements received accommodation in the school buildings or in provisory shelters around the premises of Yamwara, including Cœur de Lion.

3051. Yamwara included at least three other houses within its premises or sufficiently close by that were occupied by Anti-Balaka chiefs. P-1716, who had studied at the primary school in Yamwara, said that apart from the four separate buildings, all of which were used as classrooms, there were also ‘several houses’ around, separate from the other school buildings, one of which was used by the directors of the school.⁷⁵⁵⁶

⁷⁵⁵¹ P-1647 Statement, CAR-OTP-2050-0654-R02, at 0658, para. 33.

⁷⁵⁵² P-1647 Statement, CAR-OTP-2050-0654-R02, at 0658, para. 31.

⁷⁵⁵³ P-1647 Statement, CAR-OTP-2050-0654-R02, at 0659, para. 34.

⁷⁵⁵⁴ P-1839: T-170, p. 18, lines 12-14, p. 34, lines 17-18.

⁷⁵⁵⁵ P-2193 Report, CAR-OTP-2127-6617, at 6621 stating, *inter alia*, that analysis was done on satellite imagery collected on ‘8 December, 28 December, and 30 December 2013’. See also Annex 1 to P-2193 Report, CAR-OTP-2127-6626, at 6627, Map 1a, Inset 3 containing Satellite images, CAR-OTP-2127-6646, dated 27 November 2013 (corresponding to TIFF file in CAR-OTP-2127-6679); CAR-OTP-2127-6645, dated 8 December 2013 (corresponding to TIFF file in CAR-OTP-2127-6678). The Chamber further notes that Lars Bromley commented on Photograph, CAR-OTP-2126-0269, depicting an aerial view of what appears to be Yamwara, stating that this is indeed the area that he analysed, but that this image was taken at a much later date, based on the changes to the landscape (see P-2193: T-019, p. 80, line 12 – p. 81, line 6).

⁷⁵⁵⁶ P-1716: T-148, p. 27, line 23 – p. 28, line 5; P-1716 Statement, CAR-OTP-2053-0062-R05, at 0068, para. 34. See also P-1990 Statement, CAR-OTP-2124-0247-R02, at 0257, para. 47 identifying the classroom buildings, toilet blocks, and certain private houses on aerial image of Yamwara in Annex A, Map, CAR-OTP-2124-0261, at 0261.

3052. The evidence suggests that one such house was occupied by Cœur de Lion,⁷⁵⁵⁷ whereas Alkanto and his elements had two buildings to themselves.⁷⁵⁵⁸ P-1839 placed Cœur de Lion's house just outside and west of Yamwara.⁷⁵⁵⁹

Mr Yekatom did not live at Yamwara and slept elsewhere close to the airport. Mr Yekatom did regularly visit Yamwara and maintained a constant presence there through his elements.

3053. As set out below, the evidence shows that while Mr Yekatom did not live at Yamwara and slept elsewhere close to the airport, he regularly visited Yamwara and maintained a constant presence there through his elements.⁷⁵⁶⁰

3054. In arriving at this conclusion, the Chamber has also considered the Yekatom Defence's arguments challenging his presence at Yamwara, the frequency of Mr Yekatom's visits and the length of his stay. The Yekatom Defence submits that while Cœur de Lion was 'situated' in Yamwara and maintained a 'permanent presence' there, Mr Yekatom resided 'outside' and 'approximately 30 minutes by foot from Yamwara'.⁷⁵⁶¹ It argues that Mr Yekatom 'infrequently visited Yamwara, and that such visits were brief often lasting only a few minutes'.⁷⁵⁶²

3055. The evidence cited by the Yekatom Defence in support of its arguments shows that Mr Yekatom maintained a regular presence at Yamwara. P-1839 said that Mr Yekatom lived

⁷⁵⁵⁷ P-1839 described Cœur de Lion's house as building number 5 in Annexe N, Satellite image, CAR-OTP-2066-1468, see P-1839: T-172, p. 6, lines 5-12.

⁷⁵⁵⁸ P-1839 said that Alkanto and she had a building for themselves – marked as '2' in red pen on Satellite image, CAR-OTP-2066-1468; Alkanto and she slept in this building while Alkanto's elements slept in the building next door marked '3' (see P-1839: T-170, p. 21, line 25 – p. 22, line 6; T-173, p. 30, line 17 – p. 31, line 11).

⁷⁵⁵⁹ P-1839: T-170, p. 17, line 25 – p. 18, line 2, p. 22, lines 8-12; Image, CAR-D29-0003-0052, at 0054-0055. See also P-1990 Statement, CAR-OTP-2124-0247-R02, at 0257, para. 47 referring to Annex A, Satellite image, CAR-OTP-2124-0261, at 0261 marked H. P-1786, commenting on Video (dated 13 December 2013), CAR-OTP-2065-4849, at 00:03:49 [REDACTED] the location in this video still was just in front of the building where Cœur de Lion used to live (see P-1786: T-197, p. 64, lines 1-3, p. 68, line 9 – p. 69, line 3).

⁷⁵⁶⁰ In assessing Mr Yekatom's presence at Yamwara, the Chamber has also considered audio-visual material (see Videos, CAR-OTP-2065-5148, CAR-OTP-2065-4536, CAR-OTP-2065-4851, CAR-OTP-2065-3476, CAR-OTP-2065-5264, CAR-OTP-2065-4565, CAR-OTP-2065-4561, CAR-OTP-2065-2173, CAR-OTP-2065-2177, CAR-OTP-2065-4880, CAR-OTP-2065-4849). See further paragraphs 2473-2476 below.

⁷⁵⁶¹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 423 referring to P-1839, P-1786, and P-1647. See also Yekatom Defence Closing Statements: T-308, p. 48, lines 3-8 where it submits that Mr Yekatom was present at Yamwara 'very rarely' and would 'visit once a week over the course of a month and a half'.

⁷⁵⁶² [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 423.

in a place that was less than 30 minutes on foot from Yamwara.⁷⁵⁶³ P-1786 stated that Mr Yekatom did not sleep at Yamwara but either at the Kette-Goussa airport, where Wenezoui and other FACA stayed, or at the M’Poko airport refugee site.⁷⁵⁶⁴ Stéphane Chrisostome Dawili said that Mr Yekatom slept in neither of those places, but admitted that they were not always together.⁷⁵⁶⁵ P-1786 said that Mr Yekatom’s ‘right-hand man’, Habib Beina, [REDACTED].⁷⁵⁶⁶ Stéphane Chrisostome Dawili said that, at the time, ‘Chef Ouandjio’ was at Yamwara ‘all the time’ and Mr Yekatom would come ‘once a week sometimes’.⁷⁵⁶⁷

3056. Further, the Yekatom Defence’s arguments concerning Mr Yekatom’s presence at Yamwara did not diminish the Chamber’s appreciation of his role as a leader of the elements at Yamwara and his regular presence there during the relevant time. Indeed, the fact that individuals at Yamwara at the time, including his own elements, recognised Mr Yekatom as the ‘chief’ and superior to Cœur de Lion, despite not living there, spoke to an even greater authority he exercised over his elements.

When the base at Yamwara was established, Mr Yekatom’s group set up checkpoints along its perimeter to monitor passage of vehicles and people, including, at least, one set up by Alkanto close to Yamwara.

3057. The evidence shows that, at the end of 2013 and early 2014, including when Mr Yekatom’s group was present there, the Yamwara premises were not walled and were open to the local population.⁷⁵⁶⁸

⁷⁵⁶³ P-1839: T-173, p. 27, line 18 – p. 28, line 12. P-1647 said that Mr Yekatom lived about 30 minutes away, about 2.5 kms from Yamwara; P-1647 recognised Mr Yekatom’s house in a Video, CAR-OTP-2065-3865, at 00:00:23 (see P-1647: P-195, p. 17, lines 8-11, p. 19, lines 18-25).

⁷⁵⁶⁴ P-1786 Statement, CAR-OTP-2058-0200-R03, at 0204, para. 22.

⁷⁵⁶⁵ P-1647: T-195, p. 18, lines 3-24.

⁷⁵⁶⁶ P-1786 Statement, CAR-OTP-2058-0200-R03, at 0203, para. 21. P-1786 circled and labelled the houses where Habib Beina and Cœur de Lion occupied with ‘A’ and ‘B’ respectively in the Satellite image, CAR-OTP-2058-0216, [REDACTED]. Roofs marked A and C are right next to each other. [REDACTED]. See also P-1839: T-170, p. 18, lines 3-7 for her description of the relationship between Mr Yekatom and Habib Beina.

⁷⁵⁶⁷ P-1647: T-195, p. 15, lines 16-22.

⁷⁵⁶⁸ P-1716: T-148, p. 27, lines 17-22; P-1647: P-195, p. 16, line 20 – p. 17, line 1. See also P-1990: T-237, p. 6, lines 19-23 where P-1990 agreed that there was no fence around Yamwara and it was fully integrated within the neighbourhood. See also Photographs, CAR-OTP-2126-1300; CAR-OTP-2126-1324; CAR-OTP-2126-1349; CAR-OTP-2126-1356; CAR-OTP-2126-1362.

3058. The evidence shows that when the base at Yamwara was established, Mr Yekatom's group set up checkpoints along its perimeter to monitor passage of vehicles and people,⁷⁵⁶⁹ including, at least, one set up by Alkanto close to Yamwara.⁷⁵⁷⁰

Mr Yekatom was in charge of Yamwara with Cœur de Lion as his deputy. All witnesses who were at Yamwara during the relevant time considered Mr Yekatom to be the 'chief' of all activities at Yamwara. Mr Yekatom was also the overall chief on matters of punishment and enforcing discipline at Yamwara, and his section chiefs also had a responsibility to discipline elements. Mr Yekatom maintained overall control over the activities at Yamwara at all times, including through Cœur de Lion. Mr Yekatom had undisputed authority over Cœur de Lion, Alkanto and Bojos, among others.

3059. The evidence demonstrates a hierarchical setup at Yamwara during the relevant time that resembled military hierarchy. Stéphane Chrisostome Dawili, when asked, agreed that, at Yamwara, a FACA member was head of each 'section'.⁷⁵⁷¹ Further, P-1786's evidence, discussed above, demonstrates the setting up of military units, 'sections' and 'companies', terminology that is also used by P-1839 when describing Alkanto's position within the group.⁷⁵⁷² Stéphane Chrisostome Dawili, who had the rank of FACA corporal at the time of joining at Yamwara, stated that he was appointed 'commander of a company' one week after he joined.⁷⁵⁷³

3060. The evidence shows that all witnesses who were at Yamwara during the relevant time considered Mr Yekatom to be the 'chief' of all activities in Yamwara.⁷⁵⁷⁴ Stéphane

⁷⁵⁶⁹ P-1839 said that in the 'posts around Yamwara', people who were passing by were searched and their mobile phones were checked (see P-1839: T-173, p. 19, line 3 – p. 21, line 20). P-1990 said that there were at least two checkpoints on the main roads around Yamwara – one was the checkpoint on the road to Avicom and another was on the road to the Ali Church (see P-1990: T-236, p. 34, lines 10 – p. 35, line 19; T-237, p. 38, lines 12-20; P-1990 Statement, CAR-OTP-2124-0247-R02, at 0254, paras 30-32). P-1647 said that there were checkpoints around Yamwara to allow the elements to identify and avoid surprises from the enemy and to be able to carry out controls (see P-1647: T-195, p. 30, lines 1-10).

⁷⁵⁷⁰ P-1339 sketched Alkanto's 'base' at Yamwara in Sketch, CAR-OTP-2041-0775 and explained it in P-1339: T-155, p. 31, lines 10-19, for the citation of the sketch, see p. 30, lines 3-7. P-1990 said that he was checked at the checkpoint on the road to Avicom (a former poultry farm) and it was 20-30 metres from Yamwara (see P-1990: T-236, p. 33, line 15 – p. 34, line 9; P-1990 Statement, CAR-OTP-2124-0247-R02, at 0254, para. 31).

⁷⁵⁷¹ P-1647: T-195, p. 42, lines 16-17.

⁷⁵⁷² See also paragraph 3048 below.

⁷⁵⁷³ P-1647: T-194, p. 9, lines 6-14; P-1647 Statement, CAR-OTP-2050-0654-R02, at 0658, para. 33.

⁷⁵⁷⁴ P-1839: T-170, p. 17, line 15 – p. 18, line 11; P-1811: T-114, p. 19, lines 4-8; P-1339: T-151, p. 44, line 22 – p. 45, line 19; P-1786: T-197, p. 46, line 18 – p. 47, line 8; P-1339: T-155, p. 37, line 17 – p. 38, line 9. In his statement, P-0974 stated that in the last week of December, Kamezoulai was the chef of 'Niawara' base and Mr Yekatom was the 'chef' of Bimbo area (see P-0974 Statement, CAR-OTP-2058-0165-R01, at 0175, para. 67). P-0974 nonetheless testified that Mr Yekatom was 'responsible' from Yamwara to PK9 (see P-0974: T-243, p. 46, lines 23-24).

Chrisostome Dawili stated that every morning and every evening, there was a gathering of the company to check who was present; all companies would come together once a week in the grounds of the school; these gatherings were attended by the ‘Company Adjutants, the Deputy, and Yekatom’ and it was Mr Yekatom who addressed the soldiers, warning people not to go against his orders.⁷⁵⁷⁵

3061. The evidence shows that Mr Yekatom was also the overall chief on matters of punishment and enforcing discipline at Yamwara, and his section chiefs also had a responsibility to discipline elements. Stéphane Chrisostome Dawili said that section chiefs were responsible for their own disciplinary matters and if one of the elements committed a minor ‘mistake’, they would take care of the discipline; if the mistake was ‘more serious’, they would ask their ‘superiors’; when elements did things that were ‘not okay’, then Mr Yekatom would ‘have them punished by wetting or thrashing them’.⁷⁵⁷⁶

3062. As set out below, the Chamber finds that Freddy Ouandjio aka Cœur de Lion was Mr Yekatom’s deputy at Yamwara in December 2013.⁷⁵⁷⁷ In its view, Mr Yekatom maintained overall control over the activities in Yamwara at all times, including through Cœur de Lion.

⁷⁵⁷⁵ P-1647 Statement, CAR-OTP-2050-0654-R02, at 0659, para. 34. P-1647, commenting on Photograph, CAR-OTP-2095-5556, agreed that this photograph shows schoolrooms of Yamwara and that this is where they held assemblies where they could check who was present and that every Saturday, they reported on who was absent (see P-1647: T-194, p. 17, line 19 – p. 18, line 6).

⁷⁵⁷⁶ P-1647: T-194, p. 51, lines 11-16; T-195, p. 30, lines 12-18.

⁷⁵⁷⁷ In reaching this conclusion, the Chamber has also considered evidence that suggests that Mr Yekatom may have been closer to members of his group other than Cœur de Lion. However, the Chamber finds that this does not negate the existence of a hierarchical relationship between Mr Yekatom and Cœur de Lion. In particular, P-1839 considered Mr Yekatom as the overall commander with Cœur de Lion as his deputy, but said that Habib Beina was also very close to Mr Yekatom and was his ‘right-hand man’; she also said that Mr Yekatom would complain to her about Cœur de Lion (see P-1839: T-170, p. 18, lines 3-7; T-174, p. 19, lines 15-21). P-1786 stated that (i) Mr Yekatom was closer to Momokama and Habib Beina than Cœur de Lion; (ii) Cœur de Lion did not always get along with Mr Yekatom and would keep his distance; (iii) Cœur de Lion did not like that Mr Yekatom stayed behind and did not fight on the front lines with them; and (iv) Cœur de Lion thought that Mr Yekatom kept money he got from the Seleka, whereas, the former was only interested in chasing away the Seleka (see P-1786 Statement, CAR-OTP-2058-0200-R03, at 0210, para. 56).

3063. At the outset, the Chamber recalls that Cœur de Lion was a former PG and Gbaya,⁷⁵⁷⁸ had fled to Zongo and crossed back to the CAR with Mr Yekatom.⁷⁵⁷⁹

3064. As part of its submission that Mr Yekatom's group was not 'a strict military structure with Mr Yekatom as the commander-in-chief',⁷⁵⁸⁰ the Yekatom Defence raises several arguments concerning the hierarchy of command and interpersonal relations between Mr Yekatom and Cœur de Lion. In particular, the Yekatom Defence (i) disputes that Cœur de Lion was Mr Yekatom's 'deputy', *de facto* or otherwise;⁷⁵⁸¹ and (ii) asserts that there was functional independence between their respective units.⁷⁵⁸² In respect of the latter, the Yekatom Defence further submits that each unit had the capacity to operate independently from the other,⁷⁵⁸³ Cœur de Lion's elements were 'strictly loyal to him',⁷⁵⁸⁴ conducted separate operations,⁷⁵⁸⁵ and there was friction between Mr Yekatom and Cœur de Lion.⁷⁵⁸⁶ Specifically in relation to Yamwara, the Yekatom Defence submits that Cœur de Lion operating independently was also seen in relation to 'decisions taken at Yamwara', in that Mr Yekatom 'did not occupy a building at the base', 'very rarely visited the base', and 'when he did visit, it was for brief periods of time'.⁷⁵⁸⁷

3065. In assessing Mr Yekatom's authority in relation to Cœur de Lion, the Chamber has relied on the evidence from members of Mr Yekatom's group, with civilian and military background, and who were themselves present at Yamwara. Notably, Stéphane Chrisostome Dawili, a FACA member who was at Yamwara in December 2013 within Mr Yekatom's group said that '[t]he deputy at the time was the late Ouandjio'.⁷⁵⁸⁸ P-1839, [REDACTED] member of the group, [REDACTED] in late December 2013 and early 2014, recognised Cœur de Lion

⁷⁵⁷⁸ P-1786: T-198, p. 28, lines 22-24. P-1839 recognised Cœur de Lion in Video, CAR-OTP-2065-4512, 00:00:40-00:01:05 as the person wearing a green t-shirt (see P-1839: T-173, p. 49, line 19 – p. 50, line 6).

⁷⁵⁷⁹ See sections IV.A.2.ii.a, IV.B.2.i–IV.B.2.iv above.

⁷⁵⁸⁰ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 270-325.

⁷⁵⁸¹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 273-284 *referring, inter alia, to* evidence by P-1839, P-0888, P-0487, P-1339, P-0889, P-1193, P-2232, P-1704, P-1716, P-0974, P-2475, P-1838.

⁷⁵⁸² [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 285-294.

⁷⁵⁸³ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 286.

⁷⁵⁸⁴ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 287-288.

⁷⁵⁸⁵ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 290-293 *referring to* the Boda incident, see section IV.A.8.ii.c above.

⁷⁵⁸⁶ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 294.

⁷⁵⁸⁷ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 289.

⁷⁵⁸⁸ P-1647: T-194, p. 33, lines 15-23, *see also* P-1647 Statement, CAR-OTP-2050-0654-R02, at 0658, para. 30.

as Mr Yekatom's 'deputy' during the time at Yamwara.⁷⁵⁸⁹ P-1786 also said that, aside from Mr Yekatom, he did not know of another chief that would give instructions to elements in Yamwara; there was only Mr Yekatom who could give instructions to 'Habib', who would then relay them.⁷⁵⁹⁰ P-1786 said that Mr Yekatom was the 'topmost commander' and that his 'deputy was Cœur de Lion'.⁷⁵⁹¹

3066. Notably, Cœur de Lion's own words to a journalist at Yamwara in December 2013 show that he was the deputy of the 'movement' (*C'est moi qui suis adjoint de ce mouvement*); relatedly, he is seen saying to another element that he must seek authorization from his chief (*Il fallait que je demande l'autorisation d'abord. Je ne peux pas faire ça à mon niveau, il faut que je demande mon chef d'abord*).⁷⁵⁹²

3067. The Chamber furthermore notes the evidence on Cœur de Lion being considered as Mr Yekatom's deputy also in other locations and contexts.⁷⁵⁹³

3068. In light of this, the Chamber is not persuaded that Cœur de Lion's 'more years of military service' than Mr Yekatom and his assignment to an 'elite' PG reversed,⁷⁵⁹⁴ or otherwise changed, the dynamics of the relation *inter se*, or the perception of the members of Mr Yekatom's group, of which Cœur de Lion himself was part. The Yekatom Defence has pointed to no reason why, despite its assertions as to Cœur de Lion's higher or comparable authority *vis-à-vis* Mr Yekatom, their own elements would consistently testify to Cœur de Lion being the 'deputy'. This is regardless of the purported formality of the title 'deputy' or whether military and non-military members understood it differently. In both formal and informal sense, military or civilian, it conveys the same and unambiguous directional flow of authority.

⁷⁵⁸⁹ P-1839: T-170, p. 17, line 25 – p. 18, line 2. P-1839 used the word '*adjoint*' for Cœur de Lion (see P-1839: T-170-FRA, p. 17, lines 15-22).

⁷⁵⁹⁰ P-1786: T-197, p. 46, line 23 – p. 47, line 8.

⁷⁵⁹¹ P-1786: T-197, p. 60, lines 17-24.

⁷⁵⁹² Video, CAR-OTP-2065-3424, at 00:07:04-00:15:01; Translation, CAR-OTP-00002080, at 000003, lines 6-8, 15-16.

⁷⁵⁹³ See paragraphs 3355-3359 below.

⁷⁵⁹⁴ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 277.

3069. The Chamber has also considered P-1839's description of an event that took place after the incident that took place at Yamwara on and around 24 December 2013, that she thought was an example of crimes allegedly committed by Cœur de Lion without Mr Yekatom's knowledge or agreement.⁷⁵⁹⁵ P-1839 recalled that Cœur de Lion ordered two female elements to execute two persons at Yamwara who had been tied up in 'arbatacher' manner and interrogated.⁷⁵⁹⁶ P-1839 [REDACTED], but said that [REDACTED].⁷⁵⁹⁷ P-1339 appeared to describe a similar incident concerning 'two Muslims' but with 'Cynthia' and Bougie Noire as assailants and said that Cœur de Lion was implementing Mr Yekatom's instructions to kill.⁷⁵⁹⁸ In describing this incident, P-1339 said that the elements used the term 'peeling the papaya' and Cœur de Lion gave the orders;⁷⁵⁹⁹ and that Cœur de Lion would not have killed them if Mr Yekatom had refused because Mr Yekatom was the leader and he 'certainly gave the order for them to be put down'.⁷⁶⁰⁰

3070. As regards the Yekatom Defence's arguments concerning Cœur de Lion's 'repeated disagreements' with Mr Yekatom and the resulting friction between them, the Chamber considers that such a dynamic is premised on an expectation on Cœur de Lion to follow, or otherwise implement Mr Yekatom's orders. This argument does not demonstrate Cœur de Lion's functional or relational independence from Mr Yekatom.

3071. The Chamber considers that there is overwhelming evidence on the record that shows that Cœur de Lion was Mr Yekatom's deputy. In light of this and the evidence discussed above, the Chamber cannot conclude, or otherwise entertain a reasonable doubt about Cœur de

⁷⁵⁹⁵ P-1839: T-174, p. 18, lines 8-16. The Prosecution submits that this incident described by P-1839 involved the killing of two Muslims 'using the same *modus operandi*' as the one in the Yamwara Incident (see Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, para. 683 *referring to* P-1339 and P-1839).

⁷⁵⁹⁶ P-1839: T-170, p. 37, line 7 – p. 39, line 17.

⁷⁵⁹⁷ P-1839: T-170, p. 39, lines 18-21.

⁷⁵⁹⁸ P-1339: T-155, p. 27, lines 14-25.

⁷⁵⁹⁹ P-1339: T-159, p. 22, lines 4-16, p. 24, line 16 – p. 25, line 7.

⁷⁶⁰⁰ P-1339: T-159, p. 22, lines 17-19. See also p. 23, lines 18-23, p. 24, line 16 – p. 25, line 7. The Chamber notes that P-1339 said that Mr Yekatom was not there that day and that the person who gave the order for their throats to be slit was 'Ouandjio' (see P-1339: T-155, p. 27, lines 15-25). However, upon questioning by the Presiding Judge in relation to his previous statement, P-1339 said that Mr Yekatom was there when the victims were brought in and Cœur de Lion ('Ouandjio') executed the order given by Mr Yekatom (see P-1339, T-155, p. 35, line 24 – p. 36, line 12). When later confronted with these versions of the same event, P-1339 maintained that Mr Yekatom was at the door of the director's house with Cœur de Lion ('Ouandjio') (see P-1339: T-159, p. 21, line 15 – p. 22, line 5).

Lion's position to 'take independent decisions and issue separate orders' generally and, at the very least, in relation to the Yamwara Incident.⁷⁶⁰¹

3072. In assessing hierarchies at Yamwara between Mr Yekatom and other elements, the Chamber has also considered evidence concerning two other individuals in Mr Yekatom's group who have been implicated in the Yamwara Incident by the relevant witnesses and identified by name – Bojos and Alkanto.⁷⁶⁰²

3073. P-1839 said that Bojos, also spelt 'Bodjos' or 'Bodios', was a FACA soldier and a chief of section at Yamwara.⁷⁶⁰³

3074. Alkanto alias Mahamat Abdoulaye was a former PG and a member of Mr Yekatom's group during the Bangui Attack and at Yamwara.⁷⁶⁰⁴ P-1839 recognised him in a photograph.⁷⁶⁰⁵ P-1839 said that he was a specialist in launching rockets.⁷⁶⁰⁶ P-1839 testified about an element in Alkanto's section who was later his bodyguard;⁷⁶⁰⁷ P-1839 said that [REDACTED].⁷⁶⁰⁸ P-1839 also said that Alkanto gave this element a commando knife upon joining Mr Yekatom's group at Yamwara.⁷⁶⁰⁹ P-1839 said that Cœur de Lion was Alkanto's boss, they would meet from time to time at Yamwara to talk, and Alkanto had to accept what Cœur de Lion told him.⁷⁶¹⁰ P-1839 also said that Alkanto's chief was Mr Yekatom,⁷⁶¹¹ and, when asked, agreed that Mr Yekatom was 'afraid' of Alkanto because he was the one who really knew how to use the rockets, so some of the chiefs were afraid of him.⁷⁶¹²

3075. The Yekatom Defence submits that Alkanto was part of 'Ouandjio's unit' and Mr Yekatom had to 'seek permission' from him to assign specific tasks to an element within his

⁷⁶⁰¹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 285. *See also* paragraphs 3172 and 3275 below.

⁷⁶⁰² *See* footnotes 7797, 7746 below.

⁷⁶⁰³ P-1839: T-172, p. 9, lines 4-6.

⁷⁶⁰⁴ P-1786: T-198, p. 28, line 25 – p. 29, line 2; P-1839: T-174, p. 22, line 21 – p. 23, line 4.

⁷⁶⁰⁵ P-1839: T-172, p. 11, lines 8-22 *referring to* Photograph, CAR-OTP-2125-0742.

⁷⁶⁰⁶ P-1839: T-174, p. 22, line 21 – p. 23, line 4.

⁷⁶⁰⁷ [REDACTED]

⁷⁶⁰⁸ P-1839: T-174, p. 23, lines 5-14.

⁷⁶⁰⁹ P-1839: T-174, p. 24, lines 17-19.

⁷⁶¹⁰ P-1839: T-174, p. 23, line 24 – p. 24, line 16.

⁷⁶¹¹ P-1839: T-170, p. 34, lines 19-23.

⁷⁶¹² P-1839: T-174, p. 23, lines 15-19.

section.⁷⁶¹³ P-1839 confirmed that Cœur de Lion was Alkanto's 'boss' and 'had to accept' what he told Alkanto.⁷⁶¹⁴ P-1839 also testified that when an element in Alkanto's section started working with Mr Yekatom directly, he asked Alkanto's 'permission' as a 'superior' to assign this element as a treasurer, meaning that all the chiefs from PK9 to Sekia would hand over to this element the money that Mr Yekatom's group was collecting at the checkpoints manned by them.⁷⁶¹⁵

3076. P-1839's evidence is clear that this element in Alkanto's section was also subordinate to Alkanto,⁷⁶¹⁶ who regularly reported to Cœur de Lion.⁷⁶¹⁷ Both Cœur de Lion and Mr Yekatom questioned this element upon joining their group,⁷⁶¹⁸ who was then assigned to work with Alkanto.⁷⁶¹⁹

3077. The Chamber further notes P-1839's consistent and unequivocal use of the term Mr Yekatom's 'deputy' ('*adjoint*') for Cœur de Lion, confirming that Mr Yekatom was the 'commander' ('*le grand commandant*') and using the term the 'chief of the group'.⁷⁶²⁰ Additionally, P-1839, [REDACTED], said that Alkanto had told her that Mr Yekatom was 'the chief, that he was the chief of the Anti-Balaka'.⁷⁶²¹ On this basis, the Chamber has no doubt that P-1839 viewed Mr Yekatom to be superior in hierarchy to both Cœur de Lion and Alkanto.

3078. Having assessed the evidence concerning the relations between Alkanto, Cœur de Lion, and Mr Yekatom at Yamwara in December 2013 in its totality, the Chamber finds that Mr Yekatom had undisputed authority over Cœur de Lion, Alkanto, and Bojos among others.

⁷⁶¹³ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 287.

⁷⁶¹⁴ P-1839: T-174, p. 23, line 24 – p. 24, line 3.

⁷⁶¹⁵ P-1839: T-170, p. 48, lines 18-24; [REDACTED].

⁷⁶¹⁶ P-1839 said that this element was 'close' to Alkanto and later he gave her a firearm; this element was assigned to be his 'bodyguard'; and they would sleep in the same building at Yamwara (see P-1839: T-170, p. 20, lines 14-18, p. 21, line 25 – p. 22, line 6, p. 28, lines 14-22, p. 40, lines 2-9; T-172, p. 67, lines 6-24; T-173, p. 30, line 17 – p. 31, line 7; T-174, p. 24, lines 17-19).

⁷⁶¹⁷ P-1839: T-174, p. 23, line 24 – p. 24, line 16.

⁷⁶¹⁸ P-1839: T-170, p. 18, lines 8-11.

⁷⁶¹⁹ P-1839: T-170, p. 20, lines 14-18, p. 28, line 14 – p. 29, line 1.

⁷⁶²⁰ P-1839: T-170-FRA, p. 17, lines 15-22; T-170-ENG, p. 17, line 25 – p. 18, line 7, p. 22, lines 8-12. See also T-172-FRA, p. 6, lines 13-16; T-172-ENG, p. 6, lines 5-12.

⁷⁶²¹ P-1839: T-170, p. 17, lines 18-24.

3079. Having regard to the evidence concerning the setting up of Yamwara and the relevant hierarchies, the Chamber finds that at least as of 20 December 2013, Mr Yekatom's group had established a military base at Yamwara. Witnesses P-1839, Stéphane Chrisostome Dawili, P-1786 and P-1339 were present at Yamwara at least during the second half of December 2013.

At some point in mid-December 2013, Mr Yekatom's group at Yamwara was joined by elements from Bossangoa, referred to as the 'Gobere group'. Elements within the Gobere group at Yamwara followed the orders from their own chiefs, who would, in turn, wait for the orders of Mr Yekatom.

3080. The Chamber now turns to the presence of elements from Bossangoa at Yamwara. The Prosecution submits that members of the Anti-Balaka 'Gobere' group arrived at Yamwara while P-1839 was present and that evidence suggests that this group recognised Mr Yekatom as their chief.⁷⁶²² The Yekatom Defence acknowledges their presence at Yamwara but argues that these individuals were distinct from Mr Yekatom's group and did not integrate.⁷⁶²³

3081. As set out below, the Chamber finds that, at some point in mid-December 2013, Mr Yekatom's group at Yamwara was joined by elements from Bossangoa, referred to as the 'Gobere group'.

3082. Members of the so-called Gobere group at Yamwara have been identified in audio-visual evidence before the Chamber.⁷⁶²⁴ P-1839 said that after she had joined Mr Yekatom's group at Yamwara, a number of people from Bossangoa came to Yamwara and they would call them 'Gobere'.⁷⁶²⁵ Thierry Kpademona recalled that some of the elements who arrived at Yamwara were from Bossangoa and outside of Bangui.⁷⁶²⁶

⁷⁶²² [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 473.

⁷⁶²³ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 425. *See also* Yekatom Defence Closing Statements: T-308, p. 48, lines 13-21 submitting that the individuals from the Bossangoa group at Yamwara 'never joined the RFACPP'.

⁷⁶²⁴ Video, CAR-OTP-2012-0523, at 00:38:25-00:39:20. *See also* P-1786: T-197, p. 36, line 5 – p. 37, line 13 *referring to* Video, CAR-OTP-2005-0129, at 21:25; for the video-still at 00:21:38, P-1786 said that this location is Yamwara and that the individuals shown may be part of the people who came from Bossangoa. *See also* P-1786: T-197, p. 47, lines 10-13, p. 50, line 25 – p. 51, line-10; P-1647: T-195, p. 38, line 23 – p. 40, line 21). *See further* Video, CAR-OTP-2065-2903, at 00:00:02.

⁷⁶²⁵ P-1839: T-171, p. 71, line 23 – p. 72, line 5, p. 73, lines 5-24. *See also* P-1786: T-197, p. 37, line 23 – p. 38, line 3.

⁷⁶²⁶ P-1990 Statement, CAR-OTP-2124-0247-R02, at 0253, para. 26.

3083.P-1786 said that elements from Bossangoa were deployed within Yamwara.⁷⁶²⁷ P-1786 did not know whether it was Mr Yekatom who told them to come over, they just ended up there.⁷⁶²⁸ They called themselves ‘Gobere’,⁷⁶²⁹ had their own sections with their own chiefs who had nicknames like ‘Modibo’ and ‘Marabout’,⁷⁶³⁰ and ‘civilian Anti-Balaka’ who came from Bossangoa followed orders from their own chiefs, though their chiefs would wait for Mr Yekatom’s orders.⁷⁶³¹ P-1786 said that the Gobere group also stayed on the road that headed towards Kette Goussa,⁷⁶³² which is closer to the Anti-Balaka base at the airport at the time.⁷⁶³³

3084.Having regard to this, the Chamber finds that the elements within the Gobere group at Yamwara followed the orders from their own chiefs, who would, in turn, wait for the orders of Mr Yekatom, who was the supreme leader of all elements at Yamwara.

2. *Training at Yamwara*

At Yamwara, Mr Yekatom’s group, including civilian elements, received training of military nature. There was no training in international humanitarian law at Yamwara.

3085.The Prosecution submits that, through his commanders, Mr Yekatom organised military training for the new recruits at Yamwara which would take place in classrooms, and that Mr Yekatom ‘permitted outsiders to provide limited training to some of his elements’ on international humanitarian law, but not including the principle of distinction.⁷⁶³⁴

⁷⁶²⁷ P-1786: T-197, p. 37, lines 10-21.

⁷⁶²⁸ P-1786: T-197, p. 46, line 23 – p. 47, line 8.

⁷⁶²⁹ P-1786: T-197, p. 37, line 23 – p. 38, line 3.

⁷⁶³⁰ P-1786 Statement, CAR-OTP-2058-0200-R03, at 0205, para. 27. P-1786 recognised ‘the people from Bossangoa, the ones we call Modibo’ in Video, CAR-OTP-2065-2903, at 00:00:02 (see P-1786: T-197, p. 52, lines 10-15). In the video, an individual wearing a striped hat with red, black, and yellow colours identifies himself as a ‘the coordinator’ and is talking on the phone and mentions being in contact with Maxim Mokom and Hervé Ganazoui (see Video Transcript, CAR-OTP-00000810, at 000003, lines 9-30). P-1705 recognised the ‘coordinator’ in Video, CAR-OTP-2012-0523, at 00:36:00-00:37:20, as the one who was wearing a white cap with three stripes, yellow, red and black (see P-1705: T-211, p. 52, line 12 – p. 53, line 10). See also paragraphs 2473, 2475-2476 above.

⁷⁶³¹ P-1786 Statement, CAR-OTP-2058-0200-R03, at 0205, para. 27. The Chamber notes that P-1786 did not give consistent testimony on this account. P-1786 testified not knowing who gave instructions to Gobere or other places (see P-1786: T-197, p. 46, line 18 – p. 47, line 8).

⁷⁶³² P-1786: T-197, p. 38, lines 13-18.

⁷⁶³³ Map, CAR-OTP-2118-9146. The Chamber notes that P-0884 pointed to an Anti-Balaka base just behind the airport [REDACTED] (see P-0884: T-057, p. 90, line 11 – p. 92, line 17, p. 93, line 17 – p. 94, line 3).

⁷⁶³⁴ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, paras 486-487.

3086. The Yekatom Defence submits that ‘all FACA members had received training in International Humanitarian Law and its application in situations of armed conflict’, including on the principle of distinction, and ‘shared this training with non-military members that would have joined the movement’.⁷⁶³⁵ It argues that this training ‘adhered to the overall objectives of the movement – namely to restore peace and security in CAR and to prevent harm to the civilian population’ and that it was important to ‘train members so as not to commit the same acts of violence committed by the Seleka forces against the civilian population’.⁷⁶³⁶ It further argues that both Mr Yekatom and Cœur de Lion ‘stressed the principle of distinction’ and this was given effect in various ways.⁷⁶³⁷ The Yekatom Defence also submits that ‘[g]iven that the movement was composed of FACA personnel, it was not necessary to have a fixed instructor within each unit’ and that section chiefs were responsible for training the members that reported to them.⁷⁶³⁸ It also submits that while there was not a fixed schedule for trainings, they would have been held on a daily basis, ‘supplemented’ by trainings on international humanitarian law ‘provided by international entities’.⁷⁶³⁹

3087. As set out below, the evidence shows that elements within Mr Yekatom’s group, including civilian elements, were provided with trainings of military nature at Yamwara.

3088. At the outset, the Chamber notes the audio-visual evidence showing trainings at Yamwara. It depicts a varying number of individuals, some of whom are armed with machetes and sticks, appearing in a disciplined fashion in a classroom, receiving lessons from what appears to be an instructor.⁷⁶⁴⁰

3089. P-1786, [REDACTED] when asked whether military training was provided to the ‘youth and the soldiers that were in the group’, agreed that it was military training and said that

⁷⁶³⁵ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 299-300.

⁷⁶³⁶ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 300.

⁷⁶³⁷ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 300, 303.

⁷⁶³⁸ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 301.

⁷⁶³⁹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 302.

⁷⁶⁴⁰ Video, CAR-OTP-2012-0523, at 00:43:52-00:44:26; Transcript CAR-OTP-2118-5507, at 5581-82, lines 1115-34. P-1647 commented on this video excerpt and said that this reflected roughly the number of elements that he saw when he was at Yamwara and also recalled having attended gatherings like this there with the pastor addressing the elements and Mr Yekatom being present (see P-1647: T-194, p. 31, line 20 – p. 33, line 11). See also Videos, CAR-OTP-2065-3921, CAR-OTP-2065-5498, CAR-OTP-2065-5122, CAR-OTP-2065-3917, CAR-OTP-2065-3969, CAR-OTP-2065-3973, CAR-OTP-2065-3953.

because civilians had joined the group, they had to be trained so that they could acquire a ‘military spirit’ in order to ‘perform their job well’, involving how to manipulate weapons, what to do if the Seleka attacked, how they had to get close to the ground in the case of a Seleka attack, how to get up, move around, et cetera.⁷⁶⁴¹

3090. P-1786 said that Mr Yekatom instructed the section chiefs to provide military training to the elements in their section, but did not give training himself, saying that Mr Yekatom ‘was the top chief’, ‘[i]t wasn’t up to him to come and train the young people’; ‘[h]e simply provided instructions’.⁷⁶⁴² Stéphane Chrisostome Dawili said that all the leaders ‘if they felt comfortable’ would participate in training but there were no fixed instructors nor a fixed schedule.⁷⁶⁴³ The witness said that Mr Yekatom himself would not train; he could ‘designate others and the elements would do their work’.⁷⁶⁴⁴

3091. Stéphane Chrisostome Dawili, a company commander of about 120 people at Yamwara, said that he gave them ‘some military training’; and that there were some other military members in the group who would take over to train the non-military in the group in combat.⁷⁶⁴⁵ The witness stated that during the regular gatherings of the elements at Yamwara in which Mr Yekatom would address the soldiers, he would tell them that they were ‘tasked to protect the population not to harass them’.⁷⁶⁴⁶

⁷⁶⁴¹ P-1786: T-197, p. 69, lines 10-18, p. 70, line 20 – p. 71, line 5, p. 72, lines 1-8 *referring to* Video, CAR-OTP-2065-0951. P-1786 identified Mr Yekatom, Habib Beina, Rodrigue Momokama, and Cœur de Lion in the video but did not know the location and said that it showed a time before P-1786 had joined them. From an assessment of the video excerpt shown to the witness, it does not appear to be shot at Yamwara, as it shows no school buildings or other recognisable features; instead it shows several thatched huts in the middle of vegetation. In the video, Mr Yekatom is saying, *inter alia*, that it was from here that they left to go into action (‘[c]’est d’ici qu’on avait quitté pour aller à l’action’) and refer to training of the youth and the majority being from the military (‘on est en train de leur former, et majorité sont des militaires’) (see Transcript, CAR-OTP-2107-6928, at 6929, lines 6-8, lines 18-24).

⁷⁶⁴² P-1786: T-197, p. 29, line 2 – p. 30, line 6, p. 71, line 22 – p. 73, line 24 *referring to* Photograph, CAR-OTP-2095-5474 showing elements being trained in a classroom at Yamwara. Stéphane Chrisostome Dawili, commenting on this photograph, said that the persons receiving the training are standing at attention, waiting for instructions given by their leader and they are being taught by someone called Iblock who was a ‘caporal-chef’ at the time (see P-1647: T-194, p. 18, lines 8-24). Stéphane Chrisostome Dawili also recognised Iblock in another Photograph, CAR-OTP-2095-5262 (see P-1647, T-194, p. 19, lines 4-7).

⁷⁶⁴³ P-1647: T-194, p. 43, lines 11-16, p. 44, lines 12-13, p. 45, lines 9-15.

⁷⁶⁴⁴ P-1647: T-194, p. 43, lines 17-20.

⁷⁶⁴⁵ P-1647 Statement, CAR-OTP-2050-0654-R02, at 0658-59, para. 33.

⁷⁶⁴⁶ P-1647 Statement, CAR-OTP-2050-0654-R02, at 0659, para. 34.

3092. As regards training with weapons, the Chamber notes video footage of Cœur de Lion saying that they could not show them how to fire a weapon at Yamwara because it would scare the adjoining population into fleeing the village so they have to do it without showing them,⁷⁶⁴⁷ and Stéphane Chrisostome Dawili agreed that this was indeed the case at Yamwara; they neither trained with live ammunition nor with blanks.⁷⁶⁴⁸ The witness said that they would show the people how to disassemble and reassemble weapons.⁷⁶⁴⁹

3093. As regards the content of the training on targeting at Yamwara, P-1786 said that Mr Yekatom instructed the FACA to train the elements to fight the Seleka and not to target Muslim civilians and that Cœur de Lion and Habib Beina gave the same instruction.⁷⁶⁵⁰

3094. However, P-1786 relativised this when asked about whether they received training on what to do if they captured Seleka elements; he responded that most of the time, they would be unable to get their hands on Seleka elements, but when ‘the Anti-Balaka would get their hands on a Seleka element, that was certain death for them’.⁷⁶⁵¹ P-1786 was asked further about ‘certain death’ for the captured Seleka elements and said that this was not reserved to the elements at Yamwara under Mr Yekatom’s command – during the events, ‘if a Central African who was apprehended in an area under Muslim control was systematically killed’, ‘[t]he same was true for the Anti-Balaka in the Yamwara sector’ and ‘the Central Africans would chase out the Muslims that were present in their sectors and vice versa’.⁷⁶⁵² P-1786 also said that ever since he was part of Mr Yekatom’s group, he had not heard any military

⁷⁶⁴⁷ Video, CAR-OTP-2065-1015, at 00:00:18-00:02:40; Transcript, CAR-OTP-00000834, at 000002, lines 4-27. This video does not appear to have been shot inside the Yamwara compound as there are no school buildings that can be seen.

⁷⁶⁴⁸ P-1647: T-195, p. 21, lines 7-16.

⁷⁶⁴⁹ P-1647: T-194, p. 45, lines 9-15.

⁷⁶⁵⁰ P-1786: T-198, p. 39, lines 9-16. *See further* Video, CAR-OTP-2065-3220, at 00:00:46-00:03:20; Transcript, CAR-OTP-2127-3668, at 3670-71, lines 12-43, showing ‘Yagouzou’ instructing elements that pillaging boutiques, destroying houses, and killings were prohibited in the presence of Mr Yekatom (*see* P-1647: T-195, p. 38, line 23 – p. 40, line 18). *See* paragraph 2473 above, discussing this video in the context of elements from Bossangoa. The Chamber notes that P-1786 also said that the sections were scattered and each section was in their own space, receiving their own separate training, and he himself admitted not being able to be everywhere in such a way that he would have been aware of the content of the training for each section (*see* P-1786: T-197, p. 77, line 11 – p. 79, line 15 *referring to* Video, CAR-OTP-2065-3188 showing Max Maidanda, who, according to P-1786, was in-charge of giving training to civilians in his group and was part of the group at Yamwara). The video shows him talking about throwing tear gas at Muslims ‘to force them to get out and choke’ (*pour que ils puissent sortir et puis [...] étouffer*) and killing them ‘as soon as they’re out’ (*dès qu’ils sortent, on les tue*) (*see* Transcript, CAR-OTP-2107-1547, at 1548, lines 9-18).

⁷⁶⁵¹ P-1786: T-197, p. 73, lines 3-15.

⁷⁶⁵² P-1786: T-197, p. 75, line 3 – p. 76, line 1.

in this group talk about killing Muslim civilians.⁷⁶⁵³ P-1786 said that they told the elements at Yamwara ‘that once they had got hold of someone believed to be Muslim that they should call us and we will come and question them to see if they are Seleka or not’ and ‘forbid the elements from apprehending people in any old fashion’.⁷⁶⁵⁴

3095. The Chamber also recalls the video footage of Max Maidanda using words showing anti-Muslim sentiment and its conclusion on the Anti-Muslim sentiment prevalent in Mr Yekatom’s group.⁷⁶⁵⁵ Stéphane Chrisostome Dawili said that Max Maidanda was one of the leaders at Yamwara tasked with training elements but suggested that he was one of those elements who would smoke weed and who would ‘speak in their own way’.⁷⁶⁵⁶

3096. As regards training on international humanitarian law, it is not disputed by either the Prosecution or the Yekatom Defence that FACA members of Mr Yekatom’s group would have had such training prior to the events.⁷⁶⁵⁷

3097. As set out below, the Chamber finds that there was no training in international humanitarian law at Yamwara.

3098. The Chamber notes Stéphane Chrisostome Dawili’s evidence on this which stands in contrast to P-1786’s evidence discussed above regarding treatment of captured Seleka element. The witness said that they would provide ‘advice’ and train the elements at Yamwara on international humanitarian law and show the elements what to do on the battlefield ‘while respecting international humanitarian law’ and various other kinds of training tactics,⁷⁶⁵⁸ and that this was consistent with the training that he had himself received as a FACA member.⁷⁶⁵⁹

⁷⁶⁵³ P-1786: T-197, p. 75, line 3 – p. 76, line 1, p. 76, line 25 – p. 77, line 2. *Compare with* the Chamber’s conclusions on Cœur de Lion’s instructions for Saint Cyr’s mistreatment (*see* paragraph 3172 below).

⁷⁶⁵⁴ P-1786: T-197, p. 75, line 3 – p. 76, line 1.

⁷⁶⁵⁵ *See also* paragraphs 2450-2454 above.

⁷⁶⁵⁶ P-1647: T-194, p. 50, line 12 – p. 51, line 2; Video, CAR-OTP-2065-3172, at 00:00:00-00:01:35; Transcript, CAR-OTP-2118-5654, at 5656, lines 17-32 in which Max Maidanda is shown introducing himself and saying ‘[o]n veut pas voir les musulmans’; in the same video, a person, who P-1647 recognises as ‘Mboli’, says that they are ‘ready to slit the Muslims throat’ ([n]ous avons égorgé des musulmans’). Stéphane Chrisostome Dawili said that he was familiar with the video and that he knew the two soldiers that were talking in it and that one could see that they are people who smoke ‘dope’ and that a proper soldier would not say what he said (*see* P-1647: T-194, p. 46, line 4 – p. 48, line 21). The location in the video does not appear to be in Yamwara. *See also* footnotes 6182-6183 above.

⁷⁶⁵⁷ *See also* P-1786: T-197, p. 74, lines 1-10; P-1647: T-194, p. 44, line 23 – p. 45, line 8.

⁷⁶⁵⁸ P-1647: T-194, p. 43, lines 3-9.

⁷⁶⁵⁹ P-1647: T-194, p. 44, line 23 – p. 45, line 2.

Stéphane Chrisostome Dawili also recalled that ‘white’ ‘[p]eople from the outside’ provided trainings on international humanitarian law to elements at Yamwara.⁷⁶⁶⁰

3099. Furthermore, there is no other evidence suggesting that the purported trainings on international humanitarian law were provided to civilian elements at Yamwara. Stéphane Chrisostome Dawili, as a company commander and a FACA member said that he trained elements at Yamwara on international humanitarian law, agreeing that he instructed them not to target civilians and those not involved in combat.⁷⁶⁶¹ Whereas, P-1839, [REDACTED] element within the group, received some training of military nature, consisting of using weapons, and described the training as ‘intense’ and provided to both men and women.⁷⁶⁶² She said that the elements were trained to crawl and do push-ups and learned how to disassemble and reassemble firearms and how to use the weapon.⁷⁶⁶³

3100. P-1839 said that she did not know of any international humanitarian law training at Yamwara.⁷⁶⁶⁴ Furthermore, P-1839’s testimony in the context of the two incidents involving captured ‘Muslims’ demonstrates no respect for any norms of international humanitarian law.⁷⁶⁶⁵

3. *Yamwara Incident*

3101. The confirmed charges concern four men and three Muslim women being stopped at a checkpoint, after which they were taken to Yamwara by Anti-Balaka members and mistreated, resulting in the death of Saint Cyr Lapo N’Gomat (hereinafter: ‘Saint Cyr’) at the end of December 2013.

3102. The Chamber heard from all, except one, of the direct victims of the Yamwara Incident in court, namely P-1704, P-1705, P-1716, P-0967, and P-1811 (the ‘Five Witnesses’). Some

⁷⁶⁶⁰ P-1647 Statement, CAR-OTP-2050-0654-R02, at 0658-59, para. 33.

⁷⁶⁶¹ P-1647: T-194, p. 45, lines 16-22. *See also* P-1647: T-196, p. 20, lines 15-22 where P-1647, referring to Video, CAR-OTP-2065-1015, at 00:01:40-00:02:10; Transcript, CAR-OTP-00000834, at 000002, lines 4-20, agreed that Cœur de Lion gave instructions to fight ‘the enemy and not civilians’ and that Mr Yekatom never instructed elements to destroy houses.

⁷⁶⁶² P-1839: T-170, p. 24, line 13 – p. 25, line 11.

⁷⁶⁶³ P-1839: T-170, p. 24, line 13 – p. 25, line 11.

⁷⁶⁶⁴ P-1839: T-173, p. 34, line 19 – p. 35, line 22.

⁷⁶⁶⁵ *See* paragraph 3069 above, section IV.D.3 below.

were related to Saint Cyr by blood: [REDACTED]⁷⁶⁶⁶ and [REDACTED].⁷⁶⁶⁷ Others were related by marriage: [REDACTED].⁷⁶⁶⁸ [REDACTED].⁷⁶⁶⁹ [REDACTED].⁷⁶⁷⁰

3103. The Chamber introduced the prior recorded testimony of P-1654, Saint Cyr's father, pursuant to Rule 68(2)(c) of the Rules.⁷⁶⁷¹

3104. The Chamber also heard from an element of Mr Yekatom's group, P-1839, as further outlined below, who directly observed parts of the incident and [REDACTED] at Yamwara by several witnesses.⁷⁶⁷²

3105. The Yekatom Defence argues that the evidence provided by the Five Witnesses and P-1654 is contaminated by their close association with each other *i.e.* being 'interconnected and belong[ing] to a close-knit circle'.⁷⁶⁷³ In particular, the Yekatom Defence alleges two layers of contamination, through: (i) a letter written by P-1654 (the 'Letter') as the 'original source of contamination', which was read by P-1705 and P-0967 prior to their respective testimonies,⁷⁶⁷⁴ and (ii) contacts amongst the concerned witnesses, which led the witnesses 'to significantly alter their testimonies and add information they did not personally experience', 'with full knowledge that such collusion would have been prohibited'.⁷⁶⁷⁵ These arguments also concern a complaint by P-1654 to the CAR authorities regarding the Yamwara Incident (the 'Complaint').⁷⁶⁷⁶

⁷⁶⁶⁶ [REDACTED]

⁷⁶⁶⁷ [REDACTED]

⁷⁶⁶⁸ [REDACTED]

⁷⁶⁶⁹ [REDACTED]

⁷⁶⁷⁰ [REDACTED]

⁷⁶⁷¹ First Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies pursuant to Rule 68(2)(c) of the Rules, 12 July 2023, ICC-01/14-01/18-1975-Conf (public redacted version filed the same day, ICC-01/14-01/18-1975-Red) (the '[First Rule 68\(2\)\(c\) Decision](#)'), paras 47-58.

⁷⁶⁷² P-1839 described herself as '[REDACTED]' (see P-1839: T-170, p. 17, lines 3-14). For descriptions by other witnesses, see also P-1716: T-148, p. 25, lines 4-8; P-1811: T-114, p. 20, line 13 – p. 21, line 2; P-1704: T-128, p. 48, lines 17-22; P-0967: T-199, p. 45, lines 7-12. See also [REDACTED].

⁷⁶⁷³ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 435.

⁷⁶⁷⁴ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 436-437. This refers to Letter, CAR-OTP-2134-0141, which has not been recognised as submitted before the Chamber. See also Yekatom Defence Closing Statements: T-308, p. 46, lines 3-10.

⁷⁶⁷⁵ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 438-440. See also Yekatom Defence Closing Statements: T-308, p. 46, lines 3-10.

⁷⁶⁷⁶ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 438, n. 1482 referring to Complaint, CAR-OTP-2050-0737-R01. See also [First Rule 68\(2\)\(c\) Decision](#), ICC-01/14-01/18-1975-Red, paras 50, 58.

3106. The Chamber notes that all witnesses were eyewitnesses to all or parts of the Yamwara Incident and have coherently described their respective experiences. The Chamber found them generally reliable and credible.

3107. The Chamber considered the discrepancies within and among these testimonies concerning the Yamwara Incident which are discussed in detail below.⁷⁶⁷⁷ In this regard, the Chamber appreciates the time that has elapsed since the Yamwara Incident and its traumatic nature, and is of the view that a majority of these inconsistencies were either minor or did not concern facts material to the allegations. Therefore, they did not undermine the credibility of these witnesses generally. On the contrary, these inconsistencies, when assessed in their totality, suggested to the Chamber that the witnesses' accounts were genuine and not rehearsed, or otherwise agreed upon prior to their testimony before the Chamber, contrary to the Yekatom Defence allegations concerning contamination. In places, where these discrepancies did concern material factual allegations, these have been discussed in detail below.

3108. Having regard to this, the Chamber turns to the specific Yekatom Defence allegations concerning contamination of the evidence. First, the Yekatom Defence submits that both P-0967 and P-1705 read the Letter and that it influenced their evidence: while P-0967 modified her statement during the witness familiarisation process,⁷⁶⁷⁸ P-1705 changed his testimony to include Mr Yekatom's interactions with P-1654, which did not feature in his original statement.⁷⁶⁷⁹ Second, the Yekatom Defence submits that 'the Lapo Family Group witnesses were each aware of one another's involvement in these proceedings' and no efforts were undertaken to minimise witness contamination, as the witnesses had exchanges with each other about their potential testimony, altering their evidence.⁷⁶⁸⁰

⁷⁶⁷⁷ See paragraphs 3131-3296 below.

⁷⁶⁷⁸ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 436.

⁷⁶⁷⁹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 437.

⁷⁶⁸⁰ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 438-440.

3109. At the outset, the Chamber recalls that P-1654, P-1811, P-0967, P-1705 and P-1704 are indeed all relatives from the same family,⁷⁶⁸¹ and P-1716 was close to the Lapo N’Gomat family at the time of the events and afterwards.⁷⁶⁸²

3110. The Chamber also finds that these witnesses were in some contact with each other after the incident. P-1705 said that P-1704 lived with him in the family home for several months after the events,⁷⁶⁸³ and maintained ties with the Lapo N’Gomat family, admitting to talking with them about what they experienced and meeting P-1716.⁷⁶⁸⁴ P-1705 and P-1716 had friendly relations prior to the incident and remained in touch after it and would run into each other.⁷⁶⁸⁵ P-1811 confirmed that she was close to the Lapo N’Gomat family, and after 2013, she saw them⁷⁶⁸⁶ and P-0967 regularly.⁷⁶⁸⁷ P-0967 said that, because the events were painful, she did not see [REDACTED], [REDACTED], for several years afterwards but eventually met the Lapo N’Gomat family and had ‘a conversation as a family’;⁷⁶⁸⁸ and she also spoke with P-1705.⁷⁶⁸⁹

3111. Some of these witnesses, P-1704, P-1705, P-1716, and P-1654, also went together to meet with the Prosecution when they were interviewed; P-1704, P-1705 and P-1716 were each questioned in court about accompanying each other to meet with the Prosecution.⁷⁶⁹⁰

3112. For the reasons outlined below, the Chamber finds that the quality or veracity of the witnesses’ testimony was not compromised as a result of contacts between each other.

3113. First, as regards the Yekatom Defence’s submissions concerning the Letter, the Chamber notes that [REDACTED] transmitted the Letter to the Prosecution in June 2021 after P-

⁷⁶⁸¹ See paragraph 3102 above.

⁷⁶⁸² P-1716: T-148, p. 8, line 25 – p. 9, line 8, p. 10, lines 6-19.

⁷⁶⁸³ P-1705: T-212, p. 13, lines 6-8.

⁷⁶⁸⁴ P-1704: T-128, p. 57, lines 4-23, p. 67, line 18 – p. 68, line 2.

⁷⁶⁸⁵ P-1705: T-212, p. 8, lines 1-17, p. 48, lines 12-16.

⁷⁶⁸⁶ P-1811: T-115, p. 8, lines 1-3.

⁷⁶⁸⁷ P-1811: T-115, p. 24, line 25 – p. 25, line 9.

⁷⁶⁸⁸ P-0967: T-200, p. 20, line 23 – p. 21, line 7.

⁷⁶⁸⁹ See for example P-0967: T-200, p. 37, lines 1-9.

⁷⁶⁹⁰ P-1704: T-128, p. 56, line 9 – p. 57, line 3, p. 68, line 3 – p. 69, line 3; P-1705: T-212, p. 56, line 6 – p. 57, line 2; P-1716: T-148, p. 10, lines 21-25, p. 35, line 21 – p. 38, line 20.

1654's death.⁷⁶⁹¹ P-1705 explained that P-1654 had written it as an '*aide-memoire*' but unfortunately, his health deteriorated, and he passed away.⁷⁶⁹²

3114. While both P-1705 and P-0967 had read it prior to their testimony before the Court,⁷⁶⁹³ the Chamber finds that reading the Letter was normal human behaviour and this, in and of itself, did not mean that their testimonies were affected by it.

3115. The Chamber finds that both witnesses were open about having read the Letter. P-1705 explained the circumstances in which he read the Letter [REDACTED].⁷⁶⁹⁴ However, from P-1705's account of P-1654's visit to Yamwara, it is clear that he was not an eyewitness to the exchange between P-1654 and Mr Yekatom when they met and would not have heard what was said.⁷⁶⁹⁵ The Chamber has borne this in mind when assessing the facts surrounding this meeting, in light of the Yekatom Defence's submissions.⁷⁶⁹⁶

3116. As regards P-0967, the Chamber finds that she was particularly forthcoming about certain details that she only learnt after reading the Letter.⁷⁶⁹⁷ For example, P-0967 said that she had corrected her statement to include Bojos' name as being present at the checkpoint, as she had read this name in the Letter.⁷⁶⁹⁸ P-0967 said that she initially thought that P-1716 had been released before the group was taken to Yamwara as she did not see him there, but then read that he had been mentioned in the Letter.⁷⁶⁹⁹ P-0967 was asked if she discussed the content of the document drafted by P-1654 with P-1705 and she responded that she never discussed the content of the document; it was [REDACTED] who gave her the document in an envelope.⁷⁷⁰⁰

3117. The Chamber has taken this into account when assessing P-1705's and P-0967's testimony together with that of P-1654.

⁷⁶⁹¹ [REDACTED]

⁷⁶⁹² P-1705: T-211, p. 55, line 18 – p. 56, line 4.

⁷⁶⁹³ P-1705: T-212, p. 58, lines 2-9; P-0967: T-200, p. 29, line 4 – p. 30, line 2; p. 35, lines 11-17.

⁷⁶⁹⁴ P-1705: T-212, p. 58, lines 2-9.

⁷⁶⁹⁵ P-1705: T-211, p. 43, line 23 – p. 44, line 5.

⁷⁶⁹⁶ See paragraphs 3231-3243 below.

⁷⁶⁹⁷ P-0967: T-200, p. 29, line 4 – p. 36, line 1.

⁷⁶⁹⁸ P-0967: T-200, p. 30, line 14 – p. 31, line 5, p. 35, lines 18-23.

⁷⁶⁹⁹ P-0967: T-200, p. 29, line 4 – p. 30, line 2.

⁷⁷⁰⁰ P-0967: T-200, p. 63, line 23 – p. 64, line 3.

3118. Second, as regards the Yekatom Defence's submissions concerning the 'Lapo Family Group witnesses' being aware of one another's involvement in these proceedings, the Chamber notes that P-0967 confirmed that [REDACTED] ([REDACTED]) knew that she would be testifying before the Court and that she had to know because the idea was to come and testify concerning her son; it was all for her son that she agreed to come to testify.⁷⁷⁰¹ P-1704 denied speaking with P-1654 or his wife, P-1705, nor P-1705's sister about coming before the court to give his testimony.⁷⁷⁰² There is nothing else in the evidence to show that the other witnesses shared the fact of and the details of their testimony with each other. Even if they did, having assessed their evidence in totality, the Chamber finds that this did not appear to have affected their evidence in this instance.

3119. Further, as regards their contacts with each other generally, the Chamber finds that the Five Witnesses were questioned in detail about this by the Yekatom Defence and appeared generally forthcoming about their frequency and nature. The Chamber indeed considered such contacts to be normal given that most of them are related to the same family or were close friends. During these contacts, the witnesses indeed discussed the details of the Yamwara Incident with each other in varying degrees after the fact. However, as set out below, an assessment of their testimony about these contacts did not reveal anything of concern to the Chamber.

3120. P-0967 was able to specifically point to aspects of the incident that she discussed with the others. P-0967 said that she learnt P-1704's and P-1716's name years after the Yamwara Incident,⁷⁷⁰³ and spoke to P-1705 about P-1704's Facebook username⁷⁷⁰⁴ and the name of Yamwara.⁷⁷⁰⁵ P-0967 denied seeing P-1716 and P-1704 in person after the Yamwara Incident.⁷⁷⁰⁶

3121. After the Yamwara Incident, P-1704 maintained some ties with the Lapo N'Gomat family and talked with them about what they experienced. P-1704 said that [REDACTED], he

⁷⁷⁰¹ P-0967: T-200, p. 36, lines 22-25.

⁷⁷⁰² P-1704: T-128, p. 67, lines 8-16.

⁷⁷⁰³ P-0967: T-200, p. 20, line 23 – p. 21, line 7; P-0967: T-199, p. 36, line 22 – p. 37, line 10.

⁷⁷⁰⁴ P-0967: T-200, p. 37, lines 1-9.

⁷⁷⁰⁵ P-0967: T-200, p. 62, lines 10-17.

⁷⁷⁰⁶ P-0967: T-200, p. 39, lines 5-8.

maintained ties with the Lapo N’Gomat family, they met frequently, talked about what they experienced, as it was not something they could forget about, but he did not talk with P-1811 about the incident.⁷⁷⁰⁷ Before 2017, he saw P-1654, P-1705 and possibly P-0967 and they had an opportunity to recall that time and to talk about it together.⁷⁷⁰⁸

3122. P-1705 and P-1716 expressed some inability or unwillingness to talk about the Yamwara Incident after the fact given the difficult nature of their experiences.⁷⁷⁰⁹ P-1716 said that he was no longer close with P-1705 and could not remember the last time that he saw P-1705 or the Lapo N’Gomat family after their interview with the Prosecution.⁷⁷¹⁰ P-1705 said that he and P-1704 also did not have a chance to meet with P-1716 together and discuss the Yamwara Incident with each other.⁷⁷¹¹ P-1716 could not remember the last time he would have been in contact, through any form of communication, with P-1705, P-1654 or P-1704.⁷⁷¹²

3123. P-1811 confirmed that she remained close to the Lapo N’Gomat family and they continue to see one another,⁷⁷¹³ however, denied having spoken to P-1654 about his visit to Yamwara,⁷⁷¹⁴ or having had the opportunity to discuss the Yamwara Incident with other witnesses.⁷⁷¹⁵

3124. Given the openness of the witnesses when answering the questions about their contacts with each other and having considered their respective answers, the Chamber finds the nature of these contacts genuine, understandable, and even reasonable. The Chamber is not persuaded that these contacts, in themselves, meant that the witnesses contaminated each other’s accounts.

3125. In particular, as regards the witnesses’ contacts in the context of their interviews with the Prosecution, the Chamber is not convinced that them meeting the Prosecution within the

⁷⁷⁰⁷ P-1704: T-128, p. 57, lines 4-23.

⁷⁷⁰⁸ P-1704: T-128, p. 57, lines 4-23.

⁷⁷⁰⁹ P-1705: T-212, p. 48, line 12 – p. 49, line 1.

⁷⁷¹⁰ P-1716: T-148, p. 11, lines 7 – p. 12, line 23, p. 39, lines 1-7.

⁷⁷¹¹ P-1705: T-212, p. 13, lines 9-20. *See also* P-0967: T-200, p. 37, lines 10-15.

⁷⁷¹² P-1716: T-148, p. 43, lines 5-25.

⁷⁷¹³ P-1811: T-115, p. 8, lines 1-3.

⁷⁷¹⁴ P-1811: T-115, p. 23, lines 17-20.

⁷⁷¹⁵ P-1811: T-115, p. 25, line 10 – p. 26, line 18.

same timeframe caused contamination, as such. The witnesses were able to explain the circumstances of their meeting with the Prosecution, including how some accompanied each other for the interview. While P-1811 said that P-0967 called her about giving a statement to the Prosecution, P-0967, in turn, did not recall who had called her to be interviewed by the Prosecution, while understanding that P-1654 had approached the investigators.⁷⁷¹⁶ P-0967 stated having heard some information from the other witnesses,⁷⁷¹⁷ but was open about the source of her knowledge. The Chamber has taken it into account when evaluating her evidence. Further, P-1704, P-1705, and P-1716 confirmed that they were interviewed individually by the Prosecution.⁷⁷¹⁸ Overall, the Chamber finds that there is nothing in the respective witnesses' testimonies which suggests that they would have agreed with any of the other witnesses on certain facts in advance of their respective interviews.

3126. Similarly, social media contacts between P-1704, P-1705 and P-1716, as brought out during their testimony before the court, did not reveal that these contacts had any bearing on their testimony about the Yamwara Incident before the Chamber. In this regard, the Chamber notes that P-1705 could recognise P-1716's Facebook profile;⁷⁷¹⁹ P-1705 and P-1704 exchanged comments and likes on Facebook.⁷⁷²⁰ P-1705 could recognise P-1704's Facebook page and appeared in one of P-1704's photos.⁷⁷²¹ P-1704's Facebook profile page shows that he is friends with P-1705 on Facebook.⁷⁷²²

3127. Third, and more importantly, given that the witnesses had a shared traumatic experience and spoke about it with each other afterwards, it is inevitable and indeed natural that their

⁷⁷¹⁶ P-1811: T-115, p. 26, line 22 – p. 27, line 23; P-0967: T-200, p. 61, lines 9-17.

⁷⁷¹⁷ See for example P-0967: T-200, p. 62, lines 10-17.

⁷⁷¹⁸ P-1704: T-128, p. 56, line 18 – p. 57, line 3; P-1705: T-212, p. 56, line 17 – p. 57, line 2. P-1716 said that he held back on talking with the Prosecution investigators at that point in time (see P-1716: T-148, p. 36, lines 8-16). According to P-1704, P-1716 was 'scared' and refused to have another meeting, he did not have any support and did not want to talk about the Anti-Balaka attack (see P-1704: T-128, p. 68, lines 4-15). The Chamber notes that P-1704, P-1705, and P-1716 were indeed interviewed on different days. P-1716's statement mentions that he was interviewed on 29 April 2017 and between 29 April 2017 and 5 May 2017 (see P-1716 Statement, CAR-OTP-2053-0062-R05, at 0062). Whereas P-1705, asked about his meeting with the Prosecution investigators on 30 April 2017 and 1 May 2017, stated that he went there by himself and not with [REDACTED] (see P-1705: T-212, p. 4, line 15-17, p. 54, line 23 – p. 55, line 2). P-1704 was interviewed on 10-12 June 2017 (see P-1704 Statement, CAR-OTP-2054-1136-R05, at 1136).

⁷⁷¹⁹ P-1705: T-212, p. 49, lines 2-22.

⁷⁷²⁰ P-1705: T-212, p. 49, line 25 – p. 50, line 15.

⁷⁷²¹ P-1705: T-212, p. 50, line 17 – p. 51, line 8 referring to Facebook screenshots, CAR-D29-0016-0117 and CAR-D29-0016-0119.

⁷⁷²² Facebook screenshot, CAR-D29-0016-0117.

respective versions will have been affected by the collective memory. The Chamber has taken these factors into account when assessing their evidence holistically, in light of the discrepancies that emerged during their testimonies.

3128. The Chamber also notes that the witnesses were able to point out when they were speaking from personal experience and when they had received information from another witness. It was telling that the witnesses acknowledged the fact that they had received information from each other, and specifically explained when and from whom the information was received.⁷⁷²³ This permitted the Chamber to assess the witnesses' respective testimony in light of their contacts with other witnesses when reaching conclusions.

3129. Lastly in this respect, the Chamber has had due regard to the passage of time in assessing the evidence concerning traumatic events. The Five Witnesses were testifying approximately ten years after the events, and it is understandable that they did not recall all the details with precision.

3130. Notwithstanding these general observations, when the Yekatom Defence's arguments concern specific factual allegations, the Chamber has assessed them below.

On 24 December 2013, following the death of a member of the Lapo N'Gomat family, Saint Cyr's older brother, three women related to the family were to be escorted back to their home before dark because of the security situation in Bangui at the time. The four men, namely P-1704, P-1705, P-1716 and Saint Cyr, who were relatives and friends of the Lapo N'Gomat family, escorted the three women, namely, P-0967, P-1811 and another (together, seven persons), to the main road to find them a taxi.

3131. The Chamber notes that Saint Cyr's [REDACTED] elder brother, Charlemagne Lapo N'Gomat had passed away at the Castor hospital on the early morning of 24 December

⁷⁷²³ See e.g. P-1811 Statement, CAR-OTP-2058-0003-R05, at 0009, para. 36 stating that P-1704 told her at the M'Poko site that the Anti-Balaka found Saint Cyr's FACA identity card; P-0967: T-199, p. 50, lines 6-17 where P-0967 stated that P-1704 spoke to her that both ears of Saint Cyr had been cut off; P-1705: T-212, p. 26, lines 14-18 where P-1705 said that P-1654 told him about the Lapo family being exterminated if the base would be attacked and P-1705 denying having heard this personally; P-0967: T-200, p. 29, line 4 – p. 30, line 2 where P-0967 said that after reading a document from P-1654, she did not understand how P-1716 was at the base since she saw him sent away at the checkpoint and because she did not see him at the base; P-0967: T-200, p. 35, lines 18-23 where she said that she read the document drafted by P-1654 and made modifications to her statement.

2013.⁷⁷²⁴ A group of family and friends, including the Five Witnesses, had gathered at the hospital and decided to bring his body to the Lapo N’Gomat family house in *Cité de la Paix*, a neighbourhood next to Boeing, for the funeral.⁷⁷²⁵ P-1704, P-1705 and P-1716 were either residents or otherwise familiar with the neighbourhood around Yamwara and generally aware of the security situation at the time,⁷⁷²⁶ and were able to explain well their journey from the hospital to the Lapo N’Gomat house.

3132. The Five Witnesses described travelling together in an ambulance from the hospital,⁷⁷²⁷ through PK5 to Boeing, and during this trip, they were stopped, at least once,⁷⁷²⁸ at a post close to the Lapo N’Gomat family house in *Cité de la Paix*.⁷⁷²⁹ Some witnesses remembered that those who stopped the ambulance said that they were checking vehicles for Seleka

⁷⁷²⁴ P-1705: T-211, p. 13, lines 9-15; P-1716 Statement, CAR-OTP-2053-0062-R05, at 0066, para. 22; P-1716: T-148, p. 4, line 5 – p. 5, line 9; P-1704 Statement, CAR-OTP-2054-1136-R05, at 1140, para. 21; P-0967: T-199, p. 27, lines 13-16, p. 28, lines 7-13.

⁷⁷²⁵ P-0967: T-199, p. 30, line 20 – p. 33, line 18; T-200, p. 62, line 18 – p. 63, line 9; P-1705: T-211, p. 9, lines 20-24, p. 13, lines 21-23; T-212, p. 8, lines 18-23; P-1704 Statement, CAR-OTP-2054-1136-R05, at 1140, para. 23; P-1716: T-148, p. 9, lines 13-21.

⁷⁷²⁶ [REDACTED]

⁷⁷²⁷ The Chamber notes the slight differences in how the Five Witnesses described this vehicle. P-1705 described the vehicle as a BG-80, a Hilux Toyota that they got in at Castor Hospital and called it a Castor ambulance. P-0967 did not speak of a brand but said that it bore the sign ‘ambulance de Boali’ and they took it at Castor Hospital; and that it was not a Red Cross vehicle. P-1716, on the other hand, thought that it was a Red Cross ambulance (see P-1705: T-212, p. 14, lines 7-20 compared with P-0967: T-199, p. 29, line 15 – p. 33, line 18; P-1716 Statement, CAR-OTP-2053-0062-R05, at 0066, para. 23). Other witnesses generally referred to it as an ambulance without specifying the make or the brand (see P-1704: T-128, p. 31, lines 12-21; P-1704 Statement, CAR-OTP-2054-1136-R05, at 1140, para. 23; P-1811 Statement, CAR-OTP-2058-0003-R05, at 0006, para. 19). Given the time that has passed since the incident, the Chamber finds that the witnesses’ recollection, or lack thereof, of the vehicle in question has no bearing on their credibility generally about this aspect of their evidence.

⁷⁷²⁸ P-1811: T-115, p. 5, line 20 – p. 6, line 2, p. 7, lines 7-13; P-1716: T-148, p. 14, lines 9-15; P-1704: T-128, p. 31, line 12 – p. 32, line 2; P-1716: T-148, p. 15, lines 6-23, p. 18, line 25 – p. 19, line 7; P-1811 Statement, CAR-OTP-2058-0003-R05, at 0006, paras 18-22; P-1716 Statement, CAR-OTP-2053-0062-R05, at 0066, paras 22-23; P-1704 Statement, CAR-OTP-2054-1136-R05, at 1140, para. 23. The Chamber notes that some witnesses testified about being stopped at Seleka checkpoints when passing through PK5 to Boeing. However, P-1705 denied going through any Seleka roadblocks in PK5 but was clear in stating that they were stopped at ‘Avicom’, which is close to Yamwara (see P-1705: T-212, p. 15, lines 15-19). P-1811 also denied that they went through Seleka checkpoints (see P-1811: T-115, p. 10, line 17 – p. 11, line 3). The Chamber also notes that there appears to be a discrepancy between the accounts on where and how many times the vehicle had to stop at checkpoints along the way. However, the Chamber considers that these details are not material to the factual allegations concerning the Yamwara Incident, neither is the number of times the vehicle was stopped *before* it arrived in Boeing. The Chamber has also considered that P-0967 seemed to think that no one stopped them along the way and also did not appear to remember well who was sitting in the vehicle. However, the Chamber notes that she was sitting behind in the ambulance and said that it was very difficult to see what was happening outside (see P-0967: T-200, p. 25, lines 8-14, p. 30, lines 2-19). Further, given the time that has passed and P-0967’s general coherence and detailed description of the subsequent events, the Chamber considers her account on this aspect not materially discrepant from those of others.

⁷⁷²⁹ P-1705: T-211, p. 13, line 9 – p. 14, line 6; T-212, p. 15, lines 15-19; P-1704: T-128, p. 32, lines 14-25; P-1811 Statement, CAR-OTP-2058-0003-R05, at 0006, para. 20.

elements and weapons.⁷⁷³⁰ After they searched it and saw the body of the deceased, the ambulance was allowed to carry on.⁷⁷³¹ When they arrived at the Lapo N’Gomat house, the dead body was taken out and the family continued preparing for the funeral.⁷⁷³²

3133. With the funeral ceremony expected to be held later the same day,⁷⁷³³ [REDACTED], who was the [REDACTED] of Colonel Bertrand Mamour (hereinafter: ‘Mamour’)⁷⁷³⁴ and whom P-1705 considered as ‘[REDACTED]’,⁷⁷³⁵ had accompanied the Five Witnesses in the ambulance, and needed to go back home [REDACTED].⁷⁷³⁶ P-0967 and P-1811 also decided to return to their houses.⁷⁷³⁷

3134. The evidence shows that, because of the security situation at the time in Bangui, it was decided that these three women, namely, P-0967, P-1811, and [REDACTED], would be escorted together back to their homes before dark.⁷⁷³⁸ The four men, P-1704, P-1705, P-1716 and Saint Cyr, were to accompany them to the main road to find them a taxi as the women were unfamiliar with the area.⁷⁷³⁹

⁷⁷³⁰ P-0967: T-199, p. 30, line 20 – p. 33, line 18; P-1704: T-128, p. 32, lines 14-25; P-1811 Statement, CAR-OTP-2058-0003-R05, at 0006, para. 20.

⁷⁷³¹ P-1811 Statement, CAR-OTP-2058-0003-R05, at 0006, para. 20; P-1705: T-211, p. 13, line 9 – p. 14, line 12; T-212, p. 15, lines 2-10; P-1704: T-128, p. 32, lines 14-25; P-1716 Statement, CAR-OTP-2053-0062-R05, at 0066, para. 23; P-0967: T-199, p. 30, line 20 – p. 31, line 24.

⁷⁷³² P-0967: T-199, p. 30, line 20 – p. 33, line 18. P-1811 Statement, CAR-OTP-2058-0003-R05, at 0006-07, para. 22. The Chamber notes that P-0967 appeared to think that the vehicle was not stopped along the way but was searched only after the dead body had been taken out and brought inside the Lapo N’Gomat’s house (see P-0967: T-200, p. 23, line 20 – p. 24, line 8). In the view of the Chamber, this discrepancy is not material and does not discredit her subsequent account.

⁷⁷³³ P-1654 Statement, CAR-OTP-2053-0112-R04, at 0115, paras 24-25; P-1704: T-128, p. 34, lines 12-21; P-0967: T-199, p. 30, line 20 – p. 33, line 18.

⁷⁷³⁴ P-0967: T-199, p. 28, lines 23-24; T-200, p. 18, lines 12-14.

⁷⁷³⁵ P-1705: T-211, p. 19, line 20 – p. 20, line 2.

⁷⁷³⁶ P-0967: T-199, p. 30, line 20 – p. 33, line 18; P-1704: T-128, p. 34, lines 12-21; P-1704 Statement, CAR-OTP-2054-1136-R05, at 1140-41, para. 25.

⁷⁷³⁷ P-0967: T-199, p. 30, line 20 – p. 33, line 18; P-1811 Statement, CAR-OTP-2058-0003-R05, at 0006-07, para. 22.

⁷⁷³⁸ P-1704 Statement, CAR-OTP-2054-1136-R05, at 1140-41, para. 25; P-1716 Statement, CAR-OTP-2053-0062-R05, at 0066, para. 25; P-1705: T-211, p. 13, line 9 – p. 14, line 20. See also P-1654 Statement, CAR-OTP-2053-0112-R04, at 0115, para. 25.

⁷⁷³⁹ P-1654 Statement, CAR-OTP-2053-0112-R04, at 0115, para. 25; P-0967: T-199, p. 30, line 20 – p. 33, line 18; P-1704: T-128, p. 34, lines 12-21; P-1811 Statement, CAR-OTP-2058-0003-R05, at 0006-07, paras 22-23; P-1811: T-114, p. 13, line 13 – p. 14, line 14; P-1716 Statement, CAR-OTP-2053-0062-R05, at 0066, para. 25; P-1716: T-148, p. 17, line 22 – p. 18, line 15; P-1705: T-211, p. 13, line 9 – p. 14, line 20. See also Document, CAR-D29-0002-012, at 0124 indicating that on 24 December 2013, sunset was at 17:41 and this gives an approximate time when the day would have turned ‘dark’. Some witnesses also describe a person called ‘Willy’ or ‘Wilfried’, a friend of the deceased, who was present with the group during this time (see P-1705: T-211, p. 19, lines 5-18; T-212, p. 16, line 19 – p. 18,

3135. The Five Witnesses and [REDACTED] (collectively, the ‘six persons’), together with Saint Cyr, left the Lapo N’Gomat house somewhere between 13:00 and 16:00.⁷⁷⁴⁰

Elements from Mr Yekatom’s group apprehended these seven persons at a checkpoint led by Alkanto close to the Lapo N’Gomat family house and to Yamwara. Alkanto pointed to the women as belonging to the family of Mamour and Michel Djotodia in the presence of the elements in his group. Alkanto’s identification of the women being related to Djotodia and Mamour as well as being Muslims, combined with Alkanto’s negative feelings centred around a desire for revenge against the women, predisposed Alkanto’s group to perceive the seven persons as ‘Muslims’.

3136. The Chamber notes that, soon after, on the way to the main road, around the same location where the ambulance was checked earlier in the day and close to a hut selling coffee, the seven persons were stopped by what they described as armed ‘Anti-Balaka’.⁷⁷⁴¹ Some of the witnesses recalled that these elements were numerous⁷⁷⁴² and recognisable by their *gris-gris*, clothing, and arms.⁷⁷⁴³ P-1716 said that the group themselves stated that they were ‘Anti-Balaka’ and that he immediately knew that they were ‘Anti-Balaka’ because, at the time,

line 3; P-1716 Statement, CAR-OTP-2053-0062-R05, at 0066, para. 25; P-1704 Statement, CAR-OTP-2054-1136-R05, at 1141, para. 28; P-1704 Corrections, CAR-OTP-2136-0486, at 0493, para. 28). He appears to have left the group later on and was not brought to Yamwara with them (see footnote 7778 below).

⁷⁷⁴⁰ P-1811: T-115, p. 11, lines 8-13; P-1704 Statement, CAR-OTP-2054-1136-R05, at 1141, para. 26; P-1704: T-128, p. 34, line 22 – p. 35, line 1; P-1654 Statement, CAR-OTP-2053-0112-R04, at 0115, para. 25. See also P-0967: T-199, p. 44, lines 5-11.

⁷⁷⁴¹ The Chamber notes that it is unclear from the evidence whether this was an already established roadblock and/or barricade at the time, however, the Five Witnesses were consistent in their description of the individuals that stopped them and it conforms to the description of the Anti-Balaka provided by other witnesses in this case, particularly the use of *gris-gris* and being clothed in part-civilian and part-military attire. The witnesses were also consistent on the approximate location of where they were stopped. Some of them recognised this location as the same as where the ambulance was stopped earlier that day, near ‘Avicom’ and about 300-400 metres from the Lapo N’Gomat family house (see P-1704: T-128, p. 10, line 11 – p. 12, line 8, p. 35, lines 17-22; P-1704 Statement, CAR-OTP-2054-1136-R05, at 1141, para. 26; P-1705: T-212, p. 14, line 22 – p. 15, line 19, p. 16, lines 6-9, p. 18, line 9 – p. 19, line 3, p. 22, line 24 – p. 23, line 8; P-1716: T-148, p. 18, lines 16-24; P-1716 Statement, CAR-OTP-2053-0062-R05, at 0066-67, para. 26; P-1811: T-114, p. 14, lines 5-14, p. 15, lines 18-22; P-1811: T-115, p. 8, line 14 – p. 9, line 22; P-1811 Statement, CAR-OTP-2058-0003-R05, at 0007, para. 23). This location appears to correspond to the hut and the intersection close to Yamwara that appears in the Photo, CAR-OTP-2126-0775. P-1990, a former school director at Yamwara, agreed that the road in front of the small red kiosk in this photo is the road that goes down and meets with the Cattin-M’Poko-Bac road; he said that this is the shop where the drinks are sold and to the right-hand side, this road comes out in Cattin (see P-1990: T-237, p. 50, lines 1-23).

⁷⁷⁴² P-1704 said that there were about 50 ‘Anti-Balaka’ members (see P-1704 Statement, CAR-OTP-2054-1136-R05, at 1141, para. 26; P-1704: T-128, p. 35, lines 2-11). P-1705 said that they were in great number, about a ‘hundred’ (see P-1705: T-211, p. 20, line 23 – p. 21, line 11). P-1716 did not know the number, but stated the group was surrounded by a large number (see P-1716 Statement, CAR-OTP-2053-0062-R05, at 0066-67, para. 26; P-1716: T-148, p. 22, lines 15-23).

⁷⁷⁴³ P-1811 Statement, CAR-OTP-2058-0003-R05, at 0006-07, paras 20, 23; P-1811: T-114, p. 14, line 15 – p. 15, line 8; P-1705: T-211, p. 14, line 20 – p. 15, line 2, p. 18, line 18 – p. 19, line 4; P-1716 Statement, CAR-OTP-2053-0062-R05, at 0066-67, para. 26; P-1716: T-147, p. 7, lines 7-23; P-0967: T-199, p. 33, line 19 – p. 36, line 16; P-1704: T-128, p. 10, line 24 – p. 11, line 8.

they were the only ones who would carry arms in that particular way and weapons of that type.⁷⁷⁴⁴ P-1704 said that there were also civilians around, who were people from the neighbourhood, gathered to see what was going on.⁷⁷⁴⁵

3137. The evidence shows that the apparent chief of these elements at the checkpoint, Alkanto,⁷⁷⁴⁶ who was in charge of the checkpoint there,⁷⁷⁴⁷ recognised P-1811 as being related to Mamour,⁷⁷⁴⁸ the Minister of Defence during the Seleka regime, and stopped the group.⁷⁷⁴⁹

3138. The Yekatom Defence does not dispute that Alkanto, having recognised P-1811, stopped the seven persons at a checkpoint near Yamwara. However, it argues that it was P-1811's presence, P-0967 and P-1811's 'ties to Djotodia', together with a group of 'unrecognisable individuals from outside the neighbourhood' that 'aroused reasonable suspicion' amongst Alkanto's elements,⁷⁷⁵⁰ and not because the group was identifiable as Muslim.⁷⁷⁵¹

⁷⁷⁴⁴ P-1716: T-147, p. 7, lines 7-23.

⁷⁷⁴⁵ P-1704: T-128, p. 35, lines 2-11.

⁷⁷⁴⁶ The Chamber notes that some witnesses at the time did not seem to know Alkanto's name. However, when read together with P-1839's testimony, the Chamber finds that the person they were referring to as the 'leader' of this group at this post is a reference to Alkanto. P-0967 and P-1811 used the words 'leader' and 'chief' whereas P-1705 used the term 'in charge of the roadblock' (P-0967: T-199, p. 33, line 19 – p. 35, line 14; P-1811 Statement, CAR-OTP-2058-0003-R05, at 0007, paras 23, 25; P-1811: T-114, p. 15, lines 9-17, p. 16, lines 6-14, p. 18, lines 4-8; P-1705: T-211, p. 21, lines 12-15). P-1716 did not know who the leader of the roadblock was but found out when he arrived in Yamwara (see P-1716: T-148, p. 25, line 19 – p. 26, line 2). In addition to this, the Chamber has also considered that P-1704 indicated in his prior recorded testimony that he heard the 'Anti-Balaka' using the name 'Alkanto' to call him (see P-1704 Statement, CAR-OTP-2054-1136-R05, at 1141, para. 27). P-1704 said in court that Alkanto introduced himself to the group (see P-1704: T-128, p. 12, lines 9-17). The Chamber further notes that P-1704, P-1705, and P-0967 were shown Video, CAR-OTP-2065-4585, at 00:00:03 depicting a man with braided hair wearing a green and white striped t-shirt with *gris-gris* across the chest standing outside in a bush with several men standing around him, who appears to be Alkanto. P-0967 said that she thought that the person with braids was the one that stopped them, mentioning that it was very difficult to recognise him clearly since she only saw him once (see P-0967: T-200, p. 41, lines 11-18). P-1704 and P-1705 did not recognise him (see P-1704: T-128, p. 36, line 24 – p. 37, line 21; P-1705: T-212, p. 48, lines 1-9). In the Chamber's view, P-1704's and P-1705's inability to recognise Alkanto in this video does not affect the credibility of their testimony about him. See also Photograph, CAR-OTP-2125-0742; P-1839: T-172, p. 11, lines 8-13.

⁷⁷⁴⁷ P-1839: T-173, p. 60, lines 4-5.

⁷⁷⁴⁸ P-1705: T-211, p. 20, lines 11-19, p. 21, line 24 – p. 22, line 8; T-212, p. 11, lines 3-9; P-1704: T-128, p. 40, lines 5-11; P-1704 Statement, CAR-OTP-2054-1136-R05, at 1141, para. 27.

⁷⁷⁴⁹ P-0967: T-200, p. 22, lines 1-4; P-1811: T-114, p. 16, line 25 – p. 17, line 18, p. 32, line 12 – p. 33, line 6. See also P-1839: T-173, p. 65, lines 23-25 where P-1839 said that one of the women in the group was a minister's [REDACTED].

⁷⁷⁵⁰ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 426, 430.

⁷⁷⁵¹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 429. See also Yekatom Defence Closing Statements: T-308, p. 49, line 5 – p. 51, line 15.

3139. The evidence shows that while P-0967 and P-1811 were not wearing clothes that would necessarily identify them as Muslim,⁷⁷⁵² after Alkanto recognised them personally and identified them out loud, his group came to know that the women were Muslim. P-0967 said that Alkanto stepped out from a small shed, stopped the group, and pointed at P-1811, saying that she was Mamour's [REDACTED].⁷⁷⁵³ Alkanto also pointed at P-0967 and said 'You are the sister of Djotodia, the president. You are as black as he is' and started to insult her too.⁷⁷⁵⁴ P-1839 said that Alkanto personally knew one of these women as a minister's [REDACTED].⁷⁷⁵⁵ P-0967 said that after he recognised P-1811, whom he knew very well, Alkanto also knew that they were 'Muslims [...] and that is why he stopped us'.⁷⁷⁵⁶ The Chamber further notes that the four men accompanying the three women were, in fact, not Muslim by faith.⁷⁷⁵⁷

3140. According to the Yekatom Defence, Alkanto's 'vigilance' was heightened by 'personal grievances' and 'vendetta' towards P-1811.⁷⁷⁵⁸ It argues that Alkanto's group suspected the seven persons of being 'Seleka informants' after 'Seleka cards' were found on the men during the searches at the checkpoint; and that these were the reasons they were brought to Cœur de Lion at Yamwara.⁷⁷⁵⁹

⁷⁷⁵² P-0967: T-199, p. 38, lines 15-25; T-200, p. 39, line 25 – p. 40, line 6; P-1704 Statement, CAR-OTP-2054-1136-R05, at 1140-41, para. 25; P-1705: T-211, p. 22, lines 9-23.

⁷⁷⁵³ P-1811: T-114, p. 16, line 25 – p. 17, line 18, p. 32, line 12 – p. 33, line 6; P-0967: T-199, p. 35, lines 12-22; P-1705: T-212, p. 20, lines 16-23; P-1811 Statement, CAR-OTP-2058-0003-R05, at 0007, para. 26. The Yekatom Defence also points out that the Mamour family was close to Djotodia. It submits that Alkanto worked at the Presidential Palace [REDACTED] (see Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 430). The Chamber finds that P-1811, P-1705 and P-0967 confirmed that [REDACTED]. P-1705 said that [REDACTED] (see P-1811: T-115, p. 5, lines 4-19; P-1705: T-212, p. 10, line 22 – p. 11, line 2; P-0967: T-199, p. 29, lines 4-5). It is also noted that P-1786 said that Alkanto was also a member of the presidential security unit (see P-1786: T-198, p. 28, line 25 – p. 29, line 2).

⁷⁷⁵⁴ P-0967: T-199, p. 33, line 19 – p. 35, line 24; see also T-200, p. 39, lines 19-24.

⁷⁷⁵⁵ See P-1839: T-173, p. 65, lines 7-25 where P-1839 said that Alkanto said he personally knew at least one of the women as the [REDACTED] of a minister.

⁷⁷⁵⁶ P-0967: T-200, p. 39, lines 12-24.

⁷⁷⁵⁷ P-1704: T-128, p. 7, lines 17-19; P-1705: T-211, p. 7, line 25 – p. 8, line 2; P-1716: T-147, p. 5, lines 10-11; T-148, p. 7, line 24 – p. 8, line 24. The Chamber further notes that Saint Cyr's parents, P-1654 and his wife, were both Christian. (see P-1654, CAR-OTP-2053-0112-R04, at 0112; P-1811 Statement, CAR-OTP-2058-0003-R05, at 0006, para. 19). See further P-1811 Statement, CAR-OTP-2058-0003-R05, at 0007, para. 22 ('*Tous les hommes étaient chrétiens, et nous les femmes, musulmanes*').

⁷⁷⁵⁸ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 432, 433. See also Yekatom Defence Closing Statements: T-308, p. 49, line 23 – p. 50, line 20; see further p. 50, line 21 – p. 52, line 10 where the Yekatom Defence make submissions on the discovery of a 'Seleka card'; p. 51, lines 5-12 pointing out, *inter alia*, that Saint Cyr was not a Muslim.

⁷⁷⁵⁹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 426, 431, 433.

3141. The evidence shows that Alkanto may have indeed borne negative feelings against P-1811 and the Mamour family, and also made them known to the elements at the checkpoint. All witnesses remembered Alkanto saying out loud that he had previously worked with Mamour.⁷⁷⁶⁰ Some of them remembered that Alkanto also spoke about his friend having been mistreated by the Mamour family and wanting revenge.⁷⁷⁶¹

3142. Based on this and what follows, the Chamber finds that it was a combination of Alkanto's negative feelings centred around a desire for revenge, the women being identified as related to Djotodia and Mamour, as well as being Muslims, that predisposed Alkanto's group to their perception of the seven persons. This was despite the fact that the men in the group were non-Muslims.

Following Alkanto's identification of the women, his elements started to threaten the group with death, telling the group that they would be 'skinned like a papaya'. The expression 'peeling' or 'skinning' the 'papaya' was used by elements in Mr Yekatom's group in relation to the treatment of captured persons suspected of being Seleka.

3143. As set out below, the evidence shows that, following Alkanto's identification of the women, his elements started to threaten the group with death.

3144. P-0967 said that Alkanto said that '[w]hen it rains, it's the period to sow seeds, and today we are going to sow some seeds'.⁷⁷⁶² P-1811 understood this to mean that 'since the soil is wet, it would open and they would bury them' there.⁷⁷⁶³ P-1811 said that the group told the seven persons that it was the end for them and they would not survive.⁷⁷⁶⁴ P-0967, P-1705, and P-1704 said that Alkanto's elements gathered around the group and said to them that

⁷⁷⁶⁰ P-0967: T-200, p. 39, lines 12-18, p. 42, line 16 – p. 43, line 2; P-1811 Statement, CAR-OTP-2058-0003-R05, at 0007, para. 23; P-1811: T-114, p. 15, lines 22-24; P-1716 Statement, CAR-OTP-2053-0062-R05, at 0067, para. 28; P-1704 Statement, CAR-OTP-2054-1136-R05, at 1141, para. 27; P-1705: T-212, p. 21, line 18 – p. 22, line 7.

⁷⁷⁶¹ P-1811: T-115, p. 13, line 18 – p. 14, line 18; P-1705: T-211, p. 21, line 24 – p. 23, line 8; P-1704: T-128, p. 36, lines 2-18; P-1716 Statement, CAR-OTP-2053-0062-R05, at 0067, para. 28. The Chamber has considered that P-1839 and P-0967 did not know about Alkanto wanting to seek revenge on the women but finds this apparent inconsistency to be minor (see P-1839: T-173, p. 66, lines 1-23; P-0967: T-200, p. 42, lines 11-15; P-1705: T-212, p. 23, lines 9-17).

⁷⁷⁶² P-0967: T-199, p. 33, line 19 – p. 35, line 20.

⁷⁷⁶³ P-1811 Statement, CAR-OTP-2058-0003-R05, at 0007, para. 26 (*'comme la terre est mouillée, elle va s'ouvrir et ils vont nous enterrer ici'*).

⁷⁷⁶⁴ P-1811: T-114, p. 17, line 19 – p. 18, line 3.

they were going to be ‘skinned like a papaya’.⁷⁷⁶⁵ P-0967 explained what this phrase meant to her: ‘[...] somebody who carries a machete and doesn’t have any fruit in his hands, it’s an image which shows that the fruit or, rather, the plant which should be sown today would have been us [...] a very strong image. It was quite clear to us that it meant that we would be buried that day’.⁷⁷⁶⁶

3145. The Chamber notes that the expression ‘peeling’ or ‘skinning’ the ‘papaya’ has been used by elements in Mr Yekatom’s group in relation to the treatment of captured persons suspected of being Seleka in other contexts.⁷⁷⁶⁷ Mr Yekatom himself used this phrase at least once in his phone call with P-0954,⁷⁷⁶⁸ and is seen in a video responding to one of his elements about a certain captured person and the expression ‘*faire sa papaye*’.⁷⁷⁶⁹

Alkanto ordered his elements to search the male captives at the checkpoint. Alkanto’s elements beat P-1704 and P-1716 and accused them of being traitors. Following this search, no arms were found on any of the captives. An element searched Saint Cyr and found a ‘Seleka card’ on him. None of the seven persons posed a threat to Yamwara or the security of the elements placed there. In fact, the nature and the purpose of them being together and close to Yamwara was linked to the funeral of Saint Cyr’s older brother.

3146. The Chamber now turns to the captives being searched at the checkpoint. An element, who was in Alkanto’s section within Mr Yekatom’s group at the time and not present when the seven persons were stopped, joined them at this stage.⁷⁷⁷⁰ P-1839 seemed to think that the

⁷⁷⁶⁵ P-0967: T-199, p. 39, lines 7-17; P-1704 Statement, CAR-OTP-2054-1136-R05, at 1141-42, para. 30; P-1704: T-128, p. 13, lines 5-19; P-1705: T-211, p. 29, lines 8-23.

⁷⁷⁶⁶ P-0967: T-199, p. 39, lines 7-17. P-0954 explained that the phrase in Sango: ‘*eforolo tonga na papai*’ translates to removing/grating the skin of a papaya i.e. you cut it and decapitate it, and it is understood to mean killing someone (see P-0954: T-166, p. 40, lines 15-24).

⁷⁷⁶⁷ See paragraph 3069 above.

⁷⁷⁶⁸ See paragraphs 3191-3201 below.

⁷⁷⁶⁹ Video, CAR-OTP-2065-2404, at 00:02:00-00:03:48. The video shows an element reporting to Mr Yekatom at night about a person captured by the youth of the village that had been brought to Mr Yekatom’s elements, and about whom Mr Yekatom asks if this captured person was an ‘arabe’ (‘...*vrai arabe?*’) and what this person had said. The element responds that this captured person was doing reconnaissance about the positions of Mr Yekatom’s elements on the ground and that was all; and then says ‘we did his papaya, we will do his papaya, we asked the girls to do his papaya’ (‘*on fait sa papaya, on va faire sa papaya, on a demandé aux filles de faire sa papaye*’). Another element asks if the captured person had been killed (‘*On l’a tué ?*’) and Mr Yekatom responds ‘Non’. This element then asks what ‘*faire sa papaye*’ means (‘*Faire sa papaye, ça veut dire quoi ?*’), and the element reporting to Mr Yekatom responds ‘we put him in prison’ (‘*On l’a mis en prison*’). Mr Yekatom then turns away from the camera saying ‘leave it for now, we will talk about it later’ (‘*c’est bon, laisse tomber; nous en causerons après*’) (see Transcript, CAR-OTP-2127-3644, at 3646, lines 14-28).

⁷⁷⁷⁰ P-1839: T-173, p. 57, lines 14-19, p. 58, lines 2-15, p. 59, lines 3-18, p. 60, lines 4-5, p. 67, lines 12-21. [REDACTED]

Anti-Balaka suspected the group of spying or at least wanting to act as spies on the base.⁷⁷⁷¹ As per P-1839, Alkanto instructed his elements to search the men's pockets and the persons who searched them took their belongings, including their mobile phones.⁷⁷⁷² One of the elements frisked the men and recovered 'Seleka cards',⁷⁷⁷³ and therefore considered them to be Seleka members.⁷⁷⁷⁴

3147. P-0967 and P-1716 recalled that Saint Cyr had a 'military card' that the Anti-Balaka found and according to them he was a soldier serving in the FACA.⁷⁷⁷⁵ P-1705 recalled that the military card was found on Saint Cyr when the group was searched after their arrival at Yamwara.⁷⁷⁷⁶ In the view of the Chamber, both of these inconsistencies were minor and explainable by the passage of time and the traumatic nature of the events. When assessed together with P-1839's evidence, it is clear to the Chamber that Saint Cyr was searched twice, once at the checkpoint where the purported 'Seleka card' was discovered and once later upon his arrival at Yamwara where he was seen bare-chested by P-0967.⁷⁷⁷⁷

3148. The evidence shows that elements in Mr Yekatom's group beat P-1704 and P-1716 at the checkpoint. P-1704 and P-1716 recall being beaten at this stage at the checkpoint and

⁷⁷⁷¹ P-1839: T-173, p. 67, lines 4-11.

⁷⁷⁷² P-1811: T-114, p. 15, lines 9-17, p. 16, lines 1-2; P-1811 Statement, CAR-OTP-2058-0003-R05, at 0007, para. 24; P-0967: T-199, p. 36, lines 3-4; P-1704 Statement, CAR-OTP-2054-1136-R05, at 1141, para. 29; P-1716 Statement, CAR-OTP-2053-0062-R05, at 0067, para. 28. *See also* P-1811: T-114, p. 15, lines 3-8 where she said that they only had telephone or other objects and no weapons, neither a rifle nor a knife.

⁷⁷⁷³ P-1839: T-170, p. 29, lines 2-14; P-1839: T-173, p. 58, lines 2-15, p. 67, lines 12-21. *See also* P-1839: T-173-FRA, p. 63, lines 2-17 ('*cartes de Séléka*'). P-1839 agreed that she had seen these Seleka cards but did not know what happened to them. She described them as having the same shape as an identification card with 'Seleka' written on them (*see* P-1839: T-170, p. 33, lines 18-24; T-173, p. 67, line 24 - p. 68, line 4; *see also* T-170-FRA, p. 33, lines 1-5 where the phrase '*Coalition de la Séléka*' appears). The Yekatom Defence submits that P-1839's recollection about the 'Seleka cards' is consistent with the fact that Seleka identification cards were circulated as early as April 2013 (*see Yekatom Defence Closing Brief*, ICC-01/14-01/18-2737-Corr-Red, para. 431, n. 1457 *referring to* P-2050's evidence and Photographs, CAR-OTP-2076-1428; CAR-OTP-2076-1435; CAR-OTP-2076-1449; CAR-OTP-2076-1450). The Chamber notes that none of these witnesses, including P-1839, was questioned on whether they had seen the 'Seleka cards' shown to P-2050.

⁷⁷⁷⁴ P-1839: T-170, p. 31, lines 13-15.

⁷⁷⁷⁵ P-1716: T-148, p. 26, lines 3-15; P-1716 Statement, CAR-OTP-2053-0062-R05, at 0067, para. 27; P-0967: T-200, p. 19, line 23 - p. 20, line 1. P-0967 said that Saint Cyr had a document attesting to the fact that he was a soldier and that it was discovered, but only learnt this after the fact; at the time, she did not know that he had such an identity card on him (*see* P-0967: T-200, p. 26, lines 16-21).

⁷⁷⁷⁶ P-1705: T-212, p. 32, lines 15-19.

⁷⁷⁷⁷ *See* paragraph 3167 below.

accused of being traitors and spies.⁷⁷⁷⁸ P-1716 said that when they were arrested, they were being treated as ‘B2s’, which meant that they were ‘traitors’, and they were being told that they were going to die.⁷⁷⁷⁹

3149. Noting that no arms were found any of the seven persons during this frisking, the Chamber finds that none of the seven persons were armed, or otherwise, posed a threat to Yamwara or the security of the elements placed there. In fact, the nature and the purpose of them being together and close to Yamwara was linked to the funeral of Saint Cyr’s older brother, as set out above.

After threatening them with death and accusing them of being traitors, Alkanto ordered his elements to take the seven persons, including Saint Cyr Lapo N’Gomat, P-1704, P-1705, P-1716, P-0967 and P-1811, to Yamwara.

3150. Following this search, according to P-1811, Alkanto spoke on the phone with ‘the person of authority’ from the base to say that he had arrested Djotodia’s family members.⁷⁷⁸⁰ P-1811 said that she knew that Alkanto called their ‘chief’ because when he finished the phone call, he told them that the ‘chief’ had ordered that they be taken to the base.⁷⁷⁸¹

3151. The Chamber is not a position to conclude whether, at this stage of the events, Alkanto called Cœur de Lion or Mr Yekatom. P-1811 seemed to think that it was Mr Yekatom, because Mr Yekatom later introduced himself as the ‘chief’.⁷⁷⁸² P-1839, on the other hand, did not know whether Alkanto called Cœur de Lion before sending the group to Yamwara,⁷⁷⁸³ but

⁷⁷⁷⁸ P-1716: T-147, p. 7, line 24 – p. 8, line 7; P-1704 Statement, CAR-OTP-2054-1136-R05, at 1141, para. 29. The Chamber notes that a person called ‘[REDACTED]’, who had accompanied the seven persons thus far, but who had no relation to the Lapo N’Gomat family by blood or marriage, was allowed to leave the group at this stage (see P-1704: T-128, p. 38, line 24 – p. 39, line 6; P-1705: T-212, p. 16, line 19 – p. 17, line 8, p. 18, line 8 – p. 19, line 17; P-1716: T-148, p. 24, lines 4-14; P-1716 Statement, CAR-OTP-2053-0062-R05, at 0067, para. 31). The Chamber has considered that P-1811 and P-0967 did not seem familiar with ‘[REDACTED]’ and had little to no evidence concerning his presence in the group and his subsequent release. It also appears that both witnesses appeared to confuse him with P-1716. The Chamber recalls that P-0967 said that it was only later, after having read the Letter, she realised that P-1716 stayed with the group that was taken to Yamwara. As P-1811 and P-0967 did not know either [REDACTED] or P-1716 prior to the events, the Chamber considers this confusion understandable and having no bearing on the credibility of their accounts generally.

⁷⁷⁷⁹ P-1716: T-147, p. 14, line 25 – p. 15, line 10; P-1716 Statement, CAR-OTP-2053-0062-R05, at 0067, para. 29.

⁷⁷⁸⁰ P-1811 Statement, CAR-OTP-2058-0003-R05, at 0007, para. 26; P-1811: T-114, p. 16, lines 1-3, p. 18, lines 4-22. [REDACTED]

⁷⁷⁸¹ P-1811: T-114, p. 18, line 25 – p. 19, line 3.

⁷⁷⁸² P-1811: T-114, p. 19, lines 4-8.

⁷⁷⁸³ P-1839: T-173, p. 68, lines 6-14.

agreed that when the group later arrived at Yamwara, they were taken directly to Cœur de Lion.⁷⁷⁸⁴

3152. The evidence shows that Alkanto then ordered his elements to take the seven persons to Yamwara.⁷⁷⁸⁵

3153. The Chamber finds that by this stage Alkanto's elements perceived the seven persons to all be Muslims. P-1705 said that Alkanto's elements considered the group to be 'all Muslims' and that they had to be taken to Yamwara where their fate would be decided.⁷⁷⁸⁶ P-0967 said that, once Alkanto saw them, he knew that they were Muslims.⁷⁷⁸⁷

3154. The witnesses described walking from the checkpoint to Yamwara. P-1705 said that the group was not allowed to look around while they walked to Yamwara.⁷⁷⁸⁸ P-1716 stated they were all escorted to the school by the crowd, being kicked and slapped and having insults shouted at them, they were being taunted and told that they were going to die, and he felt as though he was already as good as dead and believed that if he did not go with them, he would be killed.⁷⁷⁸⁹

3155. The transfer from Alkanto's checkpoint to Cœur de Lion's house in Yamwara took a few minutes. P-1704 said that it did not take much time to go from the roadblock to Yamwara.⁷⁷⁹⁰ P-0967 thought it was 'bit far'; they left the main route and walked roughly the same distance as between the Lapo N'Gomat house and the main road to reach Yamwara.⁷⁷⁹¹ P-1839 said that the checkpoint was a few minutes apart from Cœur de Lion's house.⁷⁷⁹²

⁷⁷⁸⁴ P-1839: T-173, p. 69, lines 2-4.

⁷⁷⁸⁵ P-1811: T-114, p. 18, line 25 – p. 19, line 8; P-1705: T-211, p. 23, lines 19-25; P-1716 Statement, CAR-OTP-2053-0062-R05, at 0067, para. 31; P-0967: T-199, p. 36, lines 12-16.

⁷⁷⁸⁶ P-1705: T-211, p. 23, lines 19-25.

⁷⁷⁸⁷ P-0967: T-200, p. 39, lines 12-24.

⁷⁷⁸⁸ P-1705: T-212, p. 23, line 22 – p. 24, line 2.

⁷⁷⁸⁹ P-1716 Statement, CAR-OTP-2053-0062-R05, at 0068, para. 32.

⁷⁷⁹⁰ P-1704: T-128, p. 40, line 19 – p. 41, line 2.

⁷⁷⁹¹ P-0967: T-199, p. 39, line 18 – p. 40, line 18.

⁷⁷⁹² P-1839: T-173, p. 68, lines 16-20. The Chamber also notes that P-1839 was not able to specify which road the checkpoint was located on because this was not her area. Further, referring to Map, CAR-D29-0003-0052, at 0054, P-1839 shown Yamwara School and Cœur de Lion's house, could not place Alkanto's checkpoint on this map; and neither on the one at 0055. However, asked how much time it would take to go on foot from the checkpoint to Cœur de Lion's house, P-1839 said that it was a few minutes apart and not very far (*see* P-1839: T-173, p. 60, lines 17-24, p. 62, line 16 – p. 64, line 19, p. 68, lines 16-20).

Elements in Mr Yekatom's group, namely Alkanto and others, brought the captives to Cœur de Lion's house at Yamwara. There, in Cœur de Lion's presence, elements in Mr Yekatom's group, including Bojos, interrogated the four men individually on their identity, ethnicity, and reasons for being there with the women, also demanding the captive men to speak in the dialect associated with their respective ethnicities. Saint Cyr and another captive, who were Boffi from their father's side and Goula from their mother's side, gave their ethnicity but neither could speak their dialect. Saint Cyr said that he was 'Boffi' but could not speak in this language. When Saint Cyr was unable to do so, elements in Mr Yekatom's group accused him of being 'Goula', and therefore associated with Djotodia. The elements in Mr Yekatom's group kept the women apart from the male captives but close by, under the veranda of Cœur de Lion's house. Mr Yekatom was not present at Yamwara during the group's arrival there or during the said interrogation at Cœur de Lion's house.

3156. The evidence shows that, at Yamwara, elements in Mr Yekatom's group, namely Alkanto and others,⁷⁷⁹³ brought the seven persons in front of Cœur de Lion's house.⁷⁷⁹⁴ P-1811 said that it was getting dark, and she did not dare to look at the Anti-Balaka members directly, but recalled having seen female 'Anti-Balaka members', one of whom matched P-1839's [REDACTED].⁷⁷⁹⁵

3157. According to P-1839, Cœur de Lion was present when the group arrived at his house.⁷⁷⁹⁶

3158. As set out below, the evidence shows that, in Cœur de Lion's presence, in front of his house, elements in Mr Yekatom's group, including Bojos,⁷⁷⁹⁷ interrogated the four men individually

⁷⁷⁹³ The Chamber has considered that P-1716 recognised someone resembling [REDACTED].

⁷⁷⁹⁴ P-1811 Statement, CAR-OTP-2058-0003-R05, at 0008, para. 27; P-1839: T-172, p. 4, line 22 – p. 7, line 5; T-173, p. 68, lines 16-20. The location of Cœur de Lion's house at Yamwara: Satellite image, CAR-OTP-2066-1468 annotated by P-1839 as number '5'; Satellite image, CAR-OTP-2058-0216, annotated by P-1786 as letter 'B'. See also Satellite image, CAR-D29-0003-0052, at 0054-55 marked 'Cœur de Lion house'. P-1786 [REDACTED] in a video still in front of the 'building where Cœur de Lion used to live' (see P-1786: T-197, p. 68, line 7 – p. 69, line 3 referring to Video, CAR-OTP-2065-4849, at 00:03:49).

⁷⁷⁹⁵ P-1811: T-114, p. 20, line 13 – p. 21, line 2.

⁷⁷⁹⁶ P-1839: T-173, p. 69, lines 8-13. The Chamber notes that P-1716 recalled that Cœur de Lion arrived at some point later when the four men were being interrogated (see P-1716: T-147, p. 16, lines 1-10; T-148, p. 31, lines 17-22; P-1716 Statement, CAR-OTP-2053-0062-R05, at 0069, paras 40-41). The Chamber gives more weight to P-1839 in this respect as she was a member of Mr Yekatom's group, stationed at Yamwara at the time, and therefore, more familiar with the locations and identities of the various chiefs there.

⁷⁷⁹⁷ P-1704 and P-1705 knew 'Bojos' alias Mbrai as a young person from the Cattin neighbourhood and recognised him at Yamwara (see P-1705: T-211, p. 32, lines 17-25, p. 40, lines 10-18; T-212, p. 25, lines 2-21; P-1704: T-128, p. 44, line 17 – p. 45, line 15; P-1704 Statement, CAR-OTP-2054-1136-R05, at 1142, para. 33). P-1705 said that, at the time, Bojos was giving instructions in the absence of Mr Yekatom (see P-1705: T-211, p. 28, line 24 – p. 29, line 1). P-1704 described Bojos as Mr Yekatom's 'deputy', a FACA member and a former bodyguard of General Lapo; P-1704 knew him [REDACTED] (see P-1704: T-128, p. 15, lines 10-18). P-1704 also recognised Bojos in Video, CAR-OTP-2012-0523, at 00:50:42-00:50:53 as the man to the left of the image in a yellow, red and green hat wearing a yellow T shirt and carrying an AK-47 (see P-1704 Statement, CAR-OTP-2054-1136-R05, at 1147, para. 67). See also paragraphs 982, 2416, 2436, 3073 above.

on their identity and their relations with the three women, also demanding the captive men to speak in the dialect associated with their respective ethnicities. Saint Cyr and [REDACTED], who were Boffi from their father's side and Goula from their mother's side, gave their ethnicity but neither could speak their dialect. Saint Cyr said that he was 'Boffi' but could not speak in this language. When Saint Cyr was unable to do so, elements in Mr Yekatom's group accused him of being 'Goula', and therefore associated with Djotodia.

3159. P-1716 said that, in front of the house, the men were forced to go on their knees with their hands on their heads and several people individually questioned them on their identity and ethnicity, sometimes two people could speak at the same time, and they did not know how to answer.⁷⁷⁹⁸

3160. When questioned by Bojos, P-1705 explained that they were coming back from a funeral and were not Muslims, but the Anti-Balaka did not want to listen to them.⁷⁷⁹⁹ However, when someone spoke to him in the dialect of P-1705's ethnicity, P-1705 was unable to understand it and respond, following which the Anti-Balaka told them that they would all be executed.⁷⁸⁰⁰

3161. P-1704 stated that Bojos interrogated him in Sango and told him that he was from the Goula ethnic group; P-1704 replied that he was Gbaya, so they brought a man who spoke to P-1704 in Gbaya, asking P-1704 very basic questions to test his knowledge of the language to prove that he could speak Gbaya and that he was not a Goula,⁷⁸⁰¹ a Muslim ethnic group⁷⁸⁰² associated with Djotodia.⁷⁸⁰³ P-1704 explained to them that he was only assisting [REDACTED] with a funeral but was forced to remain silent.⁷⁸⁰⁴

⁷⁷⁹⁸ P-1716: T-148, p. 28, lines 11-23. See also P-1705: T-211, p. 23, lines 1-8, p. 24, lines 9-12; P-0967: T-199, p. 41, line 12 – p. 42, line 2; P-1811: T-114, p. 19, lines 17-18.

⁷⁷⁹⁹ P-1705: T-211, p. 39, line 19 – p. 40, line 18.

⁷⁸⁰⁰ P-1705: T-211, p. 39, line 19 – p. 40, line 6. See also P-1716 Statement, CAR-OTP-2053-0062-R05, at 0068, para. 37; P-1811 Statement, CAR-OTP-2058-0003-R05, at 0009, para. 36; P-1811: T-114, p. 24, line 14 – p. 25, line 11.

⁷⁸⁰¹ P-1704 Statement, CAR-OTP-2054-1136-R05, at 1143-44, para. 40.

⁷⁸⁰² P-1704 Statement, CAR-OTP-2054-1136-R05, at 1143-44, para. 40.

⁷⁸⁰³ P-1811: T-114, p. 25, lines 5-7.

⁷⁸⁰⁴ P-1704 Statement, CAR-OTP-2054-1136-R05, at 1144, para. 41.

3162.P-1716 said that [REDACTED] were able to speak the dialect associated with their respective ethnicities.⁷⁸⁰⁵ P-1716 stated that he told the Anti-Balaka his name and the name of his father and that he did not know the ladies and that he was only escorting them back to their home.⁷⁸⁰⁶ He told them his ethnicity and that he was [REDACTED], and he heard Saint Cyr [REDACTED] give their ethnicity but [REDACTED] could speak the dialect.⁷⁸⁰⁷ Saint Cyr, in particular, said he was ‘Boffi’ but could not speak in his language and was accused of being ‘Goula’ and therefore associated with Djotodia.⁷⁸⁰⁸

3163.The evidence shows that the elements in Mr Yekatom’s group kept the women apart but close by, under the veranda of Cœur de Lion’s house.⁷⁸⁰⁹ P-1811 stated that the men were outside seated on the ground while the women were brought underneath the veranda.⁷⁸¹⁰ P-0967 said that on the veranda, they had the possibility of seeing what was going on and some of the soldiers removed their veils, took her bag, and took out the prayer mat and everything else that was in it.⁷⁸¹¹

3164.The Yekatom Defence submits that Mr Yekatom was not at Yamwara when the group arrived there, but only arrived later in the day.⁷⁸¹² The Prosecution does not allege that Mr Yekatom was present at this stage of the events but argues that it was his ‘subordinates’ that subjected the abductees to severe physical and mental injury at Yamwara.⁷⁸¹³

3165.The Chamber finds that Mr Yekatom was not present at Yamwara during the group’s arrival there or during the said interrogation at Cœur de Lion’s house. Only P-1704 recalled him being present and described (i) the captives being presented to Mr Yekatom when they

⁷⁸⁰⁵ P-1716 Statement, CAR-OTP-2053-0062-R05, at 0068, para. 36; P-1705: T-211, p. 16, lines 19-20, p. 19, lines 13-15.

⁷⁸⁰⁶ P-1716 Statement, CAR-OTP-2053-0062-R05, at 0068, para. 37.

⁷⁸⁰⁷ P-1716 Statement, CAR-OTP-2053-0062-R05, at 0068, para. 37.

⁷⁸⁰⁸ P-1811 Statement, CAR-OTP-2058-0003-R05, at 0009, para. 36; P-1811: T-114, p. 24, line 14 – p. 25, line 11. P-1811 also explained that Saint Cyr’s mother was Goula and father was Boffi. *See also* P-1705: T-211, p. 39, line 19 – p. 40, line 6.

⁷⁸⁰⁹ P-1704 recognised this location in Video, CAR-OTP-2012-0523, at 00:50:36-00:50:43. He said that the veranda is in front of the red window where the men are sitting in this excerpt; the red window is to the room where the female captives were taken (*see* P-1704 Statement, CAR-OTP-2054-1136-R05, at 1147, para. 66).

⁷⁸¹⁰ P-1811 Statement, CAR-OTP-2058-0003-R05, at 0008, para. 30. *See also* P-0967: T-199, p. 40, lines 8-9; T-200, p. 29, line 25 – p. 30, line 1.

⁷⁸¹¹ P-0967: T-199, p. 39, line 18 – p. 40, line 8.

⁷⁸¹² [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 445-453.

⁷⁸¹³ Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, para. 656, 666.

arrived at Yamwara; and (ii) Alkanto telling Mr Yekatom that the captives were from General Mamour's family.⁷⁸¹⁴

3166. The Chamber notes, in this regard, that the Prosecution does not rely on his account to establish Mr Yekatom's presence at Yamwara at this point, and that the Yekatom Defence argues that P-1704's testimony is contradicted by all other witnesses who were present at the scene. Having assessed the evidence holistically, the Chamber finds that P-1704's account is not reliable in relation to the two aspects mentioned and therefore, does not rely on it.

Following the men's interrogation, the elements in Mr Yekatom's group forced them to undress, searched them again, threatened them with death, and found no weapons on any of them. Upon another search of the captives, an element in Mr Yekatom's group recovered a SIM card in the trousers of one of the female captives and no weapons were found on them. The elements in Mr Yekatom's group took the women inside Cœur de Lion's house while Saint Cyr's interrogation continued outside, and from where they could hear what was happening outside. Elements in Mr Yekatom's group continued to interrogate Saint Cyr and beat him, despite him showing his identification card and insisting that he was a FACA member. Cœur de Lion, who was observing Saint Cyr's mistreatment, encouraged the assailants and ordered them to continue, saying, *inter alia*, that the victims were 'Muslims' and 'Seleka' and to 'do the job properly'. Elements in Mr Yekatom's group specifically beat Saint Cyr's legs, breaking them, and tied him up in 'arbatacher' manner, continuing to assault him. An element in Mr Yekatom's group, cut off Saint Cyr's toes, fingers, and an ear, being encouraged by Cœur de Lion's presence at the scene and his words, and feeling that there was no choice but to do it. P-1704, P-1705, and P-1716 were present when Mr Yekatom's elements interrogated and beat Saint Cyr and cut off his toes, fingers, and an ear. After Saint Cyr's beating and maiming, the elements of Mr Yekatom's group took him away. Saint Cyr then died. His relatives never saw him again and his dead body was never recovered.

3167. The evidence shows that, following the men's interrogation as discussed above, the elements in Mr Yekatom's group forced them to undress, searched them again, threatened them with death, and found no weapons on any of them. When asked about the events when the group arrived at Yamwara, P-1705 said that the Anti-Balaka insisted that the group had to undress, and they had to obey.⁷⁸¹⁵ P-1705 said that, during this time, elements in Mr Yekatom's group said that they were going to kill them, they would be 'peeled like a papaya', they would be

⁷⁸¹⁴ P-1704 Statement, CAR-OTP-2054-1136-R05, at 1142-43, paras 32, 35; P-1704: T-128, p. 13, line 24 – p. 14, line 11.

⁷⁸¹⁵ P-1705: T-211, p. 28, lines 21 – p. 29, line 7.

‘decapitated’, their throats were going to be slit and that they would have to dig their own graves.⁷⁸¹⁶ P-0967 saw the three men bare-chested and kneeling down with their hands on their heads.⁷⁸¹⁷

3168. The evidence shows that an element in Mr Yekatom’s group searched the captives again and recovered a SIM card in the trousers of one of the women.⁷⁸¹⁸ P-1839, when asked, agreed that the finding of this SIM card, which nobody had found during the previous search, showed to the ‘chiefs’ that this element was valuable and could be trusted.⁷⁸¹⁹ According to P-1839, Alkanto and the other elements congratulated this element.⁷⁸²⁰ P-1839 also agreed that the fact that the SIM card was found hidden in the trousers increased their suspicions about the group.⁷⁸²¹

3169. The evidence shows that, following this second search, Mr Yekatom’s elements took the three women inside Cœur de Lion’s house while Saint Cyr’s interrogation continued outside, and from where they could hear what was happening outside.⁷⁸²² P-0967 said that the three women entered the house and were seated with their backs to the wall, next to each other, and she thought that there was an armed soldier guarding the entrance of the house.⁷⁸²³ P-0967 recalled that, from inside the house, one could hear what people were saying outside when speaking aloud, but one could not see what was going on.⁷⁸²⁴

3170. The evidence shows that elements in Mr Yekatom’s group continued to interrogate Saint Cyr, despite him showing his identification card and insisting that he was a FACA member. According to P-1705, the persons who brought them to the base accused Saint Cyr of being Djotodia’s aide-de-camp in *Camp de Roux*, and they appeared to be confusing him with

⁷⁸¹⁶ P-1705: T-211, p. 29, lines 8-23.

⁷⁸¹⁷ P-0967: T-199, p. 33, line 19 – p. 36, line 16, p. 40, lines 7-8; T-200, p. 29, line 25. P-1811 said that the men were asked to kneel down at the base (see P-1811: T-114, p. 19, lines 10-18). However, P-1811 also said that, when she was outside the house, the men had not been asked to undress yet (see P-1811: T-115, p. 19, lines 17-25). In the view of the Chamber, this inconsistency with other accounts on the men being forced to undress is not material and does not otherwise affect P-1811’s credibility generally.

⁷⁸¹⁸ P-1839: T-170-FRA, p. 28, line 11 – p. 29, line 6; T-173, p. 69, line 21 – p. 70, line 12.

⁷⁸¹⁹ P-1839: T-173, p. 69, line 24 – p. 70, line 4.

⁷⁸²⁰ P-1839: T-173, p. 70, lines 5-8.

⁷⁸²¹ P-1839: T-173, p. 70, lines 9-12.

⁷⁸²² P-1839: T-173, p. 70, lines 13-16; P-0967: T-199, p. 40, lines 18-23.

⁷⁸²³ P-0967: T-199, p. 39, line 18 – p. 40, line 12, p. 44, lines 1-5. See also paragraphs 3214-3219 below.

⁷⁸²⁴ P-0967: T-199, p. 39, line 18 – p. 40, line 2, p. 44, lines 1-5. See also paragraphs 3214-3219 below.

[REDACTED], who drove a small vehicle from the military, picking up the wounded.⁷⁸²⁵ P-1705 said that Saint Cyr showed his identification card and insisted that he was a FACA member and when the assailants asked him to lie down on the ground, Saint Cyr refused.⁷⁸²⁶

3171. The evidence shows that elements in Mr Yekatom's group beat Saint Cyr, breaking his legs, and tied him up, continuing to assault him. P-1705 and P-1704 said that the assailants knocked Saint Cyr to the ground and used a stick to force him down on his knees.⁷⁸²⁷ At this point, the assailants beat Saint Cyr on his legs, breaking them and as he continued to resist, they tied his hands in the back together with his feet, in the '*arbatacher*' manner, and continued to assault him.⁷⁸²⁸

3172. The evidence shows that Cœur de Lion, who was present at the scene and observing Saint Cyr's mistreatment, encouraged the assailants and ordered them to continue, saying, *inter alia*, that the victims were 'Muslims' and 'Seleka' and to 'do the job properly'. According to P-1839, Cœur de Lion encouraged the elements, [REDACTED], saying that they were 'doing great' ('*C'était bien ce que tu fais*') and they should 'not regret' ('*il faut pas regretter, c'est normal*'), that the victims were 'Muslims' and 'Seleka', that they had come to spy on them and kill them, and that 'God had delivered them' ('*Dieu les a livrés*').⁷⁸²⁹ P-1716 said that when Cœur de Lion arrived, people had a lot of respect for him and were reporting everything that was happening to him and that he was the one in 'command' of the elements who were there.⁷⁸³⁰ P-1716 stated that Cœur de Lion said to 'his men that were beating' Saint Cyr to 'do the job properly' and they continued to beat Saint Cyr.⁷⁸³¹ P-1716, when asked specifically if Cœur de Lion gave the order to cut Saint Cyr's ears, said that it was difficult to know who gave this order.⁷⁸³²

⁷⁸²⁵ P-1705: T-211, p. 15, lines 14-17, p. 34, line 23 – p. 35, line 7; T-212, p. 12, lines 21 – p. 13, line 1.

⁷⁸²⁶ P-1705: T-211, p. 15, line 14 – p. 16, line 3, p. 34, line 23 – p. 35, line 7.

⁷⁸²⁷ P-1705: T-211, p. 16, lines 7-8; P-1704 Statement, CAR-OTP-2054-1136-R05, at 1143, para. 37.

⁷⁸²⁸ P-1705: T-211, p. 15, line 24 – p. 16, line 10, p. 35, lines 9-17; T-212, p. 32, line 20 – p. 34, line 11; P-1716: T-147, p. 13, line 22 – p. 14, line 7; P-1716 Statement, CAR-OTP-2053-0062-R05, at 0069-70, para. 43.

⁷⁸²⁹ P-1839: T-170-ENG, p. 30, lines 12-19; T-170-FRA, p. 29, lines 21-28.

⁷⁸³⁰ P-1716: T-147, p. 16, lines 1-10. P-1716 also said that Cœur de Lion also had someone who was commanding him.

⁷⁸³¹ P-1716 Statement, CAR-OTP-2053-0062-R05, at 0069, para. 42.

⁷⁸³² P-1716: T-148, p. 31, line 23 – p. 32, line 3. *See also* P-1716 Statement, CAR-OTP-2053-0062-R05, at 0069, para. 42.

3173. The evidence shows that an element in Mr Yekatom's group cut off Saint Cyr's 'toes, the fingers, and the ear' (*'les orteils, les doigts et l'oreille'*),⁷⁸³³ being encouraged by Cœur de Lion's presence at the scene and his words and feeling that there was no choice but to do it. P-1839 said that this element cut off these body-parts without specific orders from anybody, and also said that if one did not do it, one would not be trusted and so this element did it to gain the trust of the leaders.⁷⁸³⁴ P-1839 clarified that some 'people' were encouraging them to do it (*'poussent à le faire'*) and that this element felt that there was no choice but to do it.⁷⁸³⁵

3174. The evidence shows that P-1704, P-1705, and P-1716 were present during Saint Cyr's interrogation, maiming and beating. Neither P-1705 and P-1716 could recall who cut off Saint Cyr's ear,⁷⁸³⁶ but recalled witnessing parts of Saint Cyr's mistreatment with their own eyes from where they were and remembered feeling helpless and being able to 'do nothing'.⁷⁸³⁷ P-1705 recalled turning to see blood coming out of Saint Cyr's ear and him shouting 'my ear, my ear!' but that he could not keep looking at what was going on as he feared being 'assaulted' himself.⁷⁸³⁸ P-1705 said that they were afraid that they would be killed and not certain that they would be released.⁷⁸³⁹ P-1716 recalled Cœur de Lion being present when Saint Cyr's ear was cut off.⁷⁸⁴⁰

3175. From the evidence, the exact location of Saint Cyr's mistreatment is unclear, but it appears that it took place around Cœur de Lion's house that had a wide compound and was next to a mango tree.⁷⁸⁴¹ P-1839 said that it occurred on the veranda of Cœur de Lion's house when

⁷⁸³³ P-1839: T-170, p. 30, lines 20-21.

⁷⁸³⁴ P-1839: T-173, p. 76, lines 6-11.

⁷⁸³⁵ P-1839: T-173, p. 76, lines 12-16.

⁷⁸³⁶ P-1705 provided a description of the three female Anti-Balaka elements that were present when Saint Cyr was being questioned at Yamwara and none of these description matches that of the element that cut off Saint Cyr's body-parts (see P-1705: T-211, p. 41, lines 13 – p. 42, line 2). P-1716 seemed to think that it was a man who cut off Saint Cyr's ear (see P-1716: T-148, p. 30, line 17 – p. 32, line 24).

⁷⁸³⁷ P-1705: T-211, p. 34, line 23 – p. 35, line 7, p. 37, lines 1-10; P-1716: T-147, p. 13, line 22 – p. 14, line 7.

⁷⁸³⁸ P-1705: T-211, p. 37, line 22 – p. 38, line 3.

⁷⁸³⁹ P-1705: T-211, p. 35, lines 9-23.

⁷⁸⁴⁰ P-1716 Statement, CAR-OTP-2053-0062-R05, at 0069, para. 40; P-1716: T-147, p. 16, lines 1-10; T-148, p. 31, line 17 – p. 32, line 3.

⁷⁸⁴¹ See Sketch, CAR-OTP-2053-0074-R01 (annotated by P-1716), marking 'A' where Saint Cyr was mistreated compared with Satellite image, CAR-OTP-2058-0216 (annotated by P-1786), marking 'B' on Cœur de Lion's house (see P-1716: T-148, p. 26, line 23 – p. 27, line 8). See also P-1839: T-172, p. 6, line 19 – p. 7, line 5. See further

the women were inside.⁷⁸⁴² P-0967 said that, during this time, from inside the house, she could hear cries and realised that it was Saint Cyr who was being subjected to this beating.⁷⁸⁴³ P-1705 and P-1716 seem to recall a slightly different location but still placed it close to Cœur de Lion's house: according to P-1705, it happened 'behind' Cœur de Lion's house,⁷⁸⁴⁴ while P-1716 thought that the beating and the cutting of the ear happened 'near' a house where Saint Cyr was later taken,⁷⁸⁴⁵ and that this was not on the school property.⁷⁸⁴⁶

3176. P-1839 said that after cutting off Saint Cyr's body parts, the element that did it left to go back to the checkpoint.⁷⁸⁴⁷ The Chamber found compelling how P-1839 described the impact that this incident continues to have on her to this very day. P-1839 testified that her life no longer has meaning, she feels 'traumatised' and 'afraid' and is living a 'very difficult' life.⁷⁸⁴⁸ She finds it hard to cope with the 'bad memories' of the events and is unable to make friends, and [REDACTED], she prefers to be alone [REDACTED].⁷⁸⁴⁹ [REDACTED]

3177. The evidence shows that after his mistreatment and when the night fell, the elements of Mr Yekatom's group took Saint Cyr 'away'; he then died and his relatives never saw him again, nor was his dead body ever recovered.⁷⁸⁵⁰ P-1716 recalled Saint Cyr being in 'a very critical' state when he was taken away.⁷⁸⁵¹ P-1705 recalled that, after being tied up and

Satellite image, CAR-OTP-2066-0593-R01, at 0593; P-1704 Statement, CAR-OTP-2054-1136-R05, at 1145, para. 50 commenting on Sketch, CAR-OTP-2054-1150 (annotated by P-1704), marking 'B' as the house where the three female captives were kept at the time.

⁷⁸⁴² P-1839: T-173, p. 71, lines 15-24.

⁷⁸⁴³ P-0967: T-199, p. 41, line 20 – p. 42, line 10. The Chamber notes that P-0967 described hearing Saint Cyr's interrogation about his origins and also referred to the interrogation concerning his dialect, which happened prior to the three female captives being sent inside Cœur de Lion's house (see paragraph 3215 below). It is not known whether Saint Cyr was asked to speak in the dialect of his ethnicity again, once the female captives were inside the house. The Chamber notes this minor discrepancy but does not consider that it discredits her account generally.

⁷⁸⁴⁴ P-1705: T-212, p. 32, line 20 – p. 34, line 11 ('under a window').

⁷⁸⁴⁵ P-1716: T-147, p. 14, lines 18-24, p. 15, lines 21-25.

⁷⁸⁴⁶ P-1716: T-147, p. 14, lines 18-24.

⁷⁸⁴⁷ P-1839: T-173, p. 71, line 25 – p. 72, line 5.

⁷⁸⁴⁸ P-1839: T-172, p. 12, line 10 – p. 13, line 16.

⁷⁸⁴⁹ P-1839: T-172, p. 12, line 10 – p. 13, line 16.

⁷⁸⁵⁰ The Chamber notes that the Yekatom Defence Closing Brief addresses '[e]xhumation of bodies at Yamwara' with reference to P-1990's and P-2475's evidence (see [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 477-479). See also Yekatom Defence Closing Statements: T-308, p. 58, line 10 – p. 60, line 12. The Chamber has not examined this matter as there is no allegation on the record about the purported graves being linked to the Yamwara Incident. To the extent that this may be related to P-2475's evidence, the Chamber refers to P-2475's credibility assessment (see paragraphs 506-523 above).

⁷⁸⁵¹ The Chamber notes that P-1716's and P-1705's recollection of where Saint Cyr was taken exactly is slightly different. P-1716 said that Saint Cyr was taken inside the house near to where his body-parts were cut (see P-1716: T-

beaten, Saint Cyr was thrown onto the ground in front of the window of Cœur de Lion's house.⁷⁸⁵² P-1716 also said that they realised that it would be very unlikely that he would still be able to stay alive.⁷⁸⁵³ P-1839 said that she learnt [REDACTED] later that Saint Cyr was killed [REDACTED].⁷⁸⁵⁴ Saint Cyr has not been seen since.⁷⁸⁵⁵

Elements in Mr Yekatom's group beat P-1704, P-1705, and P-1716 and threatened them with death.

3178. The Chamber finds that, around the time that Saint Cyr was being beaten, elements in Mr Yekatom's group beat the remaining three men, P-1704, P-1705, and P-1716, and threatened them with death. P-1705 testified that he, together with P-1716 and P-1704, was taken behind the house and beaten by the Anti-Balaka.⁷⁸⁵⁶ P-1716 stated that the three men were beaten with sticks and hands and it was everyone who beat them.⁷⁸⁵⁷ The men were forced to go on their knees with their hands on their heads and the Anti-Balaka hit and beat them.⁷⁸⁵⁸ P-1704 stated that he was hit everywhere, including his head and body,⁷⁸⁵⁹ and that the men were beaten repeatedly in turns and told that they were going to get killed.⁷⁸⁶⁰

Mr Yekatom was not present at the scene during the mistreatment of Saint Cyr, P-1704, P-1705, and P-1716. However, shortly after the fact, Mr Yekatom came to know about this incident, including the actions of the element that had cut off Saint Cyr's toes, fingers, and an ear. Later, Mr Yekatom told P-1839 that this element had done a 'good job' insofar. Mr Yekatom did not punish this element for these acts and, on the contrary, rewarded this element with posts of responsibility within his group, including as part of his security detail. Mr Yekatom considered Saint Cyr a 'traitor' and 'in cahoots with the Seleka' and that therefore, they could not 'keep him'. When asked about Saint Cyr's treatment, Mr Yekatom

148, p. 27, lines 9-14; P-1716 Statement, CAR-OTP-2053-0062-R05, at 0070, para. 44). P-1705 said that Saint Cyr was thrown in front of the window of the house with the veranda where the female captives were being kept at this time, which corresponds to Cœur de Lion's house (see P-1705: T-211, p. 36, lines 2-8).

⁷⁸⁵² P-1705: T-211, p. 36, lines 2-18. P-1716 recalled that Saint Cyr was taken inside another house nearby to the school but not part of the school property (P-1716 Statement, CAR-OTP-2053-0062-R05, at 0069-70, para. 43).

⁷⁸⁵³ P-1716: T-148, p. 27, lines 9-14.

⁷⁸⁵⁴ P-1839: T-170, p. 31, lines 4-7; P-1839: T-173, p. 72, lines 6-15.

⁷⁸⁵⁵ P-1705: T-211, p. 38, lines 14-16; P-1811 Statement, CAR-OTP-2058-0003-R05, at 0009, para. 37; P-1811: T-114, p. 8, lines 1-7, p. 25, lines 23-25; P-0967: T-199, p. 50, lines 6-17, p. 51, lines 6-13; P-1716: T-147, p. 15, lines 21-25; P-1716 Statement, CAR-OTP-2053-0062-R05, at 0069-70, para. 43.

⁷⁸⁵⁶ P-1705: T-211, p. 40, lines 10-18, p. 41, lines 8-12.

⁷⁸⁵⁷ P-1716: T-147, p. 14, lines 8-14.

⁷⁸⁵⁸ P-1716: T-148, p. 28, lines 12-19.

⁷⁸⁵⁹ P-1704 Statement, CAR-OTP-2054-1136-R05, at 1143, para. 39.

⁷⁸⁶⁰ P-1704 Statement, CAR-OTP-2054-1136-R05, at 1144, para. 41.

said in Sango ‘*eforolo tonga na papai*’ – meaning that ‘they peeled the papaya’, ‘they removed the skin like they would do to a papaya’.

3179. The Chamber now turns to Mr Yekatom’s presence during Saint Cyr’s mistreatment and the keeping of the three women in Cœur de Lion’s house and veranda. The Yekatom Defence submits that Mr Yekatom was not present at this time and did not give any orders to mistreat Saint Cyr.⁷⁸⁶¹ The Prosecution does not allege that Mr Yekatom was present at the scene and that he himself gave the orders to mistreat Saint Cyr, or to search the women, it only alleges Mr Yekatom being physically present later when meeting the women in Cœur de Lion’s house.⁷⁸⁶²

3180. The evidence shows that Mr Yekatom was not present at the scene during the mistreatment of Saint Cyr, P-1704, P-1705, and P-1716. Indeed, none of the witnesses, except P-1704, talked about Mr Yekatom’s presence during this stage of events.⁷⁸⁶³

3181. P-1704 described (i) Mr Yekatom giving his element an order to cut Saint Cyr’s ‘ears’; and (ii) Cœur de Lion stabbing Saint Cyr at his neck with a knife.⁷⁸⁶⁴ Having assessed this portion of his testimony together with that of other witnesses, the Chamber finds that P-1704 is not reliable on this aspect of his testimony, as none of the other witnesses recall Mr Yekatom being present at this point in time.

3182. Importantly, P-1839 said that Mr Yekatom was not present when the seven persons were brought to Yamwara and interrogated in front of and around Cœur de Lion’s house.⁷⁸⁶⁵ All

⁷⁸⁶¹ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 447-451. *See also* Yekatom Defence Closing Statements: T-308, p. 46, lines 23-25, p. 53, line 10 – p. 54, line 3.

⁷⁸⁶² Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, paras 660, 666. The Chamber notes that the Prosecution addresses the Yekatom Defence’s arguments made in its notification pursuant to Rule 79 of the Rules. It argues, *inter alia*, that ‘there is no credible evidence supporting the proposed alibi’ (*see* Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, paras 694-697 *referring to* Defence Notification Pursuant to Rule 79 of the Rules of Procedure and Evidence, ICC-01/14-01/18-818-Conf (the ‘Rule 79 Notification’), para. 11). The Chamber notes that, in its Closing Brief, the Yekatom Defence does not formally raise an alibi in defence. It submits that Mr Yekatom was not at Yamwara when the seven persons were brought there and only arrived in the evening ‘after Saint-Cyr Lapo’s abuse’. However, it does claim that Mr Yekatom was ‘about an hour away by foot’ from Yamwara on the afternoon of the Yamwara Incident and did not return until late that evening, as it did in Rule 79 Notification (*see* [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 445-446, 452-453). In light of this, the Chamber sees no reason to additionally address the alibi claims made by the Yekatom Defence in its Rule 79 Notification, or the Prosecution’s response to them.

⁷⁸⁶³ The Chamber notes that P-0967 and P-1811 testified about Mr Yekatom entering their room after Saint Cyr’s cries could no longer be heard outside (*see* paragraphs 3217-3226 below).

⁷⁸⁶⁴ P-1704 Statement, CAR-OTP-2054-1136-R05, at 1143, para. 38.

⁷⁸⁶⁵ P-1839: T-173, p. 76, lines 27-25.

witnesses, except P-1704, recall Mr Yekatom not being present when Saint Cyr was being interrogated, beaten, and maimed, nor when the remaining three men were being beaten.⁷⁸⁶⁶ Likewise, having regard to the same evidence, the Chamber concludes that Mr Yekatom was not present to order elements at Yamwara to beat the four men, nor did he order his elements to cut off Saint Cyr's ear.

3183. The Chamber recalls that, at the time, P-1839, Alkanto, Bojos, and Cœur de Lion were Mr Yekatom's subordinates and reported to him.⁷⁸⁶⁷

3184. As regards Mr Yekatom's knowledge about Saint Cyr's mistreatment and death, P-1839 and P-0954 provided evidence about their direct interactions with Mr Yekatom about it. As discussed later, Mr Yekatom also spoke with and interrogated P-1654, Saint Cyr's father, at Yamwara on the day of the event.⁷⁸⁶⁸

3185. The Yekatom Defence argues that neither P-1839 nor P-0954 can be relied upon to establish Mr Yekatom's knowledge.⁷⁸⁶⁹ It argues that P-1839's testimony on this point was based on her own assumptions and that the Yamwara Incident was 'never actually discussed' between them.⁷⁸⁷⁰ As regards P-0954, the Yekatom Defence argues that P-0954 did not have direct knowledge about the Yamwara Incident and gave a false narrative which is full of inaccuracies, contradictions, and misinformation.⁷⁸⁷¹

3186. As set out below, the Chamber finds that Mr Yekatom came to know about this incident, including the actions of the element that had cut off Saint Cyr's toes, fingers, and an ear,

⁷⁸⁶⁶ P-1839: T-173, p. 76, lines 17-25; P-1811: T-114, p. 20, lines 3-12, p. 28, lines 1-3; P-1705: T-211, p. 26, lines 8-24, p. 43, lines 19-22, p. 44, lines 6-10; T-212, p. 25, line 2 – p. 26, line 5. P-1716 said that he met Cœur de Lion who said that he was waiting for Mr Yekatom who would arrive later (see P-1716: T-147, p. 16, line 18 – p. 17, line 24). P-0967 recalled first meeting Mr Yekatom when the three female captives were kept inside the house, and this happened after Saint Cyr's cries could no longer be heard (see paragraphs 3218-3221 below).

⁷⁸⁶⁷ P-1704: T-128, p. 15, line 10 – p. 16, line 2; P-1716: T-147, p. 16, lines 1-10, p. 17, lines 5-24. See paragraphs 3062-3078 above.

⁷⁸⁶⁸ See paragraphs 3231-3244 below.

⁷⁸⁶⁹ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 465, 468-473. For the Yekatom Defence's arguments concerning P-1654, see paragraphs 3105-3108 below.

⁷⁸⁷⁰ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 465. See also Yekatom Defence Closing Statements: T-308, p. 55, line 15 – p. 56, line 2.

⁷⁸⁷¹ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 468-473. See also Yekatom Defence Closing Statements: T-308, p. 56, line 3 – p. 57, line 17.

shortly after the fact. Later, Mr Yekatom told P-1839 that this element had done a ‘good job insofar’.

3187. The Chamber notes that, in her interview with the Prosecution, P-1839 described meeting Mr Yekatom after the Yamwara Incident in an unrelated context, when he was sitting with other members of his group. During this meeting, P-1839 and Mr Yekatom exchanged words that, to her mind, were related to what the aforementioned element had done during the Yamwara Incident.

3188. In court, when asked about Mr Yekatom’s knowledge about the Yamwara Incident, P-1839 first said that she did not know if Mr Yekatom happened to know what this element had done during the Yamwara Incident.⁷⁸⁷² P-1839 was then shown her answers to the investigators in relation to this.⁷⁸⁷³

3189. P-1839, after having read these excerpts in court and asked again if Mr Yekatom had alluded to something this element had done and what her understanding was why he did that, said that Mr Yekatom just said to this element ‘good job’ (*‘il a juste dit « bon boulot »*) and that she did not know if he was referring to that (*‘je ne sais ce qu’il fait référence à ça’*); this is why she said that what this element had done at Cœur de Lion’s place was passed on to Mr Yekatom (*‘qu’on lui a transmis’*), but other than that, she did not know.⁷⁸⁷⁴ When specifically asked what she meant with ‘passed on to him’ (*‘peut-être que ça lui a été rapporté’*), P-1839 said that Mr Yekatom was ‘aware’, that she was surprised that he knew about it (*‘il était au courant et j’étais surpris qu’il était au courant’*), and that [REDACTED] and maybe things were explained there, she did not know (*‘peut-être en emmenant ces trois femmes-là qu’on lui a expliqué les choses là-bas, je ne sais pas’*).⁷⁸⁷⁵ P-1839 confirmed that she recalled that Mr Yekatom said to this element ‘good job insofar’.⁷⁸⁷⁶

3190. The evidence shows that Mr Yekatom did not punish the element who cut off Saint Cyr’s toes, fingers, and an ear, for these acts and, on the contrary, rewarded this element with posts

⁷⁸⁷² P-1839: T-170, p. 36, lines 12-15.

⁷⁸⁷³ P-1839: T-171, p. 12, lines 12-25 – p. 13, line 2, p. 13, lines 19-22.

⁷⁸⁷⁴ P-1839: T-171-ENG, p. 15, lines 18-23; T-171-FRA, p. 15, line 25 – p. 16, line 4.

⁷⁸⁷⁵ P-1839: T-171-ENG, p. 16, lines 6-11; T-171-FRA, p. 16, lines 16-21.

⁷⁸⁷⁶ P-1839: T-171, p. 16, lines 12-14.

of responsibility within his group, including as part of his security detail. P-1839 said that this element was not punished, ‘in contrast, it was something to be congratulated for’.⁷⁸⁷⁷ As a result of this incident, this element was ‘welcomed’ by Mr Yekatom and trusted by the ‘chiefs’ and respected by other elements.⁷⁸⁷⁸ Subsequently, and after the incident with the two thieves,⁷⁸⁷⁹ this element started working as Alkanto’s bodyguard and was given an AK-47,⁷⁸⁸⁰ and later was Mr Yekatom’s treasurer and part of his security detail.⁷⁸⁸¹

3191. Turning to P-0954, the Prosecution submits that P-0954 confirmed that the abductees were released upon Ngremangou’s orders and that P-0954 had a telephone call with Mr Yekatom after the Yamwara Incident in which Mr Yekatom ‘admitted’ that ‘Djotodia’s [REDACTED]’ had been freed and, in respect of Saint Cyr, ‘brazenly informed him that “we have removed the skin of the papaya”’.⁷⁸⁸² The Yekatom Defence challenges the granular details in P-0954’s testimony and requests that his testimony on this event should be dismissed in its entirety.⁷⁸⁸³

3192. As set out below, the Chamber has assessed P-0954’s evidence concerning the Yamwara Incident holistically, in light of the parties’ arguments.

3193. At the outset, the Chamber notes that P-0954 did not claim to have first-hand or accurate details about the Yamwara Incident and was forthcoming on the details that he did not know.⁷⁸⁸⁴ For example, P-0954 recalled hearing about this incident [REDACTED].⁷⁸⁸⁵ P-

⁷⁸⁷⁷ P-1839: T-170, p. 35, line 19 – p. 36, line 5.

⁷⁸⁷⁸ P-1839: T-170, p. 36, lines 7-11.

⁷⁸⁷⁹ See paragraph 3069 above.

⁷⁸⁸⁰ P-1839: T-170, p. 40, lines 2-9.

⁷⁸⁸¹ P-1839: T-170, p. 56, lines 13-21, p. 65, lines 10-12. See also paragraph 3412 below.

⁷⁸⁸² Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, para. 674.

⁷⁸⁸³ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 469-473.

⁷⁸⁸⁴ What P-0954 knew about the Yamwara Incident indeed does not comport with the evidence before the Chamber, as also pointed out by the Yekatom Defence. Namely, P-0954 seemed unaware of (i) the actual identities of the persons that had been apprehended and killed; (ii) how they had been apprehended; (iii) the number of people that had been apprehended; (iv) where ‘one woman’ was kept prior to her release; (iv) how and when the individual was killed; and (v) when the Yamwara Incident took place (see e.g. [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 469-470, nn. 1603-1613).

⁷⁸⁸⁵ P-0954 Statement, CAR-OTP-2048-0171-R03, at 0186, para. 86. The Yekatom Defence raises a number of arguments concerning those who apparently informed P-0954 about the Yamwara Incident (namely, [REDACTED] P-1786) and how his information about them and what they relayed to him was incorrect (see Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 472-473). The Chamber accepts that P-0954 was informed by others and that this information may not have been accurate or otherwise, accurately understood or recalled by him.

0954 did not know where exactly the killing took place,⁷⁸⁸⁶ or how.⁷⁸⁸⁷ P-0954 said that he could not remember the exact day of the incident and estimated that this person died when Djotodia was still in power and tension was at its peak in the country.⁷⁸⁸⁸ P-0954 also did not recall when the phone call with Mr Yekatom took place; when asked about specific time frames, P-0954 said that it was both before 20 December and 27 December 2013.⁷⁸⁸⁹

3194. Indeed, the Chamber cannot rely on P-0954 to establish conclusions on how the Yamwara Incident unfolded or how Saint Cyr died. However, P-0954's evidence is telling about where he placed Mr Yekatom in relation to the Yamwara Incident.

3195. As set out below, P-0954's testimony demonstrates that details of the Yamwara Incident were indeed relayed to him. His evidence contains descriptions which have an inescapable similarity with the Yamwara Incident as described above and noticeably show that he was indeed talking about the Yamwara Incident and would have received this information from those who knew about it. For example, P-0954 stated that Mr Yekatom's elements 'attacked Djotodia's [REDACTED], as she travelled in a vehicle with her aide-de-camp [when] [...] [t]hey were in Boeing on their way to a funeral', that they then brought 'Djotodia's [REDACTED]' to 'Yekatom's base' and she was released later, and that the killing of the

The Chamber notes that P-1858 also recalled an incident involving Mr Yekatom's elements where FACA General Lapo's 'son', who was [REDACTED], was killed behind the airport (see P-1858 Statement, CAR-OTP-2063-0050-R04, at 0065, paras 91-92). P-1858's source of information about this incident is someone called [REDACTED]. The Chamber cannot be certain about P-1858's source of information as he was not questioned further about it in court. P-1705 denied knowing [REDACTED] (see P-1705: T-212, p. 10, lines 9-11).

⁷⁸⁸⁶ P-0954: T-168, p. 58, lines 2-21.

⁷⁸⁸⁷ P-0954: T-168, p. 60, lines 16-22. The Chamber notes that the Yekatom Defence also points to a discrepancy in P-0954's answer contained in this excerpt, in that P-0954 had mentioned in his statement that the person killed was tied up, whereas in court he said that he was not (see [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, n. 1612). The Chamber notes that, in his statement, P-0954 indeed referred to Mr Yekatom's elements, *inter alia*, tying up the aide-de-camp (see P-0954 Statement, CAR-OTP-2048-0171-R03, at 0185-0186, para. 86). In court, asked if Mr Yekatom had admitted that he was present and 'had ordered that the aide-de-camp be tied up and killed' in their phone call together, P-0954 said that 'I didn't talk to you about being – him being tied up'. The Chamber does not consider this to be a discrepancy.

⁷⁸⁸⁸ P-0954: T-166, p. 39, line 19 – p. 40, line 3; P-0954 Statement, CAR-OTP-2048-0171-R03, at 0186, para. 86.

⁷⁸⁸⁹ P-0954: T-168, p. 62, lines 3-17. In respect of the date of this phone call and the Yamwara Incident, the Prosecution argues that P-0954 believing that this call took place before 20 December 2013 and therefore, placing it before the Yamwara Incident, is of 'minor' consequence and does not undermine his reliability as he recalled these events 8 years after the fact (see Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, para. 674). In the view of the Chamber, P-0954 not remembering the date of this phone call years after the fact does not mean that this phone call never took place. In any event, as set out below, the Chamber does not rely on P-0954 when entering conclusions on how the Yamwara Incident unfolded or when this phone call took place.

aide-de-camp happened at the time when Mr Yekatom was still based at Yamwara, before Djotodia had left power.⁷⁸⁹⁰

3196. While it is unclear which details about the incident he learnt from Mr Yekatom himself and which he was told by others, P-0954 is clear about having a direct exchange with Mr Yekatom on the death of someone he knows to be the ‘*aide de camp* to Djotodia’s [REDACTED]’, which the Chamber understands to be a reference to Saint Cyr.⁷⁸⁹¹

3197. When describing the phone call in court, P-0954 said that he came to know from Mr Yekatom and some other elements around him that Mr Yekatom’s elements stopped the ‘[REDACTED] Djotodia’ and her ‘*aide-de-camp*’ who were on their way to bury someone in Boeing, which was under Mr Yekatom and Ngremangou at the time, identifying him as a ‘Seleka’ and subsequently ‘this element was coldly killed before Yekatom’ (‘*élément a été froidement abattu [...] devant Yekatom*’).⁷⁸⁹² Upon receiving this information, P-0954 checked that ‘the element was indeed killed’ (‘*l’élément a été tué*’) and was a ‘FACA person’, and said that ‘Yekatom said this person was together with the Seleka’ (‘*Yekatom a dit qu’il est en connivence avec la Séléka*’) and so he was ‘a traitor’ and ‘therefore needs to be killed’ (‘*donc, il faut pas le garder, [...] il faut le tuer*’) and that this is why he was killed (‘*le gars a été tué*’).⁷⁸⁹³

3198. P-0954 said that he called Mr Yekatom and asked him what happened to ‘the child of General Lapo’ who was ‘*aide-de-camp* to Djotodia’s [REDACTED]’, and that Mr Yekatom answered in Sango ‘*eforolo tonga na papai*’ – meaning that ‘they had peeled the papaya’, ‘they removed the skin like they would do to a papaya’.⁷⁸⁹⁴ P-0954 said that he told Mr Yekatom that this person was a ‘*militaire*’ but Mr Yekatom responded that he ‘is’ a ‘traitor’ and ‘in cahoots with the Seleka so we cannot keep him’.⁷⁸⁹⁵

⁷⁸⁹⁰ P-0954: T-166, p. 38, lines 9-23; P-0954 Statement, CAR-OTP-2048-0171-R03, at 0185-86, para. 86.

⁷⁸⁹¹ See also paragraph 3170 above.

⁷⁸⁹² P-0954: T-166-ENG, p. 38, lines 9-23; T-166-FRA, p. 40, line 26 – p. 41, line 18.

⁷⁸⁹³ P-0954: T-166-ENG, p. 38, lines 9-23; T-166-FRA, p. 40, line 26 – p. 41, line 18.

⁷⁸⁹⁴ P-0954: T-166, p. 37, line 20 – p. 38, line 23, p. 40, lines 4-24; P-0954 Statement, CAR-OTP-2048-0171-R03, at 0186, para. 86.

⁷⁸⁹⁵ P-0954: T-166, p. 40, lines 4-14. The Yekatom Defence argues that the use of present tense suggests that the individual was alive when P-0954 spoke with Mr Yekatom on the phone while later he used the past tense, implying

3199. The Yekatom Defence disputes that this call between Mr Yekatom and P-0954 ever took place. It refers to CDR to argue that P-0954 and Mr Yekatom did not have a conversation with each other during this time where they would have had the chance to speak about the Yamwara Incident, amongst other things.⁷⁸⁹⁶ The Prosecution argues that the absence of CDR is ‘of no moment’ and it is ‘uncontestable’ that P-0954 and Mr Yekatom ‘collaborated as Anti-Balaka commanders’.⁷⁸⁹⁷ The Chamber finds that the CDR, in itself, does not conclusively demonstrate that P-0954 and Mr Yekatom were not otherwise in contact with each other in December 2013 through other means or telephone numbers.⁷⁸⁹⁸

3200. Further, the Chamber notes that P-0954 was able to explain the basis of his knowledge about Mr Yekatom’s purported role in the events and used qualified language. While in his statement, P-0954 appeared to categorically state that Mr Yekatom was present and ordered the killing in question,⁷⁸⁹⁹ in court, he explained why he thought so. P-0954 said that listening to the words used by Mr Yekatom ‘we decapitated him’ during their phone call, he understood this to mean that Mr Yekatom, as the ‘chief’ was the one who issued the order, and added that ‘if he said that he wasn’t there, I would believe him, but he actually said “we decapitated him” [...] mean[ing] that it was done in his presence’.⁷⁹⁰⁰ P-0954, asked again if Mr Yekatom was present when the person was killed, said that ‘Yekatom told me that he was a – a traitor, and therefore, he was an element that needed to be killed’ and ‘[i]f he said that to me, then he – what it meant was that he was present’ (*‘c’est ce que Yekatom a dit que c’est un traître, c’est un élément à abattre. Mais s’il dit ça, donc, ça veut dire qu’il est présent, que les choses se passaient’*).⁷⁹⁰¹ P-0954 agreed that Mr Yekatom confirmed to him on the phone that he was in Yamwara when the incident took place.⁷⁹⁰²

that the individual was already dead at the time of the call (see [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 470). The Chamber considers that the use of different tenses in this instance does not suggest that P-0954 was lying about this phone call or that he considered Mr Yekatom to be suggesting that the individual was alive at the time. P-0954 appeared consistent in saying that Mr Yekatom used the phrase that they had ‘peeled’ the papaya.

⁷⁸⁹⁶ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 253, n. 852 referring to CDR, CAR-D29-0004-3911.

⁷⁸⁹⁷ Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, para. 675.

⁷⁸⁹⁸ See also paragraphs 187-193 above.

⁷⁸⁹⁹ P-0954 Statement, CAR-OTP-2048-0171-R03, at 0186, para. 86.

⁷⁹⁰⁰ P-0954: T-166, p. 42, lines 2-9.

⁷⁹⁰¹ P-0954: T-168-ENG, p. 61, lines 12-16; T-168-FRA, p. 63, lines 19-25.

⁷⁹⁰² P-0954: T-168, p. 62, lines 3-5.

3201. Having regard to P-0954's evidence holistically, the Chamber finds that Mr Yekatom considered Saint Cyr a 'traitor' and 'in cahoots with the Seleka' and that therefore, they could not 'keep him'. When asked about Saint Cyr's treatment, Mr Yekatom said in Sango '*eforolo tonga na papai*' – meaning that 'they peeled the papaya', 'they removed the skin like they would do to a papaya'.

3202. The Chamber notes that P-0487 was also questioned about the Yamwara Incident⁷⁹⁰³ and that the Yekatom Defence provides arguments on why his testimony does not incriminate Mr Yekatom.⁷⁹⁰⁴ Having regard to its findings concerning P-0487's credibility,⁷⁹⁰⁵ the Chamber does not rely on him to enter any conclusions concerning the Yamwara Incident.

When elements in Mr Yekatom's group searched the female captives at Yamwara, they removed their veils and brought them inside Cœur de Lion's house at gunpoint. Inside Cœur de Lion's house, the elements in Mr Yekatom's group forced them to undress to their underwear, searched them again, threatened them with death, and kept them in this location. At this time, the female captives could hear the interrogation and mistreatment of Saint Cyr taking place outside. An element in Mr Yekatom's group pointed a weapon in the women's direction and asked P-1811 about her tribe. At some point, the female captives could no longer hear Saint Cyr crying outside. During their captivity inside Cœur de Lion's house, elements from Mr Yekatom's group were going in and out of the house and threatened them with death. Mr Yekatom met the female captives inside Cœur de Lion's house later that evening and introduced himself as 'Rombhot' and 'the chief'. Mr Yekatom interrogated the female captives about their ethnicities and family background. Mr Yekatom knew that the three women were Muslim. Mr Yekatom's presence and words at this stage were not reassuring to the female captives. The female captives had no indication about, or reason to believe, the genuineness of Mr Yekatom's composure or the purported efforts to have them released, nor the possibility that they would be released. Mr Yekatom knew that his elements had captured, mistreated, and kept them at gunpoint at Yamwara.

3203. The evidence shows that the elements in Mr Yekatom's group searched the female captives again, removing their veils, and brought them inside Cœur de Lion's house at gunpoint. P-1811 said that before entering the house, three women from the 'Anti-Balaka' were called and each one searched them and took their money.⁷⁹⁰⁶ P-0967 said that, while the women were on the veranda, some men came towards them and removed their veils.⁷⁹⁰⁷ Then, the

⁷⁹⁰³ See for example P-0487: T-201, p. 64, line 6 – p. 67, line 18, p. 68, line 23 – p. 70, line 1, p. 73, line 3 – p. 75, line 23.

⁷⁹⁰⁴ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 466.

⁷⁹⁰⁵ See paragraphs 223-232 above.

⁷⁹⁰⁶ P-1811 Statement, CAR-OTP-2058-0003-R05, at 0008, para. 31.

⁷⁹⁰⁷ P-0967: T-200, p. 44, line 20 – p. 45, line 6.

‘Anti-Balaka women’ elements brought them inside the house, while the men pointed their weapons at them.⁷⁹⁰⁸

3204. As set out below, the Chamber finds that, after the female captives were brought inside Cœur de Lion’s house, the elements in Mr Yekatom’s group forced them to undress to their underwear, searched them, and threatened them with death.

3205. P-1811 said that the Anti-Balaka instructed the female captives in Sango to undress but to leave their underwear on, they were forced to take their clothes off inside and remained in their underwear.⁷⁹⁰⁹ While P-0967 is less clear on whether the undressing took place inside or outside, she places this in time when Saint Cyr was being interrogated ‘outside’, suggesting that she was inside at the time. When asked later, P-0967 categorically said that at no point was she undressed outside the house to the point of her underwear.⁷⁹¹⁰ P-0967 said she did not know what was happening outside, but as far as they were concerned, ‘three young women’ elements came and stood in front of them, and they ordered them to get undressed.⁷⁹¹¹

3206. P-0967 said that she took off her *pagne*, skirt, and robes, [REDACTED] too undressed and kept her undergarments, and P-1811 took off her robes but kept on her trousers, as she had her period.⁷⁹¹² P-1811 said that they were then searched, and she recalled some male elements being present in the room and not being able to escape their looks.⁷⁹¹³

3207. Both P-0967 and P-1811 recalled threatening words being used by these elements during this time. P-1811 said that ‘the women’ elements told them that they were finished and asked them to say their last prayers as they were going to kill them and throw them away.⁷⁹¹⁴ P-

⁷⁹⁰⁸ P-1811 Statement, CAR-OTP-2058-0003-R05, at 0008, para. 31; P-1811: T-114, p. 21, lines 3-10; P-0967: T-200, p. 44, line 20 – p. 45, line 6.

⁷⁹⁰⁹ P-1811 Statement, CAR-OTP-2058-0003-R05, at 0008, para. 31; P-1811: T-114, p. 21, lines 9-10.

⁷⁹¹⁰ See also P-0967: T-200, p. 44, lines 14-19.

⁷⁹¹¹ P-0967: T-199, p. 42, lines 9-13.

⁷⁹¹² P-0967: T-199, p. 42, lines 13-19.

⁷⁹¹³ P-1811 Statement, CAR-OTP-2058-0003-R05, at 0008, para. 32 (‘*Les hommes étaient toujours présents dans la pièce et nous ne pouvions pas échapper à leurs regards*’).

⁷⁹¹⁴ P-1811: T-114, p. 21, lines 11-15.

0967 said that the female elements insulted them saying that the ‘Seleka have arrived’ and that ‘[t]hey’ve killed my family’.⁷⁹¹⁵

3208. The Chamber notes in this regard that P-1705 and P-1716 stated that the female captives had been asked to undress *before* being sent into the house.⁷⁹¹⁶ The Yekatom Defence points out that this is contrary to the evidence provided by P-1811 and P-0967.⁷⁹¹⁷ Having considered the testimony of P-1704, P-1705, and P-1716 on this point, the Chamber finds them unreliable in this aspect, in light of the evidence by P-0967 and P-1811. As discussed in detail above, P-1811 recalled that the undressing took place once the women were inside the house.

3209. Having regard to this, the Chamber finds that while the female captive’s belongings were indeed searched outside, elements in Mr Yekatom’s group ordered them to undress inside Cœur de Lion’s house.

3210. As regards the identity of the elements that searched them inside the house, P-1811 stated all three were ‘young women’, the only women she saw among ‘the Anti-Balaka’, they did not carry weapons, were dressed in civilian clothes, pants and t-shirt, and while P-1811 did not pay attention to their shoes, she did not see them with *gris-gris* or any jewellery.⁷⁹¹⁸ P-1811 did not hear anyone mention the names of these female elements.⁷⁹¹⁹

3211. P-0967 and P-1811 recalled there being a ‘mixed race’ woman among the three female elements that searched them, with P-1811 describing her as if ‘one of her parents was white’ and who had ‘light skin, hair cut very short’ and ‘*bien en chaire*’,⁷⁹²⁰ a description that appears to match that of the element that maimed Saint Cyr. P-0967 said that this element

⁷⁹¹⁵ P-0967: T-199, p. 42, lines 11-13.

⁷⁹¹⁶ P-1705: T-211, p. 40, lines 10-18, p. 43, lines 2-18; P-1716 Statement, CAR-OTP-2053-0062-R05, at 0069, para. 38; P-1716: T-148, p. 29, lines 3-18. The Chamber also notes that P-1704 stated that the Anti-Balaka took the head dresses of the female captives at the checkpoint and does not find him reliable on this aspect of his testimony (see P-1704 Statement, CAR-OTP-2054-1136-R05, at 1142, para. 31).

⁷⁹¹⁷ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 443. See also Yekatom Defence Closing Statements: T-308, p. 52, line 23 – p. 53, line 5.

⁷⁹¹⁸ P-1811 Statement, CAR-OTP-2058-0003-R05, at 0008, para. 32.

⁷⁹¹⁹ P-1811: T-114, p. 21, lines 16-18.

⁷⁹²⁰ P-1811 Statement, CAR-OTP-2058-0003-R05, at 0008, para. 32. See also P-0967: T-199, p. 45, lines 4-12.

stood in front of P-1811 and they seemed to know each other; she asked P-1811 why, being Gbaya, she had married a Muslim who had come and murdered their parents.⁷⁹²¹

3212. Having regard to this, the Chamber notes that P-1839 did not know about the orders to the female captives to undress inside the house,⁷⁹²² and P-0967 said that she was unable to ‘officially’ identify ‘the girl’ who had stood opposite her during the search when shown a video depicting an armed female element.⁷⁹²³ While P-0967 appeared to have placed ‘a mixed-race person with light skin’ searching the female captives inside Cœur de Lion’s house,⁷⁹²⁴ she also admitted to not being in a position ‘to remember all the details’ because of the traumatic nature of her experiences.⁷⁹²⁵

3213. The Chamber now turns to P-1811’s and P-0967’s recollection that there was a ‘mixed race’ woman among those that searched them inside Cœur de Lion’s house. Likely, [REDACTED], the Chamber considers unlikely that this element also searched the female captives inside Cœur de Lion’s house – while Saint Cyr was being maimed outside or at any point later. Further, the Chamber considers that the element that cut off Saint Cyr’s body parts was not present when the other elements in Mr Yekatom’s group forced the female captives to undress inside Cœur de Lion’s house.

3214. The Chamber now turns to the women’s captivity inside Cœur de Lion’s house following their search.

3215. The evidence shows that both P-0967 and P-1811 could hear Saint Cyr being interrogated and beaten outside while they were inside Cœur de Lion’s house.⁷⁹²⁶ P-0967 said that she heard crying and heard that the elements in Mr Yekatom’s group were asking Saint Cyr to speak in his dialect.⁷⁹²⁷ P-1811 and P-0967 said that, from inside the house, they could hear

⁷⁹²¹ P-0967: T-199, p. 42, lines 21-24, p. 45, line 4 – p. 46, line 11.

⁷⁹²² P-1839: T-173, p. 70, line 17 – p. 71, line 8.

⁷⁹²³ P-0967: T-200, p. 6, lines 15-24, *see also* p. 5, line 6 – p. 6, line 14 *referring to* Video, CAR-OTP-2012-0523, at 00:10:16-00:10:21.

⁷⁹²⁴ P-0967: T-199, p. 45, lines 4-12.

⁷⁹²⁵ P-0967: T-200, p. 6, lines 3-8.

⁷⁹²⁶ P-0967: T-199, p. 39, line 18 – p. 40, line 23; P-1811 Statement, CAR-OTP-2058-0003-R05, at 0009, para. 35.

⁷⁹²⁷ P-0967: T-199, p. 41, line 20 – p. 42, line 10.

Saint Cyr being interrogated and P-0967 shouted Saint Cyr's name.⁷⁹²⁸ P-1705 said that he could hear the three women telling the male captives to remain calm and implore God.⁷⁹²⁹

3216. As set out below, the Chamber finds that while they were inside the house, an element in Mr Yekatom's group pointed a weapon in the direction of the female captives and asked P-1811 about her tribe. At some point, the female captives could no longer hear Saint Cyr crying outside anymore.

3217. P-0967 and P-1811 recalled that an element had a weapon pointed in their direction.⁷⁹³⁰ This element asked P-1811 about her tribe, to which she said that she is 'Gbaya from Boda'; asked to speak in Gbaya, she explained what the three women were doing there, following which this person told the female captives to get dressed.⁷⁹³¹ P-0967, who did not understand Gbaya,⁷⁹³² recalled a man entering and ordering the three women to get dressed.⁷⁹³³ From P-1811's and P-0967's testimony, it is unclear who this person was.⁷⁹³⁴

3218. P-0967 said that the female captives then sat with their backs facing the wall and, after some time, could no longer hear Saint Cyr's crying outside.⁷⁹³⁵ While P-1811 did not place this relative to the time at which they were asked to get dressed, she also testified that during the time when they were inside being searched and interrogated, she could hear Saint Cyr crying outside but at some point later, they could no longer hear him crying.⁷⁹³⁶

3219. The evidence shows that during the women's captivity inside Cœur de Lion's house, elements from Mr Yekatom's group were coming in and out of the house and threatened the female captives with death. P-0967 recalled being told that they would be cut to pieces and

⁷⁹²⁸ P-1811 Statement, CAR-OTP-2058-0003-R05, at 0009, para. 35; P-0967: T-199, p. 41, line 20 – p. 42, line 10.

⁷⁹²⁹ P-1705: T-211, p. 39, line 19 – p. 40, line 6.

⁷⁹³⁰ P-1811 characterised this person as an 'Anti-Balaka' and P-0967 as a 'soldier' (see P-1811 Statement, CAR-OTP-2058-0003-R05, at 0008-09, para. 33; P-0967: T-199, p. 39, line 18 – p. 40, line 17; P-0967: T-200, p. 8, lines 3-16).

⁷⁹³¹ P-1811 Statement, CAR-OTP-2058-0003-R05, at 0008-09, paras 33-34.

⁷⁹³² P-0967: T-199, p. 41, line 15.

⁷⁹³³ P-0967: T-200, p. 49, lines 12-18.

⁷⁹³⁴ P-1811 Statement, CAR-OTP-2058-0003-R05, at 0009, para. 33; P-0967: T-200, p. 49, lines 12-18. P-0967 was asked about the identity of this person and said, *inter alia*, she was 'not sure' and did not remember specifically whether 'Rombhot' was the person who came back and told them to put their clothes back on (see P-0967: T-199, p. 46, line 12 – p. 47, line 1).

⁷⁹³⁵ P-0967: T-199, p. 42, line 10 – p. 43, line 5.

⁷⁹³⁶ P-1811 Statement, CAR-OTP-2058-0003-R05, at 0009, para. 35; P-1811: T-114, p. 21, line 19 – p. 22, line 7, p. 28, lines 18-23.

would die on that day and be buried, and that at the main entrance there was an element, who had a weapon that was pointed in their direction.⁷⁹³⁷ While P-0967 is unclear on when this happened relative to the other events during their stay inside Cœur de Lion's house, she agreed that she was scared and it was difficult to follow what was happening around her.⁷⁹³⁸ During her captivity in this house, P-0967 recalled an element claiming to be Bozizé's 'nephew' entering the house and threatening them,⁷⁹³⁹ and according to her, he spoke Sango with a Gbaya accent and was wearing sportswear.⁷⁹⁴⁰

3220. As set out below, the Chamber finds that Mr Yekatom met the female captives inside Cœur de Lion's house that night and introduced himself as 'Rombhot' and 'the chief'. Mr Yekatom interrogated the female captives about their ethnicities and family background. On the basis of this interrogation, Mr Yekatom knew that the three women were Muslim.

3221. P-0967 and P-1811 said that, afterwards, a man with a beard entered the house and introduced himself by saying 'I am Rombhot' and that he was 'the chief'.⁷⁹⁴¹ He then left and came back again and spoke to P-1811 in Gbaya.⁷⁹⁴²

3222. The Yekatom Defence submits that Mr Yekatom was 'calm' in his interactions with the female captives and made 'genuine efforts to reassure the Lapo family and secure their freedom; it also points to CDRs 'revealing that he contacted French forces in the evening of 24 December 2013, and in the following days' in order for them to be retrieved.⁷⁹⁴³

⁷⁹³⁷ P-0967: T-199, p. 39, line 18 – p. 40, line 17; T-200, p. 45, lines 7-10. P-0967 identified this weapon as an AA-52 when shown Video, CAR-OTP-2012-0523, at 00:44:30-00:44:33, and said that it was this weapon, mounted on a tripod, that had been pointed in their direction from the entrance of the house (see P-0967: T-200, p. 8, lines 3-16).

⁷⁹³⁸ P-0967: T-200, p. 45, lines 7-10.

⁷⁹³⁹ P-0967: T-199, p. 40, line 18 – p. 41, line 19, p. 49, lines 15-23.

⁷⁹⁴⁰ P-0967: T-200, p. 45, lines 11-18.

⁷⁹⁴¹ P-0967: T-199, p. 40, line 18 – p. 41, line 19; T-200, p. 46, lines 13-24, p. 48, line 13 – p. 49, line 11; P-1811: T-114, p. 20, lines 3-12, p. 28, lines 1-3. P-0967 explained how she learnt that 'Rombhot' was Mr Yekatom (see P-0967: T-200, p. 59, line 12 – p. 60, line 6).

⁷⁹⁴² P-0967: T-199, p. 40, line 18 – p. 41, line 19, p. 47, lines 8-12; T-200, p. 47, lines 14-24, p. 49, lines 3-8. See also P-1811 Statement, CAR-OTP-2058-0003-R05, at 0009, para. 38.

⁷⁹⁴³ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 463. See in particular n. 1585 referring to CAR-OTP-2054-1480. See also Yekatom Defence Closing Statements: T-308, p. 46, line 25 – p. 47, line 3, p. 54, lines 6-15.

3223. In this respect, the Chamber has considered the timing of Mr Yekatom's visit as well as the nature of his interactions with them.

3224. As regards the timing of Mr Yekatom's meeting the female captives, P-0967 said that it was after the visit of the person described as 'Bozize's nephew'.⁷⁹⁴⁴ P-1811 said that when the night had 'already fallen', Mr Yekatom entered Cœur de Lion's house where the three female captives were being kept at this time.⁷⁹⁴⁵ Both P-0967's and P-1811's testimony indicate that when Mr Yekatom entered the house, the female captives were dressed.⁷⁹⁴⁶

3225. As regards the nature of their interactions, the Chamber considers that P-1811 and P-0967 did not feel reassured by Mr Yekatom's words, actions, or presence. P-1811 said that Mr Yekatom questioned the female captives one by one, asking their age, tribe, and parents' name; she answered that she lived in Gbaya neighbourhood, to which Mr Yekatom said that he used to live in Gbaya in Cattin next to the Banga-Banga family; after P-1811 said that Banga-Banga was her big brother, Mr Yekatom told her that nothing bad would happen to them.⁷⁹⁴⁷ P-1811 recalled still feeling afraid and not reassured.⁷⁹⁴⁸ From this questioning, it also emerged that P-0967's mother was Gbaya.⁷⁹⁴⁹ P-0967 recalled Mr Yekatom mentioning that '[i]f you're lucky, you will be taken to the Sangaris'⁷⁹⁵⁰ and that '[v]ous n'avez qu'à prier et que, s'il était question de vous tuer, que vous soyez tuées. [...]'.⁷⁹⁵¹

3226. P-1811 said that Mr Yekatom was not aggressive to them in any way, but talked to them in a calm manner and even asked them why they had come there or how they had come to be there.⁷⁹⁵² P-1811 said that she did not see Mr Yekatom interact with the elements who took

⁷⁹⁴⁴ P-0967: T-200, p. 45, lines 19-25, p. 54, lines 15-16.

⁷⁹⁴⁵ P-1811: T-114, p. 28, lines 18-23.

⁷⁹⁴⁶ P-0967: T-200, p. 48, lines 13-18. From the sequence of events described in P-1811's testimony, an Anti-Balaka member asked them to get dressed prior to Mr Yekatom's visit to the house (see P-1811 Statement, CAR-OTP-2058-0003-R05, at 0009, para. 34).

⁷⁹⁴⁷ P-1811 Statement, CAR-OTP-2058-0003-R05, at 0009, para. 38.

⁷⁹⁴⁸ P-1811 Statement, CAR-OTP-2058-0003-R05, at 0009-10, para. 38.

⁷⁹⁴⁹ P-1811 Statement, CAR-OTP-2058-0003-R05, at 0009-10, para. 38.

⁷⁹⁵⁰ The Chamber notes that it appears that Mr Yekatom spoke to the three female captives in Gbaya and Sango. According to P-0967, his exchanges with P-1811 were in Gbaya, whereas P-1811 seemed to think that it happened in Sango. However, both recalled Mr Yekatom mentioning the Sangaris (see P-0967: T-200, p. 51, line 19 – p. 52, line 21; P-1811: T-115, p. 20, lines 1-12).

⁷⁹⁵¹ P-0967: T-199-FRA, p. 42, line 28 – p. 45, line 15, in particular, p. 43, lines 20-21.

⁷⁹⁵² P-1811: T-114, p. 28, lines 6-14.

them from the hut to the base,⁷⁹⁵³ but came to understand the next day that Mr Yekatom was the leader of this group.⁷⁹⁵⁴ Following Mr Yekatom's meeting with the three female captives, another person entered the house and took down their names in a notebook and also asked P-1811 whether she was Mamour's [REDACTED].⁷⁹⁵⁵

3227. Based on this and having regard to the overall circumstances of their captivity and mistreatment endured until that point, the Chamber is convinced that Mr Yekatom's presence and words at this stage were not reassuring to the female captives, contrary to what is argued by the Yekatom Defence. The Chamber recalls that the female captives had been captured, mistreated, stolen from, forcibly undressed and searched, threatened with death, interrogated about their ethnic background, and kept captive under gunpoint. The Chamber also has regard to the fact that, at this stage, the female captives were still in the dark about Saint Cyr's state and that of the other men accompanying them. While they had heard Saint Cyr's cries and interrogation outside, they did not know what had happened to him and what would be their fate and that of the other male captives.

3228. In the Chamber's view, regardless of Mr Yekatom's purported calmness as argued by the Yekatom Defence, his presence, words, and actions did not reassure the female captives of their safety or release. Having assessed Mr Yekatom's words that P-0967 and P-1811 both recalled, the evidence shows that the female captives had no indication about, or reason to believe, the genuineness of Mr Yekatom's composure or purported efforts to have them released, or the possibility that they would be released. Furthermore, the Chamber notes that the mistreatment of the captives did not stop following Mr Yekatom's meeting with the female captives.⁷⁹⁵⁶

3229. Additionally, without more evidence as to the contents of the purported calls between Mr Yekatom and the French forces, the Chamber cannot conclude, only based on the CDR pointed to by the Yekatom Defence, that Mr Yekatom called the French forces in an effort to secure the release of the 'Lapo family', as argued.

⁷⁹⁵³ P-1811: T-114, p. 32, lines 5-7.

⁷⁹⁵⁴ P-1811 Statement, CAR-OTP-2058-0003-R05, at 0009-10, para. 38.

⁷⁹⁵⁵ P-0967: T-199, p. 40, line 18 – p. 41, line 18; T-200, p. 46, line 25 – p. 47, line 13.

⁷⁹⁵⁶ See paragraphs 3251-3255 below.

3230. Having regard to Mr Yekatom's interactions with the female captives on the night of 24 December 2013, the Chamber finds that Mr Yekatom knew that his elements had captured, mistreated, and kept them at gunpoint at Yamwara.

The same evening of these events at Yamwara, P-1654, who was Saint Cyr's father, came to meet Mr Yekatom at Yamwara. Mr Yekatom, with Bojos and Cœur de Lion, questioned P-1654 about his family for hours, including about his ethnicity, and threatened him and his family with death. They asked him why 'the Goula', in particular, Mamour's relative, had been invited to the funeral; they also asked about Saint Cyr's relation with him. Mr Yekatom did not inform P-1654, who was fearful for Saint Cyr, about the state and location of Saint Cyr or that of the other captives. After hearing the questioning from Mr Yekatom and his elements and upon P-1654's return from Yamwara to his house, the day after Saint Cyr and the others were captured, P-1654 and the rest of his family fled Boeing.

Mr Yekatom was aware of Saint Cyr's presence and mistreatment at Yamwara, at the very latest during P-1654's encounter with him on the evening of 24 December 2013. Mr Yekatom knew that his elements had mistreated Saint Cyr, and that he subsequently died. Mr Yekatom knew that, at the time of his capture, Saint Cyr was escorting the three women, with whom he had familial relations, together with the other three men, to find transport to go home, in the context of a burial of a family relative. Mr Yekatom knew that Saint Cyr had family links with the 'Goula' and that he was unarmed at the time of his capture.

3231. At the same time, related events unfolded outside of Yamwara. P-1654, Saint Cyr's father, described how in the evening of 24 December 2013, about twelve men arrived at Charlemagne's funeral at the Lapo N'Gomat family house and ordered him to follow them; P-1654 was searched for weapons and informed that 'Rombot' wanted to see him.⁷⁹⁵⁷

3232. As set out below, the evidence shows that, once at Yamwara, P-1654 saw P-1704, P-1705, and P-1716 there. P-1654 was interrogated and threatened by Mr Yekatom, Bojos, and Cœur de Lion, who questioned P-1654 about his family for hours, including about his ethnicity, and threatened him and his family with death.⁷⁹⁵⁸ They asked him why 'the Goula', in particular Mamour's [REDACTED], had been invited to the funeral; they also asked if Saint Cyr was [REDACTED]. Mr Yekatom did not inform P-1654, who was fearful for Saint Cyr, about the state and location of Saint Cyr or that of the other captives.

⁷⁹⁵⁷ P-1654 Statement, CAR-OTP-2053-0112-R04, at 0116, paras 30, 34, 36. P-1654 said that this happened around 19:00. P-1704 said that P-1705 was sent to show P-1654's house, following which P-1654 came to Yamwara. This does not comport with the other evidence, particularly that of P-1654 and P-1705. The Chamber has not relied on P-1704 concerning P-1654's visit (see P-1704 Statement, CAR-OTP-2054-1136-R05, at 1144-45, para. 46).

⁷⁹⁵⁸ P-1654 Statement, CAR-OTP-2053-0112-R04, at 0117, paras 36-38.

3233. When he arrived at Yamwara, P-1654 recognised Bojos who had been his [REDACTED] aide-de-camp before the conflict.⁷⁹⁵⁹ P-1654 had not met Mr Yekatom or Cœur de Lion, but both of them were referred to by name in his presence.⁷⁹⁶⁰ P-1654 recalled being surrounded by many armed elements, with some carrying AK-47 rifles.⁷⁹⁶¹

3234. P-1654 stated he was given a chair to sit on and the three ‘boys’, P-1704, P-1705, and P-1716 were seated near him; he heard P-1704 whisper to him in Sango that Saint Cyr’s ‘ears’ had been cut off and that the three women were being held at Yamwara.⁷⁹⁶²

3235. P-1654 said that Mr Yekatom, Cœur de Lion, and Bojos questioned him about his ethnicity and why the Goula, in particular Mamour’s [REDACTED], had been invited to the funeral; they also asked if Saint Cyr was [REDACTED].⁷⁹⁶³ P-1654 stated that P-1704, P-1705, and P-1716 were in the same place as he was but he could not see their physical condition as it was dark.⁷⁹⁶⁴ P-1654 stated that his questioning went on until almost 22:00; Mr Yekatom warned him not to go to the authorities or he and his family would be killed and told him to return the following morning.⁷⁹⁶⁵

3236. P-1654 recalled being traumatised: he had lost an older son already that day and he had been prevented from mourning his loss, and he was also fearful for his second son, Saint Cyr, as he had not seen him when he arrived at Yamwara, and it appeared to him that Saint Cyr was still in Mr Yekatom’s custody.⁷⁹⁶⁶

3237. P-1705 said that he witnessed the encounter between P-1654 and Mr Yekatom. The Yekatom Defence argues that P-1705 took information from P-1654 that ‘Mr Yekatom would have been present during an alleged encounter with P-1654 – an allegation which did not feature

⁷⁹⁵⁹ P-1654 Statement, CAR-OTP-2053-0112-R04, at 0116, para. 34.

⁷⁹⁶⁰ P-1654 Statement, CAR-OTP-2053-0112-R04, at 0116, para. 32.

⁷⁹⁶¹ P-1654 Statement, CAR-OTP-2053-0112-R04, at 0116, para. 33.

⁷⁹⁶² P-1654 Statement, CAR-OTP-2053-0112-R04, at 0117, para. 35. *See also* P-1705: T-212, p. 37, lines 15-21.

⁷⁹⁶³ P-1654 Statement, CAR-OTP-2053-0112-R04, at 0116-17, paras 32, 37, 38.

⁷⁹⁶⁴ P-1654 Statement, CAR-OTP-2053-0112-R04, at 0116-17, paras 34-36.

⁷⁹⁶⁵ P-1654 Statement, CAR-OTP-2053-0112-R04, at 0117, paras 38-39. *See also* P-1705: T-211, p. 43, line 23 – p. 44, line 5; T-212, p. 26, lines 13-18. P-1705 recalled P-1654 having told him about this threat after the events.

⁷⁹⁶⁶ P-1654 Statement, CAR-OTP-2053-0112-R04, at 0117, paras 37, 39.

in P-1705's original statement'.⁷⁹⁶⁷ The Prosecution does not rely on P-1705 to establish facts surrounding P-1654's encounter with Mr Yekatom.⁷⁹⁶⁸

3238. Having assessed this portion of P-1705's testimony, together with other parts of his testimony and that of P-1654 and P-1716, the Chamber finds it unreliable. P-1705's testimony about this encounter is contrary to P-1654's own statement that he had not seen Saint Cyr when he arrived at Yamwara. P-1705 recalled that when this exchange was taking place between P-1654 and Mr Yekatom, Saint Cyr was still in the place where he had been mistreated, on the ground (*'au sol'*) close to Cœur de Lion's house; and everyone else was in the same position seated on the ground.⁷⁹⁶⁹ P-1705 said that he was not in a position to confirm whether Saint Cyr may have been alive when Mr Yekatom arrived at the scene and he did not recall Mr Yekatom saying anything to Saint Cyr or about him to P-1654.⁷⁹⁷⁰ P-1705 was not certain whether Mr Yekatom saw Saint Cyr or whether P-1654 talked to Saint Cyr at this time.⁷⁹⁷¹

3239. At the same time, this portion of P-1705's testimony is contrary to him later suggesting that the first time Mr Yekatom spoke to him was only later at the M'Poko airport base.⁷⁹⁷² Similarly, P-1716 recalled seeing P-1654 but did not recall whether this happened in the evening or the morning after and he also did not recall whether there were any exchanges between P-1654 and Cœur de Lion.⁷⁹⁷³

3240. Having regard to this and the Yekatom Defence arguments, the Chamber has not relied on P-1705 to enter conclusions on P-1654's encounter with Mr Yekatom.

3241. Based on P-1654's questioning on his arrival at Yamwara, the Chamber finds that Mr Yekatom knew of Saint Cyr's presence at Yamwara at the time of this encounter and the fact that some of the captives were Goula or otherwise related to Mamour. The Chamber

⁷⁹⁶⁷ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 437.

⁷⁹⁶⁸ See Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, para. 679.

⁷⁹⁶⁹ P-1705: T-211-ENG, p. 44, line 25 – p. 45, line 9, p. 49, lines 5-8; T-211-FRA, p. 45, lines 1-12.

⁷⁹⁷⁰ P-1705: T-211, p. 45, line 10 – p. 46, line 3.

⁷⁹⁷¹ P-1705: T-211, p. 48, lines 6-12.

⁷⁹⁷² P-1705: T-211, p. 49, lines 14-24.

⁷⁹⁷³ P-1716: T-148, p. 33, line 3 – p. 34, line 19; P-1716 Statement, CAR-OTP-2053-0062-R05, at 0071, para. 50.

finds that, at this stage of the events, Mr Yekatom also knew of Saint Cyr's actual physical state.

3242. Considering Mr Yekatom's direct interaction with P-1654,⁷⁹⁷⁴ P-0954,⁷⁹⁷⁵ and the three women captives,⁷⁹⁷⁶ as separately discussed above, the Chamber finds that Mr Yekatom knew that, at the time of his capture, Saint Cyr was escorting the three women, with whom he had familial relations, together with the other three men, to find transport to go home, in the context of a burial of a family relative. Mr Yekatom knew that Saint Cyr had family links with 'Goula' and that he was unarmed at the time of his capture.

3243. The Chamber finds that Saint Cyr's family fled Boeing the day after Saint Cyr and the others were captured, after hearing the questioning from Mr Yekatom and his elements. P-1654 stated that on the same day, on 25 December 2013, he and his wife fled Boeing after hearing the questioning from Mr Yekatom and his elements; his wife was Goula and her sisters were all converts to Islam and it was clear to him that it had become dangerous for his family.⁷⁹⁷⁷

3244. Having regard to the evidence provided by P-1839, P-0954, and P-1654, as discussed above, the Chamber finds that Mr Yekatom was aware of Saint Cyr's presence and mistreatment at Yamwara, at the very latest during his encounter with P-1654 on the evening of 24 December 2013. The Chamber finds that Mr Yekatom knew that his elements had mistreated Saint Cyr, and that he subsequently died.

P-1716 remained captive at Yamwara under Cœur de Lion's watch on the night of his capture. During this time, elements in Mr Yekatom's group threatened P-1716 with death and Cœur de Lion interrogated him. P-1716 was released the following morning after his father paid a ransom to Cœur de Lion and Mr Yekatom. Mr Yekatom knew of P-1716's capture and his mistreatment at the very latest by the morning of 25 December 2013.

3245. Turning to the events that followed, the Chamber notes that at some point in the evening, the captives were divided into two groups: (i) P-1716 remained at Yamwara next to Cœur de

⁷⁹⁷⁴ See paragraphs 3231-3235- above.

⁷⁹⁷⁵ See paragraphs 3191-3201 above.

⁷⁹⁷⁶ See paragraphs 3220-3227 above.

⁷⁹⁷⁷ P-1654 Statement, CAR-OTP-2053-0112-R04, at 0118, para. 44.

Lion; and (ii) the three women and P-1704 and P-1705 were grouped together (the ‘Five Captives’).

3246. Turning first to P-1716’s experience, the evidence shows that P-1716 remained captive in Yamwara under Cœur de Lion’s watch on the night of his capture. During this time, elements in Mr Yekatom’s group threatened P-1716 with death and Cœur de Lion interrogated him.

3247. P-1716 recalled that Cœur de Lion told him that someone had been sent to get his father but could not find him.⁷⁹⁷⁸ At some point, P-1704 and P-1705 were brought back to join P-1716 but were kept separated.⁷⁹⁷⁹ Since his father could not come to Yamwara, P-1716 had to spend the night there next to Cœur de Lion, and whilst waiting for his father, the Anti-Balaka elements threatened P-1716 with death and showed him where they had buried some people.⁷⁹⁸⁰ During this time, Cœur de Lion interrogated P-1716, asking why he was with the group, to which P-1716 responded that he was [REDACTED].⁷⁹⁸¹

3248. P-1716 was not moved to the same location as the Five Captives and remained in place next to Cœur de Lion.⁷⁹⁸² When P-1654 returned to Yamwara the next morning at around 06:30, he saw P-1716.⁷⁹⁸³ P-1654 and P-1716 spoke and the latter said that the others, including P-1704 and P-1705, were not with him.⁷⁹⁸⁴

3249. As set out below, the Chamber finds that P-1716 was released the following morning after his father paid a ransom to Cœur de Lion and Mr Yekatom. Mr Yekatom knew of P-1716’s capture and his mistreatment at the very latest by the morning of 25 December 2013.

3250. P-1716’s father arrived at Yamwara the morning after his capture and negotiated his release after paying a ransom to Cœur de Lion. P-1716 said that his father arrived at about 06:00 the next morning and met P-1716, Cœur de Lion, and Mr Yekatom, and Cœur de Lion

⁷⁹⁷⁸ P-1716 Statement, CAR-OTP-2053-0062-R05, at 0070, para. 45.

⁷⁹⁷⁹ P-1716 Statement, CAR-OTP-2053-0062-R05, at 0070, para. 46.

⁷⁹⁸⁰ P-1716 Statement, CAR-OTP-2053-0062-R05, at 0070, para. 45.

⁷⁹⁸¹ P-1716 Statement, CAR-OTP-2053-0062-R05, at 0070, paras 45-46.

⁷⁹⁸² P-1716 Statement, CAR-OTP-2053-0062-R05, at 0070, para. 45; P-1704 Statement, CAR-OTP-2054-1136-R05, at 1145, para. 47.

⁷⁹⁸³ P-1654 Statement, CAR-OTP-2053-0112-R04, at 0117, paras 40-41; P-1716 Statement, CAR-OTP-2053-0062-R05, at 0071, para. 50.

⁷⁹⁸⁴ P-1716: T-148, p. 33, line 22 – p. 34, line 1; P-1654 Statement, CAR-OTP-2053-0112-R04, at 0117, para. 40.

introduced himself to the father and demanded 100,000 CFA for P-1716's release, while Mr Yekatom set the conditions for his release.⁷⁹⁸⁵ P-1716 stated that, at about 09:00 the same morning, his father returned with 80,000 CFA and handed it over to Cœur de Lion,⁷⁹⁸⁶ who said that he was going to report back to his 'chief' and then proceeded with the release.⁷⁹⁸⁷ P-1716 stated that Mr Yekatom warned him that if he spoke about what happened, his family would be thrown into disarray.⁷⁹⁸⁸ P-1716 states he left with his father that morning and, as he was released, P-1716 did not hear or see the other captives.⁷⁹⁸⁹ P-1716 learnt several days later that P-1705 and P-1704 were released.⁷⁹⁹⁰ He stated that for several days afterwards, the Anti-Balaka 'patrolled by our house intimidating us'.⁷⁹⁹¹

Elements in Mr Yekatom's group brought the three women outside of Cœur de Lion's house, regrouped them with P-1704 and P-1705, and brought them to another location in Yamwara. The elements in Mr Yekatom's group continued to keep the three women, together with P-1704 and P-1705, in captivity at this location in Yamwara at gunpoint, where the female captives were threatened and told that they would be peeled 'like a papaya'. Saint Cyr was not amongst them.

3251. Turning to the remaining captives, other than P-1716, after nightfall on 24 December 2013, the evidence shows that elements in Mr Yekatom's group brought the three women outside of Cœur de Lion's house, regrouped them with P-1704 and P-1705, and brought them to another house.⁷⁹⁹² P-1839 said that she heard that the three women were taken to 'the house of Mr Yekatom Alfred Rambo'.⁷⁹⁹³ P-1811 said that after questioning her, Mr Yekatom went

⁷⁹⁸⁵ P-1716: T-147, p. 17, line 25 – p. 18, line 12; P-1716 Statement, CAR-OTP-2053-0062-R05, at 0070, para. 47. The Chamber notes that, in his statement, P-1716 had not mentioned Mr Yekatom setting the conditions of his release and was questioned on this. P-1716 replied that no one had asked him about it at the time (see P-1716: T-147, p. 19, line 15 – p. 20, line 8, p. 23, line 2 – p. 24, line 7).

⁷⁹⁸⁶ P-1716 Statement, CAR-OTP-2053-0062-R05, at 0071, para. 49; P-1716 Corrections, CAR-OTP-2135-4118-R01.

⁷⁹⁸⁷ P-1716: T-147, p. 20, lines 18-22.

⁷⁹⁸⁸ P-1716 Statement, CAR-OTP-2053-0062-R05, at 0071, para. 49; P-1716 Corrections, CAR-OTP-2135-4118-R01.

⁷⁹⁸⁹ P-1716 Statement, CAR-OTP-2053-0062-R05, at 0071, para. 51; P-1705: T-211, p. 16, lines 19-20, p. 19, lines 16-17.

⁷⁹⁹⁰ P-1716 Statement, CAR-OTP-2053-0062-R05, at 0071, para. 51.

⁷⁹⁹¹ P-1716 Statement, CAR-OTP-2053-0062-R05, at 0071, para. 56.

⁷⁹⁹² P-0967: T-199, p. 50, lines 6-17; P-1811 Statement, CAR-OTP-2058-0003-R05, at 0010, para. 39; P-1811 Corrections, CAR-OTP-2135-2537-R01, at 2537; P-1811: T-114, p. 28, line 24 – p. 29, line 5; P-1704 Statement, CAR-OTP-2054-1136-R05, at 1145, para. 48.

⁷⁹⁹³ P-1839: T-170, p. 32, lines 4-9. P-1839, when asked later, agreed that it was Alkanto who told her that the three female captives had been 'taken to Rambo' (see T-173, p. 72, lines 18-20).

outside and spoke to ‘the Anti-Balaka’, following which, the element guarding the door asked them to get up and follow them out of Cœur de Lion’s house.⁷⁹⁹⁴

3252. As set out below, the evidence shows that the elements in Mr Yekatom’s group continued to keep the Five Captives in captivity at another location in Yamwara at gunpoint, where the female captives were threatened and told that they would be peeled ‘like a papaya’. Saint Cyr was not amongst them.

3253. Once outside, the elements in Mr Yekatom’s group brought the Five Captives a bit further to an unfinished house without any doors or windows.⁷⁹⁹⁵

3254. P-0967 described being brought to another ‘house’ and made to walk in a single file with P-1811, P-1704 and P-1705, which was when she realised that Saint Cyr was no longer with them and P-1704 told her that ‘both ears of Saint Cyr had been cut off’, while one of the elements remarked that the one she was talking about – Saint Cyr – was going to ‘stay and work’ with them because he was a soldier.⁷⁹⁹⁶ According to P-1811, ‘Rombhot’ did not follow them and the ‘Anti-Balaka’ who had brought them, left.⁷⁹⁹⁷

3255. Both P-1811 and P-0967 recalled it being dark inside this ‘second house’ as it was night-time and that the floor of the house had not been laid.⁷⁹⁹⁸ There were ‘Anti-Balaka’ members, armed with at least a machete and a firearm, inside the house keeping them captive, and one of the elements threatened P-0967.⁷⁹⁹⁹ P-1811 recalled that an element grazed the wall with a machete, surprising P-0967 by raising it towards her, and called her a ‘chicken’ and that they would ‘peel you like papaya’.⁸⁰⁰⁰ P-0967 said that, sometime later, a ‘leader’ came in,

⁷⁹⁹⁴ P-1811 Statement, CAR-OTP-2058-0003-R05, at 0010, para. 39; P-1811 Corrections, CAR-OTP-2135-2537-R01, at 2537; P-1811: T-114, p. 28, line 24 – p. 29, line 5.

⁷⁹⁹⁵ P-1811 Statement, CAR-OTP-2058-0003-R05, at 0010, para. 39; P-1811 Corrections, CAR-OTP-2135-2537-R01, at 2537; P-1811: T-114, p. 28, line 24 – p. 29, line 5.

⁷⁹⁹⁶ P-0967: T-199, p. 50, line 6 – p. 51, line 5.

⁷⁹⁹⁷ P-1811 Statement, CAR-OTP-2058-0003-R05, at 0010, para. 40.

⁷⁹⁹⁸ P-0967: T-199, p. 51, line 14 – p. 52, line 12; P-1811 Statement, CAR-OTP-2058-0003-R05, at 0010, para. 39.

⁷⁹⁹⁹ P-0967: T-199, p. 51, line 14 – p. 52, line 12; P-1811 Statement, CAR-OTP-2058-0003-R05, at 0010, para. 40.

⁸⁰⁰⁰ P-1811 Statement, CAR-OTP-2058-0003-R05, at 0010, para. 40. P-1811 understood by this expression that this was going to be done to them before they were going to be executed (see P-1811: T-114, p. 29, lines 7-11). P-0967 also recalled the person with a machete calling her a ‘[c]hicken’ (see P-0967: T-199, p. 51, line 14 – p. 52, line 5).

whom she did not recognise, and ordered them to stand up and walk outside, he said that they would be ‘Djotodia’s messengers’ and ‘would be led to the Sangaris’.⁸⁰⁰¹

During the intervening night of 24 and 25 December 2013, the elements in Mr Yekatom’s group made P-1704, P-1705, P-0967, P-1811 and one other captive walk from Yamwara to a location close to the M’Poko airport. Mr Yekatom, Cœur de Lion, or Bojos did not accompany them. At this location, the elements in Mr Yekatom’s group handed over P-1704, P-1705, P-0967, P-1811 and one other captive to Sylvestre Yagouzou, who introduced himself as the ‘coordinator of the base behind the airport’ and a ‘spokesperson’ of the Anti-Balaka. Sylvestre Yagouzou then kept P-1704, P-1705, P-0967, P-1811 and one other captive at a location close to the airport until the following day under circumstances that, to P-0967 and P-1811, were frightening.

3256. As set out below, the evidence shows that Mr Yekatom’s elements then made the Five Captives walk overnight from Yamwara to a location close to the M’Poko airport. Mr Yekatom, Cœur de Lion, or Bojos did not accompany them.

3257. According to P-0967, this ‘leader’ escorted the Five Captives as they walked from Yamwara during the night with the ‘soldiers’ forming columns, they walked slowly and she did not know how long they walked, as it was an area she was unfamiliar with.⁸⁰⁰² P-0967 said that, along the way, they were told to stop and arrived at a place full of elements where there was a house, and they were told to stay near the house, then someone came over and asked her to stay calm and that they were going to take them to the Sangaris.⁸⁰⁰³ P-0967 said that after this, they stopped three times on the way; the elements escorting them would gather together and then come back telling the Five Captives to keep walking.⁸⁰⁰⁴

3258. P-1704 said that Mr Yekatom, Cœur de Lion and Bojos did not accompany them and there was nobody he knew in this ‘Anti-Balaka’ group accompanying them.⁸⁰⁰⁵

⁸⁰⁰¹ P-0967: T-200, p. 52, line 22 – p. 53, line 8; T-199, p. 52, line 13 – p. 53, line 5.

⁸⁰⁰² P-0967: T-199, p. 52, line 6 – p. 54, line 4.

⁸⁰⁰³ P-0967: T-199, p. 52, line 6 – p. 53, line 23.

⁸⁰⁰⁴ See P-0967: T-199, p. 52, line 13 – p. 53, line 25.

⁸⁰⁰⁵ P-1704 Statement, CAR-OTP-2054-1136-R05, at 1145, para. 52.

3259.P-1811 said that she did not know which route they took and, while walking, the people escorting them lit the way with telephones.⁸⁰⁰⁶ Their ‘group’ sometimes fell in holes and was picked up again and were shaking as they had not eaten that day.⁸⁰⁰⁷

3260.As set out below, the evidence shows that elements in Mr Yekatom’s group brought the Five Captives to another person, ‘Sylvestre’, who introduced himself as the ‘coordinator of the base behind the airport’ and a ‘spokesperson’ of the Anti-Balaka, and the elements who had been escorting them walked back.⁸⁰⁰⁸

3261.P-1811 described ‘Sylvestre’ as someone not very big, speaking Sango, wearing jeans and a jacket, and a hat.⁸⁰⁰⁹ P-0967 and P-1705 recognised him in audio-visual material.⁸⁰¹⁰ The Chamber understands ‘Sylvestre’ to be a reference to Sylvestre Yagouzou.

3262.P-0967 said that ‘Sylvestre’ said to the captives that if they were lucky, they would be released and handed to the Sangaris but if they were unlucky, there was no telling what might happen to them.⁸⁰¹¹

3263.As set out below, the evidence shows that Sylvestre Yagouzou then kept the Five Captives at a location close to the airport until the following day under circumstances that, to P-0967 and P-1811, were frightening.⁸⁰¹²

3264.P-0967 said that ‘Sylvestre’ was giving instructions to the soldiers and there were a lot of ‘Anti-Balaka’ around them; he ordered them to bring a mat for P-0967 to sit on and some

⁸⁰⁰⁶ P-1811 Statement, CAR-OTP-2058-0003-R05, at 0010, para. 41.

⁸⁰⁰⁷ P-1811 Statement, CAR-OTP-2058-0003-R05, at 0010, para. 41.

⁸⁰⁰⁸ P-0967: T-199, p. 52, line 13 – p. 55, line 10. *See also* P-1705: T-211, p. 17, lines 1-3; P-1704 Statement, CAR-OTP-2054-1136-R05, at 1144-46, paras 42, 52, 54; P-1704: T-128, p. 19, line 20 – p. 20, line 9; P-1839: T-173, p. 73, lines 3-5. *See also* P-1811 Statement, CAR-OTP-2058-0003-R05, at 0010, para. 41 which states that ‘Sylvestre’ introduced himself as the ‘spokesperson’ (*porte-parole*) of the Anti-Balaka.

⁸⁰⁰⁹ P-1811 Statement, CAR-OTP-2058-0003-R05, at 0010, para. 41.

⁸⁰¹⁰ P-1705 recognised the ‘coordinator’ in Video, CAR-OTP-2012-0523, at 00:36:00-00:37:20, as the one who was wearing a white cap with three stripes, yellow, red and black (*see* P-1705: T-211, p. 52, line 12 – p. 53, line 10). P-1339 recognised him in the same video as the man in the red sweatshirt at 36:13 (*see* P-1339 Statement, CAR-OTP-2041-0741, at 0757, para. 111). P-0967, shown Video, CAR-OTP-2050-0648, at 00:49:57, recognised Sylvestre Yagouzou as the ‘bald one’ (*see* P-0967: T-200, p. 8, line 19 – p. 9, line 14).

⁸⁰¹¹ P-0967: T-199, p. 52, line 13 – p. 53, line 5, p. 54, lines 14-19.

⁸⁰¹² P-1705 recognised this place as Bercail, just behind the airport (*see* P-1705: T-211, p. 16, line 22 – p. 18, line 8). P-1811 said that, when she got there, she immediately understood that they were at the airport (*see* P-1811: T-114, p. 29, lines 12-23).

food.⁸⁰¹³ P-1811 recalled feeling that some of the ‘Anti-Balaka’ wanted to harm them by how they were treating them and found their behaviour violent, and even though they were not explicitly threatening them, she was frightened to look at them.⁸⁰¹⁴

3265. Following this, as per P-1811, the ‘spokesperson’ took them to another house and set them up there.⁸⁰¹⁵ P-1811 said that the ‘Anti-Balaka’ took the mat and put it in a small house, telling them to sleep there.⁸⁰¹⁶ P-0967 said that they were kept inside this house for the night and the door was closed, an armchair was placed outside the door and someone was sitting on it to protect them.⁸⁰¹⁷ P-1811 and P-0967 recalled feeling fearful and not being able to sleep.⁸⁰¹⁸

3266. P-1811 stated that the following morning, on 25 December 2013, the ‘Anti-Balaka’ told them to come out and they saw ‘many Anti-Balaka’, who prayed and sang the national anthem while lifting their machetes.⁸⁰¹⁹

3267. P-1811 recalled being told that there were people around that wanted to hurt them and so the elements brought the Five Captives on foot to a deacon who was not far away.⁸⁰²⁰ P-1811 recalled being guarded by a FACA member, who she did not know before and whose name she did not recall, and that this person would follow them everywhere, even to the shower, because otherwise the others might hurt them.⁸⁰²¹ It is unclear whether it refers to any particular time but during their stay behind the airport, P-1811 recalled that the ‘spokesperson’ told them to stay where they were; there were ‘Anti-Balaka’ members who must have had a family link with Bozizé and was after P-1811 (*‘qui [...] m’en voulait’*) and

⁸⁰¹³ P-0967: T-199, p. 52, line 13 – p. 54, line 14. *See also* P-1811 Statement, CAR-OTP-2058-0003-R05, at 0011, para. 44; P-1811 Corrections, CAR-OTP-2135-2538-R01, at 2538.

⁸⁰¹⁴ P-1811: T-114, p. 30, lines 5-20.

⁸⁰¹⁵ P-1811: T-114, p. 30, lines 17-20.

⁸⁰¹⁶ P-1811 Statement, CAR-OTP-2058-0003-R05, at 0011, para. 44. *See also* P-1704 Statement, CAR-OTP-2054-1136-R05, at 1145-46, para. 53.

⁸⁰¹⁷ P-0967: T-199, p. 55, line 22 – p. 56, line 23.

⁸⁰¹⁸ P-0967: T-199, p. 55, line 22 – p. 56, line 23; P-1704 Statement, CAR-OTP-2054-1136-R05, at 1145-46, para. 53.

⁸⁰¹⁹ P-1811 Statement, CAR-OTP-2058-0003-R05, at 0011, para. 45.

⁸⁰²⁰ P-1811 Statement, CAR-OTP-2058-0003-R05, at 0011, para. 45.

⁸⁰²¹ P-1811 Statement, CAR-OTP-2058-0003-R05, at 0011, para. 46.

wanted them to be killed (*‘Lui voulait qu’on soit tués’*); while the others said that they could not hurt them.⁸⁰²²

On the morning of 25 December 2013, Mr Yekatom met P-1704, P-1705, P-0967, P-1811 and one other captive at this location and introduced himself. Mr Yekatom was aware that Sylvestre Yagouzou kept them in the location close to the M’Poko airport surrounded by Anti-Balaka elements. On or about 27 December 2013, P-1704, P-1705, P-0967, P-1811 and one other captive were released and handed over to Sangaris.

3268. The evidence shows that the same morning, on 25 December 2013, Mr Yekatom met the Five Captives at this location close to the airport and introduced himself.⁸⁰²³ P-1811 specifically stated that ‘Rombhot’ said that he was the person who had questioned them the day before.⁸⁰²⁴ P-1705 testified that ‘Rambo’ told them that he would release them in the presence of an ‘international opinion’.⁸⁰²⁵

3269. On the basis of this interaction between Mr Yekatom and the Five Captives, the Chamber finds that Mr Yekatom was aware that Sylvestre Yagouzou kept them in the location close to the M’Poko airport surrounded by Anti-Balaka elements.

3270. The evidence shows that the Five Captives stayed with the deacon until their release and the ‘Anti-Balaka’ guarded the house.⁸⁰²⁶ P-1704 said that P-0967 introduced herself to ‘Sylvestre’ as being a municipal counsellor in the mayor’s office of the 7th arrondissement, whose number she then gave to ‘Sylvestre’ so that he could call him.⁸⁰²⁷ P-1811 stated that ‘the spokesperson’ called the mayor of the 7th arrondissement, who was in a meeting with other mayors, including Samba-Panza, the then mayor of Bangui, and who confirmed that P-0967 worked with him; Samba-Panza also called ‘the spokesperson’ and P-0967 and said

⁸⁰²² P-1811 Statement, CAR-OTP-2058-0003-R05, at 0012, para. 51.

⁸⁰²³ P-1811 Statement, CAR-OTP-2058-0003-R05, at 0011, para. 47 (stating ‘Rhambot’ came to the deacon at around 09:00 or 10:00); P-1704 Statement, CAR-OTP-2054-1136-R05, at 1146, para. 55; P-0967: T-200, p. 51, line 19 – p. 52, line 21; P-1705: T-212, p. 45, line 16 – p. 46, line 13; P-1705: T-212, p. 46, line 22 – p. 47, line 1.

⁸⁰²⁴ P-1811: T-114, p. 33, lines 14-25.

⁸⁰²⁵ P-1705: T-211, p. 49, lines 13-23.

⁸⁰²⁶ P-1704 Statement, CAR-OTP-2054-1136-R05, at 1146, para. 58; P-1811 Statement, CAR-OTP-2058-0003-R05, at 0012, para. 48.

⁸⁰²⁷ P-1704: T-128, p. 31, lines 4-11. *See also* P-1811 Statement, CAR-OTP-2058-0003-R05, at 0012, para. 49; P-1704 Statement, CAR-OTP-2054-1136-R05, at 1146, para. 57; P-1811 Statement, CAR-OTP-2058-0003-R05, at 0012, para. 49.

that she would send someone for her.⁸⁰²⁸ P-0967 believed that they were released and handed over to the Sangaris in the end following Samba-Panza's intervention as well as that of the governor at the palace.⁸⁰²⁹

3271. Catherine Samba-Panza confirmed having had contact with Sylvestre Yagouzou,⁸⁰³⁰ and making a public announcement regarding the captives.⁸⁰³¹ She said that Sylvestre Yagouzou insisted on her to say that they had apprehended 'Muslims' and they had freed them and that this was an act of humanity and patriotism and the Anti-Balaka should not be treated as anti-Muslim.⁸⁰³²

3272. The evidence shows that the Five Captives were released and handed over to Sangaris on or about 27 December 2013.⁸⁰³³ A Sangaris helicopter arrived together with armoured cars.⁸⁰³⁴ P-1704 recalled that Sylvestre Yagouzou was present, but Rhombot, Bojos, and Cœur de Lion were not there at that time.⁸⁰³⁵ P-1811 said that Sylvestre Yagouzou brought them to the Sangaris and then were put in one of the vehicles and brought to Mpoko base.⁸⁰³⁶ The Five Captives were then taken to an infirmary and examined.⁸⁰³⁷ P-1704 stated that he and P-1705 had small wounds on their heads and backs.⁸⁰³⁸ The Five Captives were then escorted

⁸⁰²⁸ P-1811 Statement, CAR-OTP-2058-0003-R05, at 0012, para. 50; P-1811 Corrections, CAR-OTP-2135-2539-R01, at 2539.

⁸⁰²⁹ P-0967: T-199, p. 57, lines 11-16. *See also* P-1654 Statement, CAR-OTP-2053-0112-R04, at 0118, para. 46.

⁸⁰³⁰ P-0952: T-249, p. 13, lines 19-23.

⁸⁰³¹ P-0952: T-249, p. 14, line 17 – p. 15, line 7. *See* Audio (dated 27 December 2013), CAR-OTP-2042-1457, at 00:02:15-00:05:34.

⁸⁰³² P-0952: T-249, p. 14, line 17 – p. 15, line 7.

⁸⁰³³ P-0967: T-199, p. 57, lines 11-16; P-1705: T-211, p. 17, lines 22-24; P-0952: T-252, p. 64, line 8 – p. 65, line 9; P-1704 Statement, CAR-OTP-2054-1136-R05, at 1145, para. 52, at 1147, para. 61; P-1704 Corrections, CAR-OTP-2136-0486, at 0497. The Chamber notes that P-1705's evidence concerning the date of their release appears to be at odds with what other witnesses remembered. P-1705 first said that they stayed in detention until 31 December and were released the next day, however, later said that they spent Christmas in detention and were released before the new year (*see* P-1705: T-211, p. 50, lines 14-18; T-212, p. 47, lines 5-25). P-1704 recalled that they spent 25-27 December at the base behind the airport and P-1654 recalled that they were released 3-4 days after they were stopped i.e. around 27-28 December 2013 (P-1654 Statement, CAR-OTP-2053-0112-R04, at 0118, para. 46). *See also* Complaint, CAR-OTP-2050-0737, at 0738.

⁸⁰³⁴ P-1811 Statement, CAR-OTP-2058-0003-R05, at 0012, para. 52; P-1704 Statement, CAR-OTP-2054-1136-R05, at 1147, para. 61.

⁸⁰³⁵ P-1704 Statement, CAR-OTP-2054-1136-R05, at 1147, para. 60.

⁸⁰³⁶ P-1811 Statement, CAR-OTP-2058-0003-R05, at 0012, para. 52.

⁸⁰³⁷ P-0967: T-200, p. 60, lines 7-13; P-1811 Statement, CAR-OTP-2058-0003-R05, at 0012, para. 52; P-1704 Statement, CAR-OTP-2054-1136-R05, at 1147, para. 61.

⁸⁰³⁸ P-1704 Statement, CAR-OTP-2054-1136-R05, at 1147, para. 61.

in a vehicle to the French Embassy together with the Ambassador and his attaché and then brought to General Mamour's house.⁸⁰³⁹

Mr Yekatom approved of his elements capturing, interrogating, keeping captive, and mistreating the seven captives. Mr Yekatom approved of his elements beating, interrogating, maiming, and killing Saint Cyr. As regards the remaining six captives, Mr Yekatom approved of his elements capturing, interrogating, threatening with death, forcing them to undress, keeping them captive at gunpoint, and keeping them within hearing distance of Saint Cyr's mistreatment at Yamwara. Mr Yekatom approved of his elements beating P-1704, P-1705, and P-1716 at various stages of their captivity. Mr Yekatom approved of his elements keeping P-1716 overnight at Yamwara under Cœur de Lion's watch. Mr Yekatom approved of his elements transferring P-1704, P-1705, P-0967, P-1811 and one other captive to another Anti-Balaka base close to the airport and handing them over to Sylvestre Yagouzou.

3273. As regards Mr Yekatom's actions overall concerning the Yamwara Incident, the Chamber notes that there is no evidence brought before it showing, or otherwise suggesting, that Mr Yekatom disciplined or otherwise sanctioned military or civilian elements in his group, including Cœur de Lion, Alkanto, Bojos, or others, for their involvement in the Yamwara Incident. The Chamber recalls that Mr Yekatom approved of the actions of the element that cut off Saint Cyr's toes, fingers, and an ear, and awarded this element with posts of responsibility.⁸⁰⁴⁰ Notably, Cœur de Lion and Alkanto continued to form part of Mr Yekatom's group's advance to Mbaïki in the month that followed.⁸⁰⁴¹

3274. At various stages, as discussed in detail above, Mr Yekatom himself interacted with P-1716, P-1705, P-0967, and P-1811. Mr Yekatom was in a position to directly observe the victims and the circumstances of their captivity and mistreatment, as well as the involvement of his elements. There is no evidence before the Chamber showing, or otherwise suggesting, that Mr Yekatom instructed his elements to exercise their duty of care or obligations under international humanitarian law towards any of the seven captives.

3275. Having regard to this, the Chamber finds that Mr Yekatom approved of his elements capturing, interrogating, keeping captive, and mistreating the seven captives. Mr Yekatom

⁸⁰³⁹ P-1811 Statement, CAR-OTP-2058-0003-R05, at 0013, para. 53; P-1704 Statement, CAR-OTP-2054-1136-R05, at 1147, para. 61. *See also* P-0884: T-056, p. 17, lines 3-20.

⁸⁰⁴⁰ *See* paragraphs 3186-3190 above.

⁸⁰⁴¹ *See* paragraphs 3297-3300 below.

approved of his elements beating, interrogating, maiming, and killing Saint Cyr. As regards the remaining six captives, Mr Yekatom approved of his elements capturing, interrogating, threatening with death, forcing them to undress, keeping them captive at gunpoint, and keeping them within hearing distance of Saint Cyr's mistreatment at Yamwara. Mr Yekatom approved of his elements beating P-1704, P-1705, and P-1716 at various stages of their captivity. Mr Yekatom approved of his elements keeping P-1716 overnight at Yamwara under Cœur de Lion's watch. Mr Yekatom approved of his elements transferring the Five Captives to another Anti-Balaka base close to the airport and handing them over to Sylvestre Yagouzou.

Mr Yekatom's group coordinated with Wenezoui and Sylvestre Yagouzou and the Anti-Balaka based behind the M'Poko airport in the transfer and captivity of P-1704, P-1705, P-0967, P-1811 and one other captive.

3276. As set out below, the evidence shows that the Five Captives were released and that Mr Yekatom's group coordinated with Wenezoui and Sylvestre Yagouzou and the Anti-Balaka based behind the M'Poko airport in the transfer and captivity of the Five Captives.

3277. The evidence shows that Ngremangou had some involvement in the release of P-1704, P-1705, P-0967 and P-1811 from Yamwara. P-0954 said that Captain Ngremangou and his elements were based in Boeing behind the airport,⁸⁰⁴² and that it was on his orders that 'Djotodia's wife' was released,⁸⁰⁴³ although the source of his knowledge is unclear, or otherwise unknown.

3278. As per P-0884, [REDACTED] was directly involved in facilitating the release of what he called 'hostages', together with Ngremangou, and described it in quite some detail. P-0884's understanding of what unfolded at Yamwara is limited to what he was told by others. However, P-0884's account of the captives being held at Sylvestre Yagouzou's base in a house and their subsequent release contains some specific details.

⁸⁰⁴² P-0954: T-166, p. 23, lines 10-14, p. 24, lines 4-7. See also P-1858 Statement CAR-OTP-2063-0050-R04, at 0068-0069, para. 116.

⁸⁰⁴³ P-0954: T-166, p. 42, line 23 – p. 43, line 1.

3279. P-0884 said that at one point, ‘the [REDACTED] of General Mamour, General Djotodia’ and ‘[REDACTED]’ who were ‘all Muslims’ came across some of Mr Yekatom’s elements who stopped them.⁸⁰⁴⁴ [REDACTED] were informed and decided to free the people who had been taken hostage as the situation could ‘degenerate’ and it would have been ‘serious’ if ‘the men’ had killed them.⁸⁰⁴⁵ According to P-0884, Ngremangou and his elements left to meet Mr Yekatom, and after discussions they were able to get the hostages and ‘they took them to Boy’.⁸⁰⁴⁶ As there was a great deal of tension because these people were ‘Muslims’, [REDACTED].⁸⁰⁴⁷ [REDACTED].⁸⁰⁴⁸ [REDACTED].⁸⁰⁴⁹ Eventually, Catherine Samba-Panza, the mayor of Bangui at the time, decided to get the hostages.⁸⁰⁵⁰ According to P-0884, ‘[t]hey came to the base to get those seven people’, and Catherine Samba-Panza made a statement on the radio saying that ‘she had been at the Anti-Balaka base’ and ‘confirmed that two of the people who had remained behind had been killed by Mr Yekatom’s elements’.⁸⁰⁵¹

3280. The Yekatom Defence argues that P-0884’s testimony is not credible on these events and points to the inaccuracies in P-0884’s account concerning: (i) the composition of the group of captives; (ii) how the events unfolded, particularly the circumstances under which the group would have been stopped, which are inconsistent with his prior statement; (iii) Catherine Samba-Panza going to the base to retrieve the ‘seven people’ for their release.⁸⁰⁵²

3281. At the outset, the Chamber notes that there are indeed several inaccuracies in what P-0884 recalls. P-0884 himself admitted not remembering all the details given that it was already ‘nine years ago that these events took place’.⁸⁰⁵³ This is clear from the remainder of his

⁸⁰⁴⁴ P-0884: T-056, p. 13, lines 21-23.

⁸⁰⁴⁵ P-0884: T-056, p. 13, line 23 – p. 14, line 1.

⁸⁰⁴⁶ P-0884: T-056, p. 14, lines 2-3, p. 19, line 21 – p. 21, line 1.

⁸⁰⁴⁷ P-0884: T-056, p. 14, lines 4-7.

⁸⁰⁴⁸ P-0884: T-056, p. 14, lines 7-9.

⁸⁰⁴⁹ P-0884: T-056, p. 14, lines 9-15.

⁸⁰⁵⁰ P-0884: T-056, p. 14, lines 17-19.

⁸⁰⁵¹ P-0884: T-056, p. 14, lines 4-24.

⁸⁰⁵² [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 474.

⁸⁰⁵³ P-0884: T-056, p. 21, lines 11-24.

testimony about this event. For example, P-0884 did not recall the exact date on which this occurred and placed it ‘before 1 January [...] in December’.⁸⁰⁵⁴

3282. As regards the composition of the group, P-0884 clearly mistook the exact number and ages of the captives. P-0884 seemed to think that there were nine hostages, two of whom were killed and seven were released.⁸⁰⁵⁵ P-0884 received the information about the death of ‘two’ persons [REDACTED].⁸⁰⁵⁶ P-0884, asked about the approximate age [REDACTED].⁸⁰⁵⁷ P-0884’s assessment of the age [REDACTED] is not accurate.⁸⁰⁵⁸

3283. During his testimony, P-0884 was also confronted with certain portions of his testimony that do not comport with Samba-Panza’s radio announcement, namely: (i) whether there were seven people that had been released;⁸⁰⁵⁹ (ii) whether Catherine Samba-Panza had visited the Anti-Balaka base;⁸⁰⁶⁰ and (iii) whether she said that two people had been killed.⁸⁰⁶¹

3284. P-0884 said that he did not know how Ngremangou’s people managed to get the hostages handed over and what they said, but when asked to clarify who gave the instruction for the release of the hostages, he said that Mr Yekatom was ‘the one who released the hostages’ and ‘[w]hen his military colleagues arrived they discussed things, and after that he released them to the military’ [REDACTED] following which, ‘[REDACTED] to the government’.⁸⁰⁶²

3285. P-0884 was asked [REDACTED] ‘Rambo’s elements’ came and took them to Yamwara, which was Mr Yekatom’s base.⁸⁰⁶³ P-0884 was confronted with his prior statement concerning the circumstances in which the hostages had been apprehended, but P-0884

⁸⁰⁵⁴ P-0884: T-056, p. 15, lines 9-11.

⁸⁰⁵⁵ P-0884: T-056, p. 15, lines 12-21, p. 17, lines 3-20.

⁸⁰⁵⁶ P-0884: T-056, p. 15, lines 12-21, p. 17, lines 3-20.

⁸⁰⁵⁷ P-0884: T-057, p. 92, line 19 – p. 93, line 16.

⁸⁰⁵⁸ [REDACTED]

⁸⁰⁵⁹ P-0884, [REDACTED], Audio, CAR-OTP-2042-1457, at 00:02:23-00:02:59 (Transcript, CAR-D29-0006-0092, at 0092, lines 12-18), agreed that perhaps Catherine Samba-Panza [REDACTED] (see P-0884: T-057, p. 87, line 2 – p. 88, line 5).

⁸⁰⁶⁰ P-0884, [REDACTED], Audio, CAR-OTP-2042-1457, at 00:02:59-00:04:00 (Transcript, CAR-D29-0006-0092, at 0093, line 19 – at 0094, line 3), said that [REDACTED] (see P-0884: T-057, p. 88, line 6 – p. 90, line 3).

⁸⁰⁶¹ P-0884, [REDACTED], Audio, CAR-OTP-2042-1457, at 00:04:03-00:05:35 (Transcript, CAR-D29-0006-0092, at 0094, lines 3-21), said that [REDACTED].

⁸⁰⁶² P-0884: T-056, p. 19, line 21 – p. 21, line 1.

⁸⁰⁶³ P-0884: T-056, p. 15, line 22 – p. 16, line 4.

maintained that it was Mr Yekatom and his elements who took these people hostage and if [REDACTED] had not intervened, they would have been killed.⁸⁰⁶⁴

3286.P-0884, asked in relation to his prior statement which suggests that [REDACTED].⁸⁰⁶⁵ From P-0884's testimony, it emerged that [REDACTED].⁸⁰⁶⁶

3287.Asked how he knew that the hostages were related to Mamour, and who Mamour is, P-0884 said that after [REDACTED].⁸⁰⁶⁷

3288.P-0884, [REDACTED].⁸⁰⁶⁸ P-0884 [REDACTED].⁸⁰⁶⁹

3289.The Chamber has considered P-0884's evidence in light of the Yekatom Defence's arguments with a view to assessing Mr Yekatom's group's coordination with other 'Anti-Balaka' groups, not with a view to assessing Mr Yekatom's responsibility regarding the Yamwara Incident, which is a related but separate matter.

3290.In the Chamber's view, the Yekatom Defence's arguments that P-0884's testimony on these events is not credible does not have merit. Indeed, P-0884 cannot be relied upon for the purpose of evaluating the commission of crimes underlying the Yamwara Incident as he was not an eyewitness, and his account contains discrepancies that cannot be reconciled with what the Chamber knows from first-hand accounts of the incident. P-0884 was also clear that he received parts of the information from the captives [REDACTED]. Nonetheless, when P-0884's testimony is considered keeping in mind the source of his knowledge, it is quite telling when it comes to Mr Yekatom's role in the release of the captives. It appears that, in P-0884's mind, there was no question that Mr Yekatom had the authority to release hostages kept at Yamwara and would hand them over to the people sent by Ngremangou.

⁸⁰⁶⁴ P-0884: T-056, p. 21, lines 4-24.

⁸⁰⁶⁵ P-0884: T-057, p. 94, line 9 – p. 95, line 10.

⁸⁰⁶⁶ P-0884: T-057, p. 95, lines 11-20.

⁸⁰⁶⁷ P-0884: T-056, p. 17, lines 3-20.

⁸⁰⁶⁸ P-0884: T-057, p. 93, line 17 – p. 94, line 3.

⁸⁰⁶⁹ P-0884: T-057, p. 94, lines 4-8.

3291. In any event, in concluding on Mr Yekatom's role in the Yamwara Incident, the Chamber has relied on his direct interactions with, and actions described by, the Five Witnesses, P-1839, P-1654 and P-0954.

3292. There is evidence showing that Mr Yekatom's group coordinated with Sebastien Wenezoui's group that was based behind the airport. P-1858 stated that Boeing, where Yamwara is situated, was under Wenezoui's control and his base was behind the airport and had a lot of elements there.⁸⁰⁷⁰ P-1786 considered that Mr Yekatom's group would only coordinate with those who were based 'behind the airport' and 'did not work with anyone else', they would coordinate with 'Wenezoui', including on attacks, and 'act together'.⁸⁰⁷¹ P-1858 stated that the person in the national coordination who was in charge of operations (*'chargé des opérations'*) – initially Maxime Mokom with Sylvestre Yagoussou as his deputy – was in contact with the ComZones, supervising them.⁸⁰⁷²

3293. The Chamber now turns to the Yekatom Defence arguments that there was silence around the Yamwara Incident that resulted in unreliable testimony, and that witnesses who claimed to know about it, like P-0954 and P-0884, often contradicted themselves.⁸⁰⁷³ It is unclear from the Yekatom Defence's arguments concerning the purported silence on whether it asserts that Mr Yekatom was unaware of Saint Cyr's death. It references the evidence provided by P-1839, P-0487, Jacob Mokpem-Bionli, P-0876, P-0884, P-0954, and Catherine Samba-Panza.⁸⁰⁷⁴

3294. The Chamber recalls the evidence on this issue. P-1839's evidence has shown that she did infer that Mr Yekatom knew about the element that cut off Saint Cyr's toes, fingers, and an ear, and what this element did at Cœur de Lion's house, and approved of it, later assigning

⁸⁰⁷⁰ P-1858 Statement, CAR-OTP-2063-0050-R04, at 0060, para. 60. P-1990, shown Video, CAR-OTP-2065-4141, at 00:00:00:09, Transcript, CAR-D29-0006-1342, at 1342 and Video, CAR-OTP-2066-5310, at 00:00:00-00:01:35, Transcript, CAR-OTP-2127-4589, at 4591, lines 3-22, agreed that there were several leaders in Boeing at the time; he said that he never set foot in their bases; he said that the base that one can see in the footage was being used by 'Ngremangou' and 'Houronti' (see P-1990: T-237, p. 43, line 4 – p. 46, line 2). In his testimony, Thierry Kpademona mentioned the full name 'Dieudonné Houronti' and also mentioned Sebastien Wenezoui as being present in Boeing at the time. See also P-1990: T-237, p. 41, line 17 – p. 43, line 3, p. 45, line 14 – p. 46, line 2 referring, *inter alia*, to Document, CAR-OTP-2024-0447, at 0447.

⁸⁰⁷¹ P-1786: T-197, p. 51, line 22 – p. 52, line 8.

⁸⁰⁷² P-1858: T-185, p. 35, lines 15-21; P-1858 Statement, CAR-OTP-2063-0050-R04, at 0062, para. 74.

⁸⁰⁷³ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 464-474.

⁸⁰⁷⁴ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 464-468, 474.

this element to posts of trust and higher responsibility within his group.⁸⁰⁷⁵ P-0954 himself had a phone call with Mr Yekatom about it, as has been discussed above.⁸⁰⁷⁶ P-0876 said [REDACTED] when the Yamwara Incident took place and learnt about it on the radio ‘like everyone else’, that he contacted Mr Yekatom by SMS and was informed that they had indeed taken Mamour’s [REDACTED],⁸⁰⁷⁷ but that since Mr Yekatom was a ‘man of few words’, he did not say anything else on this particular event.⁸⁰⁷⁸ P-0884⁸⁰⁷⁹ said that he did not talk to Mr Yekatom about this, while Jacob Mokpem-Bionli had not heard of any event involving the members of Mamour family.⁸⁰⁸⁰ The radio announcement of Catherine Samba-Panza did not mention Saint Cyr’s death specifically, and neither did her testimony about this event.⁸⁰⁸¹

3295. From a holistic reading of this evidence and its findings above, no conclusions can be drawn as to Mr Yekatom’s purported reticence to talk about Saint Cyr’s death with the concerned witnesses or of the information received by them, or lack thereof, about the Yamwara Incident as a whole.

3296. The Chamber notes that the Yamwara Incident impacted several individuals. The Chamber has assessed them in detail below.⁸⁰⁸²

E. The Anti-Balaka’s advance through and takeover of villages along the PK9-Mbaiki Axis

1. The departure of Mr Yekatom’s group from Yamwara and its advance on the axis

Starting on 10 January 2014, Mr Yekatom and elements under his control left Yamwara and advanced from Bangui on the road towards Mbaiki, taking over a number of villages in the Lobaye prefecture, located in the south-west part of the country, including Sekia, Ndagala, Bimon, Kapou, Bossongo and Pissa. They did not meet with resistance as they passed from

⁸⁰⁷⁵ See paragraphs 3190 above, paragraph 3412 below.

⁸⁰⁷⁶ See paragraphs 3191-3201 above.

⁸⁰⁷⁷ P-0876: T-085, p. 49, lines 9-25.

⁸⁰⁷⁸ P-0876: T-085, p. 50, lines 7-13.

⁸⁰⁷⁹ P-0884: T-056, p. 16, lines 5-7.

⁸⁰⁸⁰ P-0992: T-092, p. 52, lines 2-7.

⁸⁰⁸¹ P-0952: T-249, p. 13, line 19 – p. 15, line 11; Audio, CAR-OTP-2042-1457.

⁸⁰⁸² See paragraphs 4571, 4580, 4592, 4597-4598 below.

PK9 to Sekia and Pissa, since the Seleka had fled these areas after learning that the Anti-Balaka were approaching.

At the time of the group's presence on the Mbaïki road, Mr Yekatom, Cœur de Lion and Alkanto instructed the elements to kill all the Muslims in their area.

3297. Following Michel Djotodia's resignation on 10 January 2014,⁸⁰⁸³ Mr Yekatom and elements under his control left Yamwara and headed towards the Mbaïki road.⁸⁰⁸⁴

3298. P-1839 testified that [REDACTED] a meeting at Yamwara with at least ten other Anti-Balaka elements, including Mr Yekatom, Kamezolaï, Cœur de Lion, 'Habib' [REDACTED], in which they agreed to leave the school.⁸⁰⁸⁵ As confirmed by both P-1839 and Stéphane Chrisostome Dawili, Kamezolaï proposed their departure because there were problems in providing food to the elements.⁸⁰⁸⁶

3299. P-1839 testified that one morning, the elements at Yamwara were summoned by their respective chiefs of section.⁸⁰⁸⁷ They were told to assemble in rows, they lined up and were counted, and the 'leaders' – including Mr Yekatom, Kamezolaï and Cœur de Lion –, informed them that they would be leaving the school for the Mbaïki road.⁸⁰⁸⁸ The elements and the chiefs, including Mr Yekatom, left the base the same morning of the gathering and walked away from the school heading to the Mbaïki road.⁸⁰⁸⁹

3300. P-1839 indicated that at the time of the group's presence on the Mbaïki road, 'the chiefs', referring to Mr Yekatom, Cœur de Lion and Alkanto, instructed the elements to kill all the Muslims in their area.⁸⁰⁹⁰ She explained, when asked, that there was no difference between armed and unarmed Muslims because 'the unarmed Muslims also had weapons that they hid

⁸⁰⁸³ See paragraph 58 above.

⁸⁰⁸⁴ P-1839: T-170, p. 40, line 23 – p. 42, line 16; P-1858 Statement, CAR-OTP-2063-0050-R04, at 0063, para. 83; P-1858: T-185, p. 20, line 25 – p. 21, line 11; P-0954 Statement, CAR-OTP-2048-0171-R03, at 0186, para. 89; P-0954: T-166, p. 49, line 8 – p. 50, line 1; P-1647 Statement, CAR-OTP-2050-0654-R02, at 0660, para. 38; P-1990 Statement, CAR-OTP-2124-0247-R02, at 0255-56, para. 37; P-0876 Interview Transcript, CAR-OTP-2046-0473-R02, at 0498, lines 936-940. See also P-0884: T-056, p. 31, lines 1-11.

⁸⁰⁸⁵ P-1839: T-174, p. 13, line 15 – p. 14, line 15.

⁸⁰⁸⁶ P-1839: T-174, p. 12, line 21 – p. 13, line 13; P-1647: T-195, p. 43, lines 3-6.

⁸⁰⁸⁷ P-1839: T-170, p. 41, lines 11-15; T-174, p. 14, lines 16-22.

⁸⁰⁸⁸ P-1839: T-170, p. 41, lines 11-23.

⁸⁰⁸⁹ P-1839: T-170, p. 41, line 24 – p. 42, line 13.

⁸⁰⁹⁰ P-1839: T-171, p. 35, lines 5-19. In particular, P-1839 indicated that the instructions were 'to kill all the Muslims who were in our area, the location [...] we were occupying, if there were any Muslims, we were to kill them'.

in their homes’ so ‘they all were thought to be the same’.⁸⁰⁹¹ P-1839 also confirmed her previous statement according to which all the Anti-Balaka had in their minds that all the Muslims, whether armed or unarmed, were the same.⁸⁰⁹² She explained that she said this because ‘after the clashes of the 5th, the Seleka were mixed with the civilians in order to fight’ and the ‘chiefs’ put this to them so that they had in their minds that ‘everyone who is a Muslim, Christian or Seleka [...] have weapons are the same’.⁸⁰⁹³

3301. Further, P-1839 indicated, when asked how the Anti-Balaka members and the chiefs talked about Muslims, that ‘the Muslims were enemy number one’ and that everywhere they went, ‘there were no Muslims’.⁸⁰⁹⁴ She explained that the reason for this was ‘an eye for an eye, a tooth for a tooth’, in the sense that when the Seleka entered the CAR, some Christians ‘had to pay the price’, ‘so it was the same thing the other way around’.⁸⁰⁹⁵ When later asked about her statement that the Muslims of Bimou fled because otherwise they would have been killed and how she could know this, P-1839 reiterated that ‘it was an eye for an eye and a tooth for a tooth, so anybody who was Muslim would be killed’.⁸⁰⁹⁶

3302. The Chamber notes that P-1839 also indicated, when asked whether she recalled any specific instance in which Mr Yekatom gave instructions that Muslims had to be killed, that she was told about it but she did not see it with her own eyes.⁸⁰⁹⁷ She indicated that most of the people who were killed in front of her were ‘civilians, Christians, not Muslims’.⁸⁰⁹⁸ P-1839 then confirmed her previous indication that Anti-Balaka chiefs gave instructions to kill Muslims.⁸⁰⁹⁹

⁸⁰⁹¹ P-1839: T-171, p. 35, lines 20-23.

⁸⁰⁹² P-1839: T-174, p. 79, line 21 – p. 81, line 24.

⁸⁰⁹³ P-1839: T-174, p. 82, lines 2-14.

⁸⁰⁹⁴ P-1839: T-171, p. 34, lines 14-19.

⁸⁰⁹⁵ P-1839: T-171, p. 34, lines 20-25.

⁸⁰⁹⁶ P-1839: T-171, p. 46, lines 14-18.

⁸⁰⁹⁷ P-1839: T-171, p. 36, lines 8-11.

⁸⁰⁹⁸ P-1839: T-171, p. 36, lines 8-11. *See also* p. 36, lines 15-17, where P-1839 clarified that she was referring to specific instances of killings she had previously mentioned in her testimony (‘I’m referring to the civilians that were killed at the house close to Sekia, and I’m also referring to the Anti-Balaka civilians that were killed on the PK9 bridge. And I’m also referring to the two thieves.’).

⁸⁰⁹⁹ P-1839: T-171, p. 36, line 24 – p. 37, line 3.

3303. At the same time, P-1839 confirmed that she had never heard any instructions from Mr Yekatom or Habib Beina to attack unarmed Muslim civilians.⁸¹⁰⁰ P-1839 also confirmed her previous statements according to which when she was based at Yamwara, '[t]he order he gave us was, if the enemy attacks, we defend ourselves' and her understanding that '[t]he enemy are the Seleka'.⁸¹⁰¹

3304. The Chamber notes that the Yekatom Defence refers to P-1839's allegations that she never heard Mr Yekatom issuing orders to attack unarmed Muslim civilians and that the order was to defend themselves if the enemy, the Seleka, attacked, to dispute the evidence that Mr Yekatom issued orders to kill Muslims.⁸¹⁰² In the Chamber's view, however, these two specific allegations have to be considered together with the rest of P-1839's testimony and, in particular, with the evidence outlined above. Having done so, it is clear to the Chamber that P-1839 unambiguously testified that Mr Yekatom and other leaders of the group under his command instructed his elements to kill all the Muslims on the Mbaïki road, without making any distinction between armed and unarmed Muslims since it was considered, by the group in general and the 'chiefs' in particular, that all Muslims could have weapons hidden at their homes and that they were therefore all the same. Others explained that the Anti-Balaka sought revenge following the Seleka violence, and suspected that Muslim civilians hid weapons in their homes.⁸¹⁰³

3305. Regarding alleged instructions to kill Muslim children, the Chamber notes that while P-1839 initially testified that the instruction to kill all the Muslims in their area extended to children, she later clarified that 'killing Muslims' meant killing both men and women, but not children, and confirmed that this was how the leaders expressed it.⁸¹⁰⁴

⁸¹⁰⁰ P-1839: T-174-ENG, p. 82, line 23 – p. 83, line 17; T-174-FRA, p. 87, line 9. *See also* T-174-ENG, p. 85, lines 8-11.

⁸¹⁰¹ P-1839: T-174, p. 78, lines 16-23.

⁸¹⁰² [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 338-339.

⁸¹⁰³ *See e.g.* P-2084 Statement, CAR-OTP-2094-0968-R02, at 0981, para. 67 (stating that '[i]f the Muslim civilians would not leave [Mbaïki], many people would have died because the Anti-Balaka would have attacked them because it was suspected that all the Muslim civilians had weapons hidden'). *See further* section IV.A.1.iv above.

⁸¹⁰⁴ In particular, the Chamber notes that P-1839 initially testified that the instruction to kill all the Muslims in their area extended to children 'because if [they] ['we'] left the children, they will take vengeance for their fathers in the future', so 'if [they] ['we'] were to find children, [they] ['we'] were supposed to kill them' (*see* P-1839: T-171, p. 35, line 24 – p. 36, line 3). Later, P-1839 confirmed her previous statement according to which, when she was part of the

3306. The Chamber notes that video footage shows Mr Yekatom saying that he created the Anti-Balaka movement ‘to chase out these mercenaries [the Seleka] who came to destroy [their] country’.⁸¹⁰⁵ P-1839 confirmed her previous statements according to which after reaching the main road, they wanted to ‘free up the Bimbo road so that at least people who wanted to go and see their families could go and cross over’.⁸¹⁰⁶ She also confirmed that the overarching objective was ‘to free up the country’.⁸¹⁰⁷ P-1786 stated that ‘R[ombhot]’ gave the order to go to Mbaïki to chase away the Seleka.⁸¹⁰⁸ Stéphane Chrisostome Dawili stated that Mr Yekatom’s instructions for the ‘troops’ were that they were going to ‘fight the enemy and not the civilians’.⁸¹⁰⁹ Vivien Beina testified that at a certain point in time, Mr Yekatom made clear that Muslims could continue their activities on the PK9-Mbaïki axis without any problems.⁸¹¹⁰

3307. The Chamber notes that from its above conclusions, it follows that chasing out the Seleka from the PK9-Mbaïki axis and freeing up the road necessarily implied chasing out the Muslims as well, as the Anti-Balaka considered them to be the same. The Chamber further notes that the allegations in the preceding paragraph contrast with abundant evidence indicating that the freedom of movement of Muslims on the PK9-Mbaïki was limited at the time. The Chamber will discuss this evidence further below.⁸¹¹¹

3308. The Chamber notes that not all of the elements based at Yamwara followed Mr Yekatom’s group in their advance towards Mbaïki. According to Thierry Kpademona, some of the elements ‘defected from the Anti-Balaka and left the school on the same day’, returning to

Anti-Balaka, she had not heard people speaking in the way Max Maidanda did in video footage shown to her in which he talked about throwing tear gas inside houses of Muslims so that they would go out and they could kill them, including small children (see P-1839: T-174, p. 76, line 22 – p. 78, line 2 *referring to* Video, CAR-OTP-2065-3188; Transcription, CAR-OTP-2107-1547, at 1548, lines 9-18). When asked to confirm that she had not heard Alfred Rambo Yekatom, Habib Beina, Alkanto or Cœur de Lion saying that children must be killed because they would take vengeance in the future, she indicated that she had heard about killing Muslims, but not children (see P-1839: T-174, p. 78, lines 3-14). P-1839 clarified that ‘killing Muslims’ meant killing both men and women, but not children, and confirmed that this is how the abovementioned leaders expressed it (see P-1839: T-174, p. 78, line 25 – p. 79, line 12).⁸¹⁰⁵ Video, CAR-OTP-2118-0415, at approximately 00:53:30-00:54:43; Translation, CAR-OTP-2127-4410, at 4432, lines 763-770.

⁸¹⁰⁶ P-1839: T-174, p. 25, lines 13-19. See also [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 483.

⁸¹⁰⁷ P-1839: T-174, p. 29, lines 11-14.

⁸¹⁰⁸ P-1786 Statement, CAR-OTP-2058-0200-R03, at 0207-08, para. 42.

⁸¹⁰⁹ P-1647 Statement, CAR-OTP-2050-0654-R02, at 0659, para. 35.

⁸¹¹⁰ P-0888: T-122, p. 19, line 4 – p. 20, line 6.

⁸¹¹¹ See paragraphs 3383-3416 below.

‘their normal lives’ in the neighborhood.⁸¹¹² Moreover, P-1339 explained that one Anti-Balaka group remained in Boeing, under the command of lieutenant Donoh.⁸¹¹³

3309. The Chamber heard the account of several insider witnesses who took part in the advance of Mr Yekatom’s group along the PK9-Mbaïki axis. The Chamber notes that the itineraries as described slightly differ from one account to the other, particularly as regards the exact order of the locations the group passed through. The Chamber considers variations in such descriptions normal, bearing in mind also the passage of time, and finds that their accounts in combination with other evidence, assessed below, provide sufficient basis to reach a conclusion on the approximate itinerary followed by Mr Yekatom’s group in its advance towards Mbaïki.

3310. The evidence shows that after leaving Yamwara, Mr Yekatom’s elements passed through PK9 and crossed the PK9 bridge. Notably, P-0954 stated that the day after Djotodia stepped down, Mr Yekatom moved to PK9.⁸¹¹⁴ He also indicated that Mr Yekatom occupied the ‘Pissmiss house’ at PK9 after 10 January 2014.⁸¹¹⁵ Likewise, P-1858, [REDACTED] indicated that Mr Yekatom and his elements started out at PK9.⁸¹¹⁶ P-1786 stated that before going to Mbaïki ‘to chase away the Seleka’ following Mr Yekatom’s order, the group went to PK9 and Pissa and drove the Seleka out of PK9.⁸¹¹⁷

3311. Further, the Chamber notes that Gérard Ouambou, who was filming at PK9 on the day of Djotodia’s resignation and on the following days, explained that the video footage he recorded shows ‘R[ombhot]’ and ‘his elements’ crossing the PK9 bridge the day after Djotodia’s resignation.⁸¹¹⁸ Another video footage recorded at PK9 shows Seleka and

⁸¹¹² P-1990 Statement, CAR-OTP-2124-0247-R02, at 0255-56, para. 37.

⁸¹¹³ P-1339: T-152, p. 60, line 13 – p. 62, line 2. *See also* P-1990 Statement, CAR-OTP-2124-0247-R02, at 0254, para. 30; P-1990: T-237, p. 40, lines 15-23 (indicating that Donoh was a military man and one of the Anti-Balaka leaders in Boeing in December 2013 and January 2014).

⁸¹¹⁴ P-0954 Statement, CAR-OTP-2048-0171-R03, at 0186, para. 89.

⁸¹¹⁵ P-0954 Statement, CAR-OTP-2048-0171-R03, at 0186, para. 89; P-0954: T-166, p. 43, lines 3-15. The Chamber notes that the witness referred to ‘Pissmiss House’ in the statement and to ‘P[isimisi]’ in his testimony, and considers that he was referring to the same place.

⁸¹¹⁶ P-1858: T-185, p. 20, line 25 – p. 21, line 11.

⁸¹¹⁷ P-1786 Statement, CAR-OTP-2058-0200-R03, at 0207-08, para. 42. [REDACTED]

⁸¹¹⁸ P-1558 Statement, CAR-OTP-2105-0195-R01, at 0205-06, para. 63 *referring to* Video, CAR-OTP-2094-7618, at 00:04:02.

elements of Mr Yekatom's group, including Mr Yekatom himself, positioned at the bridge.⁸¹¹⁹

3312. The Chamber notes that the evidence suggests that Mr Yekatom had already deployed some elements from Yamwara to PK9 before starting their advance along the axis towards Mbaïki therefrom on 10 January 2014. In particular, Stéphane Chrisostome Dawili stated that around 4, 5 or 6 January 2014, they ('we') left 'the school' and 'attacked' PK9, Sekia and Ndangala, without finding any resistance from the Seleka from Sekia all the way to PK9.⁸¹²⁰ Moreover, in video footages Rodrigue Momokama and Mr Yekatom himself seem to indicate that there were elements at PK9 when Mr Yekatom's group was still based in Yamwara.⁸¹²¹

3313. Further, the Chamber notes that Gérard Ouambou explained that the video footage he recorded shows Anti-Balaka on the other side of the PK9 bridge on 10 January 2014,⁸¹²² that is, at a time when Mr Yekatom's elements were about to leave Yamwara.⁸¹²³ This supports the evidence above which indicates that some of Mr Yekatom's elements were deployed to PK9 already before the majority of the group left the base at Yamwara and embarked on its advance from Bangui down the axis towards Mbaïki.

3314. The evidence indicates that Seleka elements were present at PK9 by that time. Notably, Vivien Beina testified that a Seleka group was based at PK9 before Djotodia's

⁸¹¹⁹ Video, CAR-OTP-2118-0723; Transcript, CAR-D29-0006-0761.

⁸¹²⁰ P-1647 Statement, CAR-OTP-2050-0654-R02, at 0659, para. 37.

⁸¹²¹ Video, CAR-OTP-2065-3412, at approximately 00:00:27-00:00:36; Transcript, CAR-OTP-2118-0005, at 0006, lines 17-25; Translation, CAR-OTP-2125-0470, at 0472, lines 17-25. The Chamber notes that the video footage shows Rodrigue Momokama telling a journalist that they had to deploy almost 100 elements to PK9, towards the other road leading to Mbaïki, and that they were waiting for Djotodia as he had said on RFI that he wanted or was ready to negotiate with the Anti-Balaka, despite them ('on') not having a need to negotiate with him. In the Chamber's view, this is a clear indication that the video footage was recorded prior to Djotodia's resignation (and thus, prior to the departure from Yamwara described in paragraph 3297 above). *See also* P-1786: T-197, p. 81, line 2 – p. 83, line 16 (indicating that the abovementioned video seemed to have been recorded at Yamwara and confirmed that some elements were deployed to PK9, but not himself). *See further* Video, CAR-OTP-2065-3889; Transcript, CAR-OTP-2127-3761; Translation, CAR-OTP-2127-3680, at 3682. The Chamber notes that the video recorded by the same journalist shows Mr Yekatom speaking on the phone and saying that he would have preferred to go back to his elements based at PK9 and that he wanted to see whether it would be possible to '*descendre*' together with them.

⁸¹²² P-1558 Statement, CAR-OTP-2105-0195-R01, at 0205, para. 61 *referring to* Video, CAR-OTP-2094-7618, at 00:03:53.

⁸¹²³ *See* paragraph 3297 above.

resignation.⁸¹²⁴ P-1839 confirmed that the Seleka were at PK9 ‘before the clashes at the PK bridge with the Seleka’.⁸¹²⁵

3315. The fact that both groups faced each other at PK9, each one on one side of the bridge, is illustrated by a video showing first a Seleka element claiming that they had ‘replied’ after the Anti-Balaka opened fire, and thereafter Mr Yekatom indicating that they had not attacked the Seleka and that the Seleka were the ones who started firing.⁸¹²⁶

3316. In this regard, the Chamber notes that P-0954 stated that there had not been any fighting between the Seleka and the Anti-Balaka at PK9 because of the Sangaris: the Sangaris ‘locked down the area’, and ‘there wasn’t an Anti-Balaka-Seleka clash up until the point when the Seleka left that particular location’.⁸¹²⁷ The Chamber notes that the presence of the Sangaris in PK9 at least by 11 or 12 January 2014 is also mentioned by Gérard Ouambou.⁸¹²⁸

3317. P-1786 confirmed, when asked, that Mr Yekatom’s group attacked the Seleka at the PK9 bridge once, after Djotodia’s resignation.⁸¹²⁹ However, he also indicated, when asked for further details, that he was [REDACTED] ‘not in a position to know what happened there’.⁸¹³⁰

3318. Similarly, P-1839 confirmed that there were clashes at the PK9 bridge with the Seleka.⁸¹³¹

3319. According to P-0954, the Seleka left PK9 around one week after Djotodia’s resignation, after ‘the French’ asked them to do so.⁸¹³² P-1858 similarly agreed that the Seleka stayed in PK9

⁸¹²⁴ P-0888: T-121, p. 40, lines 16-19, p. 42, line 6 – p. 43, line 10 referring to Video, CAR-OTP-2094-7618, at 00:04:27; Translation, CAR-OTP-2118-4260. See also T-121, p. 62, line 13 – p. 63, line 21; T-120, p. 60, lines 16-25.

⁸¹²⁵ P-1839: T-174, p. 27, lines 9-12.

⁸¹²⁶ Video, CAR-OTP-2118-0723, at approximately 00:00:24-00:01:10.

⁸¹²⁷ P-0954: T-166-ENG, p. 60, lines 11-18. See also T-166-CONF-FRA, p. 67, lines 9-13 (the French version of the transcript indicating ‘il y a pas de combat entre Séléka et Anti-balaka [...] à cet endroit de PK 9. Parce que lors de prise de PK 9, la [...] Sangaris a été là, ils ont [...] sécurisé la chose, donc il y a pas de combat entre Anti-balaka et la Séléka. Jusqu’à un moment où la Séléka a quitté le lieu.’).

⁸¹²⁸ P-1558 Statement, CAR-OTP-2105-0195-R01, at 0206, paras 66-67 (stating that the Sangaris stayed ‘pour protéger les Seleka de la population’) referring to Video, CAR-OTP-2094-7618, at 00:04:14, 00:04:26.

⁸¹²⁹ P-1786: T-198, p. 31, lines 9-12.

⁸¹³⁰ P-1786: T-198, p. 31, lines 20-24. See also P-1786 Statement, CAR-OTP-2058-0200-R03, at 0207-08, para. 42.

⁸¹³¹ P-1839: T-174, p. 27, lines 9-12.

⁸¹³² P-0954 Statement, CAR-OTP-2048-0171-R03, at 0180, para. 52.

until mid-January, until after Djotodia's resignation.⁸¹³³ Likewise, Vivien Beina testified that the French soldiers talked to 'the belligerent parties' and eventually convinced the Seleka 'to free the roadblock'.⁸¹³⁴ In a similar vein, Gérard Ouambou indicated that 'the Chadians' left with the Seleka of PK9.⁸¹³⁵

3320. Further, Stéphane Chrisostome Dawili stated that '[w]hen we reached PK9 there were clashes between us and the S[eleka], but we managed to keep a position at the bridge' until after 10 January 2014.⁸¹³⁶ The witness later testified that there had only been clashes with the Seleka at PK9, where there had been 'a bit of resistance'.⁸¹³⁷

3321. In light of the aforementioned evidence, the Chamber concludes that at least one of the groups fired at the other, without this confrontation escalating further. In the Chamber's view, this explains why witnesses such as P-0954 and Stéphane Chrisostome Dawili showed certain ambiguity when referring to a clash at PK9, and why other witnesses were unable to provide further details on such a clash, while still recalling that there had been a confrontation. In this regard, the Chamber notes the presence of the Sangaris at PK9 at that time, as well as of other international forces such as the Chadian and Congolese FOMAC,⁸¹³⁸ and the role of the Sangaris in interposing between the groups.

3322. Once Mr Yekatom's elements reached the Bangui-Mbaïki road, they passed through the villages of Samba and Sekia. Notably, P-1839 testified that certain elements passed through Samba before reaching Sekia on the same day they left Yamwara.⁸¹³⁹ She specified that they stopped in the village of Samba on their way to Sekia, and the soldiers of the group, who had

⁸¹³³ P-1858: T-185, p. 66, lines 5-10.

⁸¹³⁴ P-0888: T-120, p. 60, lines 16-25.

⁸¹³⁵ P-1558 Statement, CAR-OTP-2105-0195-R01, at 0206, para. 71 *referring to* Video, CAR-OTP-2094-7618, at 00:05:54. The Chamber notes that P-1558 seemed to be referring to the Chadian FOMAC. It also notes that the timeframe corresponds to the day or days after Djotodia's resignation.

⁸¹³⁶ P-1647 Statement, CAR-OTP-2050-0654-R02, at 0659, para. 37.

⁸¹³⁷ P-1647: T-195-ENG, p. 43, lines 8-15; T-195-FRA, p. 44, lines 20-27.

⁸¹³⁸ P-1558 Statement, CAR-OTP-2105-0195-R01, at 0206, para. 71 *referring to* Video, CAR-OTP-2094-7618, at 00:05:54.

⁸¹³⁹ P-1839: T-170, p. 43, lines 17-25. [REDACTED] (*see* P-1839: T-172, p. 56, lines 6-22 *referring to* Sketch, CAR-OTP-2066-1465). The Chamber considers that this does not contradict her evidence that the group walked from Samba to Sekia on the same day they left Yamwara because there is evidence to the effect that Mr Yekatom was not with his group all the time as it advanced towards Mbaïki. Indeed, as set out in paragraphs 3379-3382, 3527 below, Mr Yekatom moved from one location to the other. Moreover, the Chamber notes that according to P-1558, who spent time with Mr Yekatom on the days after Djotodia's resignation, Mr Yekatom had a property in Samba [REDACTED] (*see* P-1558 Statement, CAR-OTP-2105-0195-R01, at 0204, para. 47).

weapons, took ‘measures to protect’ the rest of the elements who did not have weapons, ‘just machetes, knives, pieces of wood’, because the Seleka were still in the area.⁸¹⁴⁰ She also indicated that Mr Yekatom was with the group that day, and went behind Alkanto.⁸¹⁴¹

3323. Further, P-1858 mentioned that Mr Yekatom’s elements went to Sekia on their way to Mbaïki.⁸¹⁴² Stéphane Chrisostome Dawili also mentioned that the group passed by Samba and Sekia, that after 10 January 2014, they took control of the axis to Mbaïki, and that the next place on the way to Mbaïki was Sekia.⁸¹⁴³

3324. Witnesses also indicated that once they arrived in Sekia, the group divided into at least two or three sub-groups. P-1339 testified that the elements in Sekia divided up into ‘two camps’, one of them remaining in Sekia together with Mr Yekatom and the other one going to Mbaïki with Ouandjio.⁸¹⁴⁴ P-1858 indicated that once Mr Yekatom and his elements left Yamwara, some elements went on the route to Mbaïki and ‘mostly to a village called S[ekia]’ while others, led by Ouandjio, went to Boda.⁸¹⁴⁵

3325. The evidence discussed below shows that once the elements reached Sekia, they took over this village and, as they continued their advance, also took control of the villages of Ndagala, Bimon, Kapou, Bossongo, Pissa and eventually Mbaïki. The Chamber notes that this evidence was provided by an overwhelming number of witnesses, including insider witnesses, some of which were part of Mr Yekatom’s group, as well as local authorities and inhabitants of the affected towns and villages.

3326. P-1839 testified that the ‘major places’ occupied by the elements under Mr Yekatom’s command were PK9, Bimon, Pissa and Mbaïki.⁸¹⁴⁶ They also had elements in Sekia, Mbata

⁸¹⁴⁰ P-1839: T-170, p. 42, line 17 – p. 43, line 10.

⁸¹⁴¹ P-1839: T-170, p. 43, lines 11-16.

⁸¹⁴² P-1858 Statement, CAR-OTP-2063-0050-R04, at 0063, para. 83.

⁸¹⁴³ P-1647 Statement, CAR-OTP-2050-0654-R02, at 0659, para. 37, at 0660, paras 38-39. The Chamber notes that P-1647 stated that after leaving ‘the school’, they ‘attacked’ PK9, Sekia and Ndagala, going from Sekia to Bangui, at some point also reaching Samba; and that from Samba, the group divided into two, with one group going towards PK9 and the other one moving towards the Mbaïki axis. The Chamber considers that while P-1647’s description of the order in which they passed certain localities is unclear, his overall account is reliable to the extent that the localities he mentioned and other relevant details (such as the group’s split into two around Sekia) is consistent with the evidence provided by other witnesses.

⁸¹⁴⁴ P-1339: T-152, p. 60, lines 13-21.

⁸¹⁴⁵ P-1858 Statement, CAR-OTP-2063-0050-R04, at 0063, para. 83.

⁸¹⁴⁶ P-1839: T-171, p. 60, line 13 – p. 61, line 15 *referring to* Map (annotated by P-1839), CAR-OTP-2066-1467.

and Kapou, and recruited elements in Batalimo and Mongoumba.⁸¹⁴⁷ When asked, P-1839 confirmed that there were elements under Mr Yekatom's command in all of these locations.⁸¹⁴⁸

3327.P-1839 further confirmed that the Anti-Balaka took control of Pissa 'without weapons', meaning there were no clashes in Pissa.⁸¹⁴⁹ P-1786 specified that there were no clashes in Pissa because the Seleka had already left by the time Mr Yekatom's group arrived there.⁸¹⁵⁰

3328.P-0954 stated that after Djotodia's resignation, Mr Yekatom was in control of 'around half of B[imbo] I' and Lobaye, including Mbaïki, Pissa, Boda, Kapou, Ndangala, Mongoumba, Sekia and Zila.⁸¹⁵¹

3329.Vivien Beina confirmed that the localities of PK9, Zila, Ndangala, Kapou, Bimon, Sekia and Pissa were all on the axis going from Bangui to Mbaïki, which he called the 'south axis', and under the control of Mr Yekatom's group.⁸¹⁵²

3330.P-1193, who described Mr Yekatom as 'head of the Anti-Balaka movement in the south of the country', stated that he controlled Bimbo, Carmel, Pissa, Sekia, Mounboumba and 'everywhere else up to B[oda]' and had elements in Pissmiss, Sekia, Bimon, Ndangala, Bozongo, Pissa, Mongoumba.⁸¹⁵³

3331.The mayor of Mbaïki, Raymond Mongbandi, indicated that Mr Yekatom took control of the entire area from PK9 to the outskirts of Boda, including the towns surrounding Mbaïki.⁸¹⁵⁴ As for Mbaïki, the witness indicated that Mr Yekatom was 'briefly' in control of the town until he was not allowed to enter Mbaïki anymore following Djido Saleh's killing.⁸¹⁵⁵ According to him, Mr Yekatom was in control of Pissa, Lesse, Mbata, Moboma, Bogogoganza, Nola, Ndagala, Sekia, Bimon, Kapou and Bossongo, and Anti-Balaka

⁸¹⁴⁷ P-1839: T-171, p. 60, line 13 – p. 61, line 19 *referring to* Map (annotated by P-1839), CAR-OTP-2066-1467.

⁸¹⁴⁸ P-1839: T-171, p. 61, lines 21-23.

⁸¹⁴⁹ P-1839: T-174, p. 50, lines 12-17.

⁸¹⁵⁰ P-1786 Statement, CAR-OTP-2058-0200-R03, at 0207-08, para. 42.

⁸¹⁵¹ P-0954 Statement, CAR-OTP-2048-0171-R03, at 0184-85, para. 79; P-0954: T-166, p. 49, line 8 – p. 50, line 1.

⁸¹⁵² P-0888: T-120, p. 56, line 17 – p. 58, line 17.

⁸¹⁵³ P-1193 Statement, CAR-OTP-2045-0048-R03, at 0058, para. 63; P-1193: T-124, p. 25, line 24 – p. 27, line 19.

⁸¹⁵⁴ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0260-61, para. 47.

⁸¹⁵⁵ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0261, para. 47. *See also* paragraphs 3679-3680 below.

elements in these locations said they were working for ‘Rambo’, describing him as their boss.⁸¹⁵⁶

3332. The mayor of Pissa, Roger Okoa-Penguia, indicated that Mr Yekatom controlled the route of 107 kilometres between Bangui and Mbaïki, and had men in Pissa, Sekia, Boda, Centrapalm, Mbata, Batalimo, Palmex, Palme d’Or and PK9, where the Anti-Balaka took over the Seleka bases.⁸¹⁵⁷

3333. Gérard Ouambou recorded Mr Yekatom’s elements in Sekia, Kapou and Pissa in the days and weeks that followed Djotodia’s resignation.⁸¹⁵⁸ He indicated that from Sekia, Mr Yekatom and his elements left for Pissa and that in 2014 they controlled the whole zone from PK9 to Mbaïki.⁸¹⁵⁹

3334. Lastly, P-1974 indicated that Mr Yekatom’s area of control and influence in 2014 and 2015 included the route of Bangui, PK9, Sekia, Bossongo, Pissa and Mbaïki; the route of Pissa, Mbata, Bouchia, Batalimo and MOUNGOUNBA; as well as the villages situated south of Mbaïki in the Bale-Loke area.⁸¹⁶⁰ According to P-1974, he learnt this through frequent missions to these locations.⁸¹⁶¹

3335. The Chamber notes that as conceded by both the Prosecution⁸¹⁶² and the Yekatom Defence,⁸¹⁶³ Mr Yekatom’s group progressed along the PK9-Mbaïki axis without finding any resistance from the Seleka, who fled the towns and villages on the axis before the group’s arrival, retreating towards Mbaïki. In this regard, Stéphane Chrisostome Dawili stated that they took over the villages on their way to Mbaïki without fighting because when Djotodia stepped down, the Seleka ‘began fleeing of their own volition’.⁸¹⁶⁴ P-2353 also stated that

⁸¹⁵⁶ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0269, para. 96; P-1838: T-215, p. 12, line 19 – p. 13, line 5.

⁸¹⁵⁷ P-2084 Statement, CAR-OTP-2094-0968-R02, at 0983, para. 77.

⁸¹⁵⁸ P-1558 Statement, CAR-OTP-2105-0195-R01, at 0207, paras 78, 81, at 0208, para. 95 *referring to* Video, CAR-OTP-2094-7618, at 00:09:45-00:10:14, 00:12:01, 00:21:48. The Chamber notes that P-1558 partly recorded this video in Mr Yekatom’s company.

⁸¹⁵⁹ P-1558 Statement, CAR-OTP-2105-0195-R01, at 0200, para. 26, at 0204, para. 50.

⁸¹⁶⁰ P-1974 Statement, CAR-OTP-2068-0222-R05, at 0226, para. 26.

⁸¹⁶¹ P-1974 Statement, CAR-OTP-2068-0222-R05, at 0226, para. 26.

⁸¹⁶² [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 701.

⁸¹⁶³ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 481.

⁸¹⁶⁴ P-1647 Statement, CAR-OTP-2050-0654-R02, at 0660, para. 39.

‘R[ambo] advanced as the Seleka moved out’.⁸¹⁶⁵ P-1666 testified that the Seleka regrouped in the centre of Mbaïki and were no longer present in the places from where the Muslims were coming.⁸¹⁶⁶ Several witnesses, including P-1786,⁸¹⁶⁷ Roger Okoa-Penguia,⁸¹⁶⁸ P-2353⁸¹⁶⁹ and P-1666,⁸¹⁷⁰ specifically indicated that the Seleka left Pissa by the time Mr Yekatom’s elements arrived. As discussed in detail further down, the Chamber is of the view that the Seleka retreated due to the advance of Mr Yekatom’s group along the axis, which also caused the Muslim population of the area to flee first to Mbaïki and eventually to Chad and other locations of the CAR.⁸¹⁷¹

2. Elements under Mr Yekatom’s control present along the axis

Mr Yekatom was the undisputed leader of the Anti-Balaka group along the PK9-Mbaïki axis, which comprised at least 1,000 elements at the time.

3336. Regarding the number of elements who were part of Mr Yekatom’s group in its advance towards Mbaïki, the Chamber received evidence on the approximate size of the group from witnesses in a position to make informed estimates.

3337. Notably, P-1839 testified that there were more than a thousand Anti-Balaka elements on the Mbaïki road and that ‘after that the numbers went up’.⁸¹⁷² She also indicated that in 2014,

⁸¹⁶⁵ P-2353 Statement, CAR-OTP-2100-0226-R03, at 0234-35, para. 50.

⁸¹⁶⁶ P-1666: T-231, p. 25, lines 9-20.

⁸¹⁶⁷ P-1786 Statement, CAR-OTP-2058-0200-R03, at 0207-08, para. 42.

⁸¹⁶⁸ P-2084: T-234, p. 71, lines 7-21.

⁸¹⁶⁹ P-2353 Statement, CAR-OTP-2100-0226-R03, at 0234, para. 49.

⁸¹⁷⁰ P-1666: T-230, p. 44, line 2.

⁸¹⁷¹ See section IV.E.4 below.

⁸¹⁷² P-1839: T-170, p. 48, line 25 – p. 49, line 3. The Chamber notes that later during her testimony, P-1839 was asked about the following part of her previous statement, related to some lists of elements that the Prosecution investigators had shown to her: ‘I see some names here. These are the names of people who had nothing to do with us ever since Yamwara. Because I can see that he included the names of family members, and these people had nothing to do with the Anti-Balaka. And I even entered some names. And, honestly, there weren’t a lot of us. There weren’t thousands of us, actually. But when we were on the Mbaïki road, from PK9 to Mbaïki, I was given a number of names. These are names of family members, friends, acquaintances to add to the list so as to benefit from the DDR money’. P-1839 was specifically asked whether she could confirm that that is what she said in 2020 about the lists when she was questioned by the Prosecution investigators, and P-1839 confirmed it (see P-1839: T-174, p. 37, line 15 – p. 38, line 15). Following this exchange, P-1839 was asked about specific names included in several lists (see P-1839: T-174, p. 38, line 17 – p. 44, line 20). The Chamber understood the above as P-1839 being asked to confirm her previous statement according to which not all of the names appearing on the lists would have been Anti-Balaka members – which she confirmed –, and is of the view that this is how P-1839 understood the question as well. Therefore, for the number of Anti-Balaka elements on the Mbaïki road, the Chamber will consider the evidence P-1839 provided when directly and specifically asked about it during her testimony (in particular, when P-1839 was asked ‘do you recall how

there was a list with the names of the elements on the Mbaïki road, including those who left from Yamwara and those who joined the group in Mbaïki, for the purposes of DDR, which comprised almost 3,000 names – all of which were provided by Mr Yekatom.⁸¹⁷³ The mayor of Pissa, Roger Okoa-Penguia, stated that Mr Yekatom had 3,000 men in Pissa, Sekia, Boda, Centrapalm, Mbata, Batalimo, Palmex, Palme d’Or and PK9.⁸¹⁷⁴ Mr Yekatom himself told a journalist that he had 3,000 men on the ground.⁸¹⁷⁵

3338.P-0954 indicated that at the time Mr Yekatom occupied the Pissmiss house at PK9, he had around 3,000 civilian elements and one or two hundred FACA under his control.⁸¹⁷⁶

3339.Further, the following evidence, while not mentioning the total number of elements in Mr Yekatom’s group, refers to the number of elements under his command in a given location

many [...] Anti-Balaka elements were on the Mbaïki road?', to which she responded '[o]n the Mbaïki road we were more than a thousand. And after that the numbers went up').

⁸¹⁷³ P-1839: T-170, p. 49, line 4 – p. 52, line 2.

⁸¹⁷⁴ P-2084 Statement, CAR-OTP-2094-0968-R02, at 0983, para. 77. The Chamber notes that Mbata and Batalimo are not on the PK9-Mbaïki axis, but are located in the Lobaye prefecture.

⁸¹⁷⁵ See Video, CAR-OTP-2055-2610, at approximately 00:07:54-00:08:35; Translation, CAR-OTP-2122-2271, at 2280, lines 229-46. The Chamber notes that the metadata of the video is not available. At the same time, it notes that in one of the clips included in the video, the journalist indicates that the gendarmes have no choice but to work with the Anti-Balaka despite having been designated enemies of the peace at the beginning of February by Catherine Samba-Panza, the new Central African president. The journalist also mentions that Rombhot and his men settled 'ici', referring to PK9, in the peak of the crisis, six weeks ago (see Video, CAR-OTP-2055-2610, at approximately 00:02:12-00:03:02; Translation, CAR-OTP-2122-2271, at 2276, lines 80-95). The Chamber is therefore of the view that while it cannot determine the exact date of the video, it is reasonable to infer that parts of the footage were taken in mid- to end of February 2014. See also P-0801: T-035, p. 69, line 23 – p. 73, line 25 (confirming that he recognised Mr Yekatom in the video footage, and indicating that the encounter with Mr Yekatom took place towards the south side of the PK9 bridge and that it occurred before he assumed his duties with the prime minister). In this regard, the Chamber notes that P-0801 was appointed special advisor in charge of the disarmament process on 27 February 2014 (see Decree, CAR-OTP-2004-1180, at 1217).

⁸¹⁷⁶ P-0954 Statement, CAR-OTP-2048-0171-R03, at 0185, para. 80; P-0954: T-166, p. 43, lines 16-20. See also p. 60, lines 19-23. The Chamber notes the Yekatom Defence’s assertion that during his testimony, P-0954 was shown the video in which Mr Yekatom refers to having 3,000 men and ‘confirm[ed] this figure while providing no further basis for this assertion, instead, referring to his initial statement’, in which P-0954 indicated that ‘[REDACTED]’. The Yekatom Defence contends that P-0954’s claim in this regard ‘is based on no more than propaganda’ (Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 267). The Chamber, however, notes that the Yekatom Defence disregards the fact that P-0954 was first asked whether he knew how many elements or men were under Mr Yekatom’s control in his group at the time they were in PK9, to which he responded that ‘at that point of time, he had almost [...] he had around a hundred or some FACA and 3,000 civilian Anti-Balaka’ (see P-0954: T-166, p. 43, lines 16-20). It further notes that only later, after being showed the abovementioned video, P-0954 was asked to confirm whether to his recollection or knowledge at the time, Mr Yekatom had 3,000 elements, which he confirmed, indicating that he even mentioned it in his written statement (see P-0954: T-166, p. 60, lines 19-23). Further, considering that P-0954’s indication that Mr Yekatom had 3,000 men under his command accords with what Mr Yekatom himself, as well as other individuals, said, the Chamber does not consider his evidence on this point to be purely based on ‘propaganda’.

along the axis. In the Chamber's view, this can give an approximate indication of Mr Yekatom's group's dimension.

3340. In particular, video footage shows Rodrigue Momokama telling a journalist, at a time before Djotodia's resignation, that they had to deploy almost 100 elements to PK9, towards the other road leading to Mbaïki.⁸¹⁷⁷ Stéphane Chrisostome Dawili testified that there were '[d]ozens' of elements 'per post' and indicated that in Kapou or PK9 there could have been 20, 25 or several hundreds of elements.⁸¹⁷⁸ In fact, Stéphane Chrisostome Dawili stated that when he became deputy ComZone of Mbaïki, he and the ComZone had around 80 to 90 people under their command.⁸¹⁷⁹ He later testified that as deputy ComZone of Mbaïki, he and the ComZone Sete had about 40 elements under their control in Mbaïki.⁸¹⁸⁰ In this regard, the Chamber notes the conclusion it reaches further down on the number of elements under Mr Yekatom's command who were in Mbaïki at the time. In particular, it notes that having considered the evidence of several witnesses, including that of Stéphane Chrisostome Dawili, the Chamber concludes that Mr Yekatom and the elements who arrived with him to Mbaïki on 30 January 2014 amounted to at least 25 individuals; and that the total number of elements in Mbaïki in the following days amounted to at least 80 individuals.⁸¹⁸¹

3341. By contrast, Vivien Beina testified that when he asked Mr Yekatom about telling some NGOs that he had 3,000 men as recorded in the video mentioned above, Mr Yekatom said to him that it was 'strategic', to impress 'the enemy'.⁸¹⁸² The witness was unable to provide an estimation but testified that 'the number was less than 3,000'.⁸¹⁸³ Vivien Beina also testified, when shown a list of elements, that some people were included in these lists even

⁸¹⁷⁷ Video, CAR-OTP-2065-3412, at approximately 00:00:27-00:00:36; Translation, CAR-OTP-2125-0470, at 0472, lines 17-18. The Chamber notes its considerations regarding the timing of this video as set out in footnote 8121 above.

⁸¹⁷⁸ P-1647: T-194, p. 53, line 20 – p. 54, line 11.

⁸¹⁷⁹ P-1647 Statement, CAR-OTP-2050-0654-R02, at 0660, para. 43. The Chamber notes that P-1647 indicated that he became deputy ComZone of Mbaïki when they took over Mbaïki 'around March 2014'. The Chamber notes that the witness erred in the timing as the evidence in the case clearly indicates that Mr Yekatom's group entered Mbaïki on 30 January 2014, but considers this a minor detail in any event.

⁸¹⁸⁰ P-1647: T-194, p. 61, line 25 – p. 62, line 16.

⁸¹⁸¹ See paragraph 3471 below.

⁸¹⁸² P-0888: T-120, p. 36, line 20 – p. 37, line 8. See also [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 267.

⁸¹⁸³ P-0888: T-120, p. 37, line 9 – p. 38, line 19.

if they were not part of the movement to be rewarded as part of the disarmament process.⁸¹⁸⁴ Likewise, the Chamber recalls that P-1839 confirmed her previous statement that the lists that were shown to her during her interview included some ‘names of family members, friends, acquaintances [...] so as to benefit from the DDR money’.⁸¹⁸⁵

3342. From the above, the Chamber is unable to conclude by which degree Mr Yekatom might have inflated the number of his elements along the PK9-Mbaïki axis when preparing lists of elements for the disarmament process, or when speaking to journalists or NGOs – if he did so at all. Indeed, taking Mr Yekatom’s affirmation on his own group’s size together with the fact that Vivien Beina was unable to provide any estimate of the group’s size, merely stating that it was ‘less than’ 3,000, is insufficient to lead the Chamber to any conclusion in this regard. Rather, and bearing in mind the other evidence before it, set out above, including from individuals who were in a position to make informed estimates, the Chamber concludes that Mr Yekatom’s group along the PK9-Mbaïki axis comprised at least 1,000 elements.

3343. Furthermore, the Chamber notes that when asked whether after Djotodia’s resignation there were elements who said that they were Anti-Balaka but were not part of Mr Yekatom’s group in Lobaye, Vivien Beina agreed and indicated that ‘there were subgroups, armed groups that were non-identified who came from the bush or from the forest to carry out exactions’, and that it was ‘very frequent’.⁸¹⁸⁶ The Chamber, however, notes that it reached its above conclusion taking into account the evidence mostly provided by Anti-Balaka elements, including members close to Mr Yekatom and his group, whom it would expect to be able to discern between members of their own movement and unidentified armed groups coming from the bush or the forest to commit exactions. The Chamber, therefore, does not consider that this circumstance has any bearing on its conclusion regarding the number of elements in Mr Yekatom’s group along the PK9-Mbaïki axis.

⁸¹⁸⁴ P-0888: T-120, p. 38, line 25 – p. 44, line 5 *referring to* List, CAR-OTP-2101-3241. The Chamber refers to its considerations of this list above (see footnote 7519 above).

⁸¹⁸⁵ P-1839: T-174, p. 37, line 15 – p. 38, line 15. *See also e.g.* p. 38, line 17 – p. 39, line 10 *referring to* List, CAR-OTP-2039-0063, where P-1839 confirmed, when shown a ‘*liste de militaires*’, that two sisters of Mr Yekatom were never part of the movement but were included in this list so that they could benefit from a higher rank. *See also* paragraph 3337 above.

⁸¹⁸⁶ P-0888: T-121, p. 7, line 22 – p. 8, line 7.

3344. The evidence further shows that Mr Yekatom was the undisputed leader of the group along the PK9-Mbaïki axis.

3345. P-1839 testified that Mr Yekatom was the leader of the elements on the Mbaïki road and described him as ‘the person who had the greatest influence in the group’.⁸¹⁸⁷ P-1839 indicated that the chiefs ‘complied with what he said’.⁸¹⁸⁸

3346. P-1786 explained that ‘R[ombhot] was the chef for everyone’ at Yamwara, Bimbo and Mbaïki, and that he did not see anyone giving him orders.⁸¹⁸⁹ P-1786 further stated that while Cœur de Lion, as well as Habib Beina and Aristide Beina, could stand up to ‘R[ombhot]’, he did not remember any of them, or anyone, ever doing so.⁸¹⁹⁰ [REDACTED].⁸¹⁹¹

3347. Likewise, [REDACTED] indicated that Mr Yekatom was the chief of his group.⁸¹⁹² The witness stated that he had the impression that people, including Mr Yekatom’s elements, even FACA members, were afraid of Mr Yekatom, and that ‘his orders were obeyed without question’.⁸¹⁹³ When specifically asked how he knew that Mr Yekatom was not afraid of Kamezolari despite the latter being ‘his senior and older’, [REDACTED] explained that Mr Yekatom was ‘a warlord’ and a chief and, as such, he did not want anybody else to give orders to his group.⁸¹⁹⁴ He testified that a consequence of an element not obeying Mr Yekatom would be that he would hit or kill that element.⁸¹⁹⁵

3348. The above is illustrated by an incident in which Mr Yekatom killed two of his aides-de-camp and shot at another element of his group. In particular, Stéphane Chrisostome Dawili indicated that on 24 April 2014, at PK9, he witnessed a disagreement between other elements from his group and a former FACA captain regarding the theft of his goats, and decided to intervene to calm things down.⁸¹⁹⁶ Mr Yekatom approached the group with some of his men;

⁸¹⁸⁷ P-1839: T-170, p. 45, line 24 – p. 46, line 17.

⁸¹⁸⁸ P-1839: T-170, p. 46, lines 11-17.

⁸¹⁸⁹ P-1786 Statement, CAR-OTP-2058-0200-R03, at 0205, para. 27.

⁸¹⁹⁰ P-1786 Statement, CAR-OTP-2058-0200-R03, at 0205, para. 28.

⁸¹⁹¹ P-1786 Statement, CAR-OTP-2058-0200-R03, at 0205, para. 28.

⁸¹⁹² [REDACTED]

⁸¹⁹³ [REDACTED]

⁸¹⁹⁴ [REDACTED]

⁸¹⁹⁵ [REDACTED]

⁸¹⁹⁶ P-1647 Statement, CAR-OTP-2050-0654-R02, at 0662, para. 53.

he carried an AK47 in firing position and shot at them.⁸¹⁹⁷ Stéphane Chrisostome Dawili was hit in the upper thigh and fell to the ground.⁸¹⁹⁸ Mr Yekatom ordered his men to take him to the hospital.⁸¹⁹⁹ Stéphane Chrisostome Dawili was hospitalised for two to three weeks.⁸²⁰⁰ The other two elements, Seda and Fadal, were also brought to the hospital.⁸²⁰¹ Seda, a soldier dressed in military uniform, died two or three days later, while Fadal, who wore civilian clothing, was already dead by the time he was taken to the hospital.⁸²⁰² The witness explained that after this incident, he was no longer involved with the Anti-Balaka.⁸²⁰³ Mr Yekatom never apologised to him and avoided him since then.⁸²⁰⁴ The witness did not complain to the gendarmerie because he was afraid that Mr Yekatom would ‘finish [him] off’ as he knew that Stéphane Chrisostome Dawili had witnessed the killing of Seda and Fadal.⁸²⁰⁵

3349. The Chamber notes the Yekatom Defence’s submission that according to both Stéphane Chrisostome Dawili and Vivien Beina, ‘the single alleged “Seda incident”’ concerned an attempt by Habib Beina to return farm animals looted by ‘RFACPP members’, which resulted in these members threatening Mr Yekatom and thereafter having a ‘duel’ with him.⁸²⁰⁶ The Yekatom Defence thus portrays this incident as a ‘duel’ between two equal parties where misbehaved elements provoked Mr Yekatom and got injured.⁸²⁰⁷ The Chamber

⁸¹⁹⁷ P-1647 Statement, CAR-OTP-2050-0654-R02, at 0662, para. 53.

⁸¹⁹⁸ P-1647 Statement, CAR-OTP-2050-0654-R02, at 0662, para. 53. *See also* Photographs, CAR-OTP-2050-0997-R01; CAR-OTP-2050-0998-R01.

⁸¹⁹⁹ P-1647 Statement, CAR-OTP-2050-0654-R02, at 0662, para. 54.

⁸²⁰⁰ P-1647 Statement, CAR-OTP-2050-0654-R02, at 0662, para. 55, at 0663, para. 57.

⁸²⁰¹ P-1647 Statement, CAR-OTP-2050-0654-R02, at 0662-63, paras 56-57.

⁸²⁰² P-1647 Statement, CAR-OTP-2050-0654-R02, at 0662-63, paras 56-57.

⁸²⁰³ P-1647 Statement, CAR-OTP-2050-0654-R02, at 0663, para. 58.

⁸²⁰⁴ P-1647 Statement, CAR-OTP-2050-0654-R02, at 0663, para. 59.

⁸²⁰⁵ P-1647 Statement, CAR-OTP-2050-0654-R02, at 0663, para. 60.

⁸²⁰⁶ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 324-325.

⁸²⁰⁷ The Chamber notes that P-0888 explained that ‘they’ (the soldiers involved in the incident) refused to follow Habib Beina’s directives to return the stolen ‘ram’ – directives Mr Yekatom transmitted to Habib Beina –, beat up Habib Beina’s driver, and called Mr Yekatom on the phone to insult him and tell him that he should come to settle everything on that day (see P-0888: T-120, p. 47, line 17 – p. 49, line 8). P-0888 also explained that Mr Yekatom said that since they had stolen, refused to admit it, wanted to challenge him, and since they were all soldiers, they would ‘have to put an end to this matter’; thereafter, Mr Yekatom, Habib Beina and the group arrived in PK9 by foot, anticipating that ‘they’ waited for a vehicle, and Mr Yekatom shot at the three elements, which P-0888 described as ‘almost a duel’ (see P-0888: T-120, p. 49, lines 9-25). When the Presiding Judge asked whether it would be fair to say that there had been an exchange of bullets between two groups, P-0888 clarified that they all belonged to ‘the same group of Rambo’ and that since they were soldiers, they always had their weapons with them (see P-0888: T-120, p. 50, line 10 – p. 51, line 13). The Chamber is therefore of the view that neither P-0888 nor the Presiding Judge described or understood the incident to be the result of a duel between two parties, contrary to the Yekatom Defence’s suggestions. It further notes that this accords with P-1647’s account, according to which Mr Yekatom approached

is of the view that regardless of the misbehaviour of the elements, the incident's relevance lies in that it neatly reflects that as the leader of his group, Mr Yekatom had authority to sanction the elements under his command, and did so by injuring or even killing those who dared to disobey or otherwise challenge him. In the Chamber's view, incidents such as this one served Mr Yekatom to assert his power within the group and send a message to the rest of the elements.⁸²⁰⁸

3350. Several other witnesses gave evidence about Mr Yekatom's incontestable leadership over the elements deployed on the PK9-Mbaïki axis.

3351. Brice Emotion Namsio, the former spokesperson of the Anti-Balaka, indicated that Mr Yekatom was the commander of the Anti-Balaka 'of the south' and the person who controlled Lobaye.⁸²⁰⁹

3352. Likewise, P-0884, [REDACTED] testified that Mr Yekatom controlled the road all the way to Mbaïki.⁸²¹⁰ Another Anti-Balaka member, P-2232, [REDACTED] testified that Mr Yekatom, 'Rambo', controlled the Mbaïki area and coordinated the operations in that sector.⁸²¹¹

3353. Further, the Chamber notes that when talking to a journalist, Mr Yekatom introduced himself as '*caporal-chef* Yekatom Rambo Alfred, *chef* of the Anti-Balaka movement of the south',

them with some of his men, he carried an AK47 in firing position and shot at them (see P-1647 Statement, CAR-OTP-2050-0654-R02, at 0662, para. 53).

⁸²⁰⁸ See e.g. P-1786 Statement, CAR-OTP-2058-0200-R03, at 0209, paras 49-52. [REDACTED] The Chamber also notes the Yekatom Defence's arguments that witnesses who provided evidence about this incident were not present when it occurred, relied on third hand accounts which did not provide all the details and/or otherwise remained anonymous, and provided objectively incorrect facts concerning basic details (see [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 323). The Chamber considers, however, that the accounts of these witnesses support fundamental aspects of the accounts of both P-1647 and P-0888 (see e.g. P-1839: T-171, p. 79, lines 2-23, who stated that 'Rombhot' fatally shot Seda and another person of the group; P-1786 Statement, CAR-OTP-2058-0200-R03, at 0209, para. 52, [REDACTED]; P-0954, CAR-OTP-2048-0171-R03, at 0186, para. 87, who indicated that Mr Yekatom killed three persons – Seda, Fadal and a 'third Aide de Camp'), [REDACTED]. Further, noting the Yekatom Defence's submission that the incident took place after the 'charged period', the Chamber recalls that facts falling outside of the temporal scope of the charges may be relied upon to prove facts and circumstances described in the charges ([Decision on Motions on the Scope of the Charges and the Scope of the Evidence at Trial](#), 29 October 2020, ICC-01/14-01/18-703-Conf (public redacted version notified on 2 November 2020, ICC-01/14-01/18-703-Red), para. 51).

⁸²⁰⁹ P-0446 Interview Transcript, CAR-OTP-2059-1523-R01, at 1542, lines 698-715.

⁸²¹⁰ P-0884: T-056, p. 31, lines 6-11, p. 72, lines 11-16.

⁸²¹¹ P-2232: T-077, p. 65, lines 1-6.

and said that he created the Anti-Balaka movement ‘to chase out these mercenaries [the Seleka] who came to destroy [their] country’.⁸²¹²

3354. Lastly, the Chamber notes that besides the killing of two of his aides-de-camp, P-1839 provided concise accounts about killings committed by Mr Yekatom’s elements following his explicit orders.⁸²¹³ In particular, P-1839 testified that one day when they had already moved to the Mbaïki road, [REDACTED] at the PK9 bridge [REDACTED] Mr Yekatom shot a civilian element of his group and ‘spared’ a soldier, both of whom had tried to steal some things; then [REDACTED] Mr Yekatom ordered Momokama and Habib Beina to bury the element who had been shot.⁸²¹⁴ P-1839 specified that on the following day, Momokama [REDACTED] had followed Mr Yekatom’s instructions and buried the ‘young guy’ – who at that time was still alive.⁸²¹⁵ P-1839 also testified about a ‘boy’ who was captured and questioned in a house close to Sekia when Mr Yekatom’s group was in Sekia, and ‘executed’ following Mr Yekatom’s instructions.⁸²¹⁶ In addition, P-1839 testified that Alkanto captured and tied up a Christian soldier at the toll gate of the Sekia roadblock, and thereafter killed him following Mr Yekatom’s instructions.⁸²¹⁷ According to P-1839, Alkanto ‘couldn’t do things alone, he had to have the permission of his chief’, Mr Yekatom.⁸²¹⁸

3355. The evidence indicates that Freddy Ouandjio aka Cœur de Lion was Mr Yekatom’s deputy on the PK9-Mbaïki road. Indeed, numerous witnesses described Cœur de Lion as Mr Yekatom’s deputy, including elements of Mr Yekatom’s group and members of the Anti-Balaka movement and coordination,⁸²¹⁹ as well as individuals who personally interacted with

⁸²¹² Video, CAR-OTP-2118-0415, at approximately 00:53:30-00:54:43; Translation, CAR-OTP-2127-4410, at 4432, lines 763-764.

⁸²¹³ See paragraphs 3348-3349 above. See also paragraph 3069 and section IV.D.3 above.

⁸²¹⁴ P-1839: T-171, p. 22, line 5 – p. 24, line 8.

⁸²¹⁵ P-1839: T-171, p. 23, lines 2-5, p. 24, lines 10-16.

⁸²¹⁶ P-1839: T-171, p. 25, line 11 – p. 27, line 3. [REDACTED]

⁸²¹⁷ P-1839: T-171, p. 27, line 4 – p. 28, line 19. In respect of this incident, the Yekatom Defence argues that ‘the alleged order to kill a Seleka Christian soldier does not fit the OTP’s narrative that Mr. Yekatom would have issued orders to the movement to kill Muslims noting further that the witness provides no evidence which would establish the basis for the assertion that the order would have been issued by Mr. Yekatom to [REDACTED]’ (Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 339). [REDACTED]

⁸²¹⁸ P-1839: T-171, p. 27, line 16, p. 28, lines 4-11.

⁸²¹⁹ P-1839: T-170, p. 17, line 25 – p. 18, line 7; P-1786 Statement, CAR-OTP-2058-0200-R03, at 0204, para. 23, at 0210, para. 56; P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0044, paras 27, 29, at 0045, para. 34; P-1647 Statement, CAR-OTP-2050-0654-R01, at 0659, para. 35, at 0662, para. 51; P-0884: T-056, p. 72, lines 11-16.

both of them when the group arrived in Mbaïki.⁸²²⁰ Some of these witnesses, including P-1839⁸²²¹ and P-1962,⁸²²² specifically indicated that Cœur de Lion gave the orders to the elements on the Mbaïki road and was the person in charge when Mr Yekatom was not there.⁸²²³ Likewise, P-2353 stated that when Mr Yekatom was not in Mbaïki, Cœur de Lion was ‘in charge’.⁸²²⁴

3356. Accordingly, and in light of the evidence above, the Chamber rejects the Yekatom Defence’s submissions that even if it accepted that Ouandjio was assigned the title of ‘deputy’, there is no probative evidence that this resulted in a *de facto* hierarchical relationship between Mr Yekatom and Ouandjio.⁸²²⁵

3357. Moreover, the Chamber notes that the Yekatom Defence seems to make contradictory arguments when asserting that Mr Yekatom could not be the leader of any group or movement because of his FACA title, which he used to publicly introduce himself, while at the same time suggesting that Cœur de Lion’s title as ‘deputy’ – and the fact that those around him perceived him as such – cannot even be considered as an indication of the role he performed.⁸²²⁶ Following this argumentation would mean for the Chamber to rely on a formal title and rank to assess someone’s role without looking at the factual circumstances, but not to rely on a, even if less, formal title while looking at the factual circumstances. In the view of the Chamber, in its factual analysis one cannot be divided from the other. Contrarily to the Yekatom Defence’s position, the Chamber considers highly relevant that the elements of Mr Yekatom’s group consistently testified to Cœur de Lion being the ‘deputy’. This is regardless of the purported formality of the title ‘deputy’ or whether

⁸²²⁰ D29-5012: T-295, p. 19, lines 10-23, p. 20, line 25 – p. 21, line 10. The Chamber notes that Antareze-De-Neve Madongagba described that those of the interreligious platform meeting with Mr Yekatom and Cœur de Lion had the impression from observing the manner of acting that the latter was ‘sort of like the assistant or deputy to Mr Yekatom’.

⁸²²¹ P-1839: T-170, p. 17, line 25 – p. 18, line 7, p. 46, lines 5-7.

⁸²²² P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0045, para. 34.

⁸²²³ P-1839: T-170, p. 46, lines 5-7. The Chamber notes that while P-1839 indicated, when asked that she did not know whether Cœur de Lion was still under Mr Yekatom’s command when Mr Yekatom was not on the Mbaïki road and Cœur de Lion was giving orders, she also explained, when asked from whom ‘the chiefs on the field’ giving orders received them, that ‘when it comes to the military men, everything comes from the top down’, that ‘on the road, what I saw was that Mr Yekatom was the person who had the greatest influence in the group’ and that ‘the chiefs then complied with what he said’ (see P-1839: T-170, p. 46, lines 8-17).

⁸²²⁴ P-2353 Statement, CAR-OTP-2100-0226-R03, at 0236, para. 56.

⁸²²⁵ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 274.

⁸²²⁶ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 271-273.

military and non-military members understood it differently. In both formal and informal sense, military or civilian, it conveys the same and unambiguous directional flow of authority.

3358. In relation to the Yekatom Defence's submissions concerning P-1786, the Chamber notes that P-1786 stated that despite the fact that Cœur de Lion was Mr Yekatom's deputy, they did not always get along; Cœur de Lion kept his distance from Mr Yekatom, he did not like that Mr Yekatom did not fight in the front lines with them and thought that he kept money from the Seleka.⁸²²⁷ P-1786 also stated that Mr Yekatom was close to Momokama and Habib Beina.⁸²²⁸ The Chamber is of the view that the fact that Mr Yekatom had a smoother or close personal relationship with other elements of his group does not detract from the fact that Cœur de Lion was under Mr Yekatom's command.

3359. P-1839 and Vivien Beina indicated that Habib Beina replaced Cœur de Lion as Mr Yekatom's deputy after his death.⁸²²⁹ Stéphane Chrisostome Dawili confirmed this, stating that after Cœur de Lion had died in combat in Boda (shortly after taking over Mbaïki),⁸²³⁰ Mr Yekatom appointed Habib Beina as his new deputy.⁸²³¹ P-0954 stated that Habib Beina attended a meeting as the deputy of Mr Yekatom around August 2014, months after Cœur de Lion's death.⁸²³²

3. Locations of checkpoints and bases on the axis

Mr Yekatom's group took over checkpoints at PK9, Sekia, Bimon, Bossongo and Pissa in their advance towards Mbaïki. Mr Yekatom and his elements also set up new bases at PK9 and Sekia.

3360. Several witnesses, including Roger Okoa-Penguia and Antareze-De-Neve Madongagba, explained that the checkpoints along the PK9-Mbaïki axis were established prior to the

⁸²²⁷ P-1786 Statement, CAR-OTP-2058-0200-R03, at 0210, para. 56.

⁸²²⁸ P-1786 Statement, CAR-OTP-2058-0200-R03, at 0210, para. 56.

⁸²²⁹ P-1839: T-174, p. 21, lines 14-17. *See also* P-0888 Second Statement, CAR-OTP-2108-0333-R01, at 0340, para. 74; P-0888: T-120, p. 34, lines 17-25.

⁸²³⁰ P-1647 Statement, CAR-OTP-2050-0654-R02, at 0661, para. 49; P-1647: T-196, p. 11, line 6 – p. 12, line 6.

⁸²³¹ P-1647 Statement, CAR-OTP-2050-0654-R02, at 0662, para. 51.

⁸²³² P-0954 Statement, CAR-OTP-2048-0171-R03, at 0182, para. 66.

Seleka's and the Anti-Balaka's arrival in Lobaye.⁸²³³ These witnesses indicated that the checkpoints were controlled by state forces which, upon the Seleka's arrival in the area, left.⁸²³⁴

3361. The evidence outlined below also shows that thereafter, as Mr Yekatom's group advanced along the axis and took over its villages, the Seleka fled and Mr Yekatom's group also took over the checkpoints located in these villages. The evidence also indicates that in addition to taking over the checkpoints in PK9 and Sekia, Mr Yekatom's group established permanent bases in these two locations.⁸²³⁵

3362. Indeed, several witnesses, including P-1839, Vivien Beina and P-0954, indicated that Mr Yekatom's group established a base at PK9.⁸²³⁶ P-0954 explained that this base was located 'after you crossed the bridge', in a compound known as Pissmiss.⁸²³⁷ P-1193 and Vivien Beina, who referred to this base as the 'PK9 Bridge Base, P[issmiss] base', also indicated that the base was located after crossing the PK9 bridge, on the way to Zila.⁸²³⁸ Likewise, P-1839 confirmed that if someone left Sekia and headed towards Bangui, they would find Pissmiss before crossing the bridge.⁸²³⁹

⁸²³³ See e.g. P-2084: T-234, p. 27, line 9 – p. 43, line 2 (confirming that before the Seleka's arrival in 2013, checkpoints on the PK9-Mbaïki axis were already established in PK9, Sekia, Kapou, Bossongo, Pissa and Mbaïki); D29-5012: T-294, p. 4, lines 14-23.

⁸²³⁴ P-2084: T-234, p. 56, line 25 – p. 57, line 23, p. 59, lines 2-5; D29-5012: T-294, p. 4, lines 14-23; P-2354 Statement, CAR-OTP-2105-0991-R03, at 0995, para. 25.

⁸²³⁵ The Chamber notes that the Yekatom Defence indicates in its Closing Brief that 'the RFACPP assumed responsibility of pre-existing checkpoints in Pissa and Sekia' and that '[a]nother "permanent" RFACPP roadblock was located at PK9, in front of the Pissmiss compound, on the west side of the bridge' (see [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 483).

⁸²³⁶ P-1839: T-170, p. 47, line 13-18; P-0888 Second Statement, CAR-OTP-2108-0333-R01, at 0340, para. 74; P-0954 Statement, CAR-OTP-2048-0171-R03, at 0186, para. 89; P-0954: T-166, p. 43, lines 3-15.

⁸²³⁷ P-0954 Statement, CAR-OTP-2048-0171-R03, at 0186, para. 89; P-0954: T-166, p. 43, lines 3-15, p. 54, lines 3-8 referring to Video, CAR-OTP-2055-2610, at 00:01:18-00:03:15; Translation, CAR-OTP-2122-2271 (recognising 'the checkpoint of Pissmiss on the other side of PK9 [bridge]' and the Pissmiss house).

⁸²³⁸ P-1193 Statement, CAR-OTP-2045-0048-R03, at 0053, para. 34; P-1193: T-124, p. 26, lines 5-21; P-0888 Second Statement, CAR-OTP-2108-0333-R01, at 0340, para. 74.

⁸²³⁹ P-1839: T-173, p. 37, line 18 – p. 38, line 24 referring to Sketch, CAR-OTP-2125-0717.

3363. According to P-1839, Habib Beina and Rodrigue Momokama were posted at the PK9 base and were the chiefs there.⁸²⁴⁰ P-1839 indicated that they issued orders to the elements ‘to collect money from traders and traffic through the sector’.⁸²⁴¹

3364. Vivien Beina specified that Habib Beina was the chief of this base and lived there until he moved to Zila.⁸²⁴² He also explained that Habib Beina led the group that faced the Seleka at PK9 and that he, the witness, asked him not to let the elements cross the bridge and enter into the neighborhood to avoid exactions being committed, with which Mr Yekatom agreed, as ‘our relatives live in that area’.⁸²⁴³

3365. In this same location, Mr Yekatom’s group took over a checkpoint. P-0954 indicated that the Anti-Balaka had a permanent checkpoint at PK9.⁸²⁴⁴ Stéphane Chrisostome Dawili⁸²⁴⁵ and P-1858⁸²⁴⁶ equally mentioned this. The Chamber notes that Stéphane Chrisostome Dawili indicated that the PK9 checkpoint was ‘just opposite’ the Pissmiss compound.⁸²⁴⁷ In a similar vein, P-0954 indicated that there was a checkpoint on the other side of the PK9 bridge, ‘*au niveau de Pissmiss*’.⁸²⁴⁸ It further notes that P-1839 made a sketch of the PK9 bridge and surroundings, indicating the exact locations of the compound or ‘villa’ Pissmiss and the checkpoint where the elements were positioned.⁸²⁴⁹

3366. The Chamber notes the Yekatom Defence’s assertions that there were ‘two distinct, independently-operating checkpoints at PK9, on either side of the bridge’, with ‘RFACPP members’ stationed on the west side [REDACTED] – ‘where a gendarmerie post was located

⁸²⁴⁰ P-1839: T-170, p. 47, lines 19-23; T-173, p. 37, line 18 – p. 38, line 24 *referring to* Sketch, CAR-OTP-2125-0717; T-174, p. 25, line 20 – p. 26, line 11 *referring to* Sketch, CAR-OTP-2066-1461 (in particular, P-1839 confirmed, when asked, that ‘Momokama’s group’ and ‘Habib Beina’s group’ were positioned at the place marked with ‘X’ on the sketch).

⁸²⁴¹ P-1839: T-170-ENG, p. 48, lines 2-6; T-170-FRA, p. 47, lines 1-5.

⁸²⁴² P-0888 Second Statement, CAR-OTP-2108-0333-R01, at 0340, paras 74, 77.

⁸²⁴³ P-0888: T-120, p. 60, line 16 – p. 61, line 20.

⁸²⁴⁴ P-0954 Statement, CAR-OTP-2048-0171-R03, at 0186, para. 89.

⁸²⁴⁵ P-1647 Statement, CAR-OTP-2050-0654-R02, at 0660-61, para. 44.

⁸²⁴⁶ P-1858 Statement, CAR-OTP-2063-0050-R04, at 0063, para. 79. The Chamber notes that in some instances, witnesses seem to indistinctly refer to the base set up by Mr Yekatom and his group at PK9, and the checkpoint they took over at that same location. For example, P-1858 stated that ‘R[ombhot]’s elements had a checkpoint near the PK9 Bridge at Mr. P[ismis]’ place’. Nevertheless, the Chamber considers this a detail of minor importance, as there is evidence on the existence of both a base and a checkpoint.

⁸²⁴⁷ P-1647: T-195, p. 46, lines 8-12.

⁸²⁴⁸ P-0954: T-166-FRA, p. 53, line 24 – p. 55, line 5.

⁸²⁴⁹ Sketch, CAR-OTP-2066-1461.

and where MISCA elements were also present'.⁸²⁵⁰ In this regard, the Chamber notes that P-0954 stated that [REDACTED] was based at the Ngulanga base, close to the PK9 bridge, [REDACTED].⁸²⁵¹ [REDACTED].⁸²⁵² He also indicated that 'they' were at Ngulanga until 10 January, after which 'they' set up their base at another place, [REDACTED].⁸²⁵³ [REDACTED].⁸²⁵⁴ [REDACTED].⁸²⁵⁵ Thus, having assessed P-0954's evidence in its entirety, and in the absence of any other indication, the Chamber cannot conclude that [REDACTED] took over a checkpoint at the PK9 bridge.

3367. The evidence demonstrates that after setting up a base and a checkpoint at PK9, Mr Yekatom's group established another base in Sekia. According to P-1839 and Vivien Beina, this was the 'big' or 'main' base where most of Mr Yekatom's elements were billeted.⁸²⁵⁶ P-1839 specified that the base was located behind a church that was situated a few metres to the left of a customs checkpoint when approaching it from Bangui.⁸²⁵⁷ The Chamber further notes that Gérard Ouambou recorded in a video footage, as he himself explained, Mr Yekatom's elements based in Sekia.⁸²⁵⁸

3368. In addition to the base, Mr Yekatom's group took over the checkpoints in Sekia. P-1839 explained that the group set up two roadblocks to check the vehicles passing through and ensure the security of the Anti-Balaka base.⁸²⁵⁹ P-1839 also referred to another roadblock, under control of the state and then occupied by the Seleka, to which 'the chiefs of each

⁸²⁵⁰ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 489.

⁸²⁵¹ P-0954 Statement, CAR-OTP-2048-0171-R03, at 0181, paras 59-60; Sketch, CAR-OTP-2048-0192. *See also* P-0954: T-167, p. 15, line 3 – p. 20, line 20 *referring to* Compilation, CAR-D29-0003-0032, at 0033-34, 0036-37, 0039-40, 0042-45, 0047.

⁸²⁵² P-0954: T-167, p. 20, line 21 – p. 22, line 8.

⁸²⁵³ P-0954: T-167, p. 21, lines 2-22.

⁸²⁵⁴ P-0954: T-167, p. 41, lines 17-21. *See also* p. 41, line 22 – p. 42, line 22 *referring to* Video, CAR-OTP-2055-2610, at approximately 00:03:18, 00:03:22; Translation, CAR-OTP-2122-2271.

⁸²⁵⁵ P-0954: T-168, p. 69, line 14 – p. 70, line 11.

⁸²⁵⁶ P-1839: T-170, p. 44, lines 1-9, p. 47, lines 13-16; T-174, p. 30, lines 18-21; P-0888: T-120, p. 31, lines 23-25, p. 53, lines 10-16.

⁸²⁵⁷ P-1839: T-170, p. 44, lines 1-9, p. 47, lines 13-16. *See also* Sketch, CAR-OTP-2066-1460.

⁸²⁵⁸ P-1558 Statement, CAR-OTP-2105-0195-R01, at 0207, para. 78 *referring to* Video, CAR-OTP-2094-7618, at 00:10:14.

⁸²⁵⁹ P-1839: T-170, p. 44, line 21 – p. 45, line 7. *See also* T-174, p. 30, line 22 – p. 31, line 23.

section [went] to collect money'.⁸²⁶⁰ Witnesses P-0954, P-1858 and P-1974 similarly testified that the Anti-Balaka controlled the checkpoints in Sekia.⁸²⁶¹

3369. In particular, P-1974 explained that in August 2014, he managed to arrange an appointment with Mr Yekatom and travelled to Pissa to meet him.⁸²⁶² On their way to Pissa, they passed through 'Anti-Balaka checkpoints at PK9, S[ekia] and P[issa]'.⁸²⁶³

3370. Witness P-1823 identified 'the barrier at Sekia' in a video footage shown to him, which he passed through on his way to Mbaïki from Bangui.⁸²⁶⁴

3371. The evidence shows that Mr Yekatom's elements also took under their control checkpoints in Bimon, Bossongo and Pissa.

3372. P-1839 testified about the role of an element who was appointed treasurer of Mr Yekatom's group, discussed below in detail,⁸²⁶⁵ and who collected money from the Anti-Balaka roadblocks of PK9, Sekia and Bimon.⁸²⁶⁶

3373. Vivien Beina confirmed seeing Mr Yekatom's elements posted at several locations on the Mbaïki road, including PK9, Sekia, 'Ndagala', Bimon and Mbaïki.⁸²⁶⁷

3374. The Chamber notes that D29-5016 indicated that there was no Anti-Balaka group in Bossongo and that they were in 'C[entrapalm]'.⁸²⁶⁸ The Chamber notes that Roger Okoa-Penguia confirmed, when asked, that Centrapalm, a company that processed palm oil, was located in Bossongo.⁸²⁶⁹ It also recalls that Roger Okoa-Penguia confirmed that there were two checkpoints in Bossongo.⁸²⁷⁰ The witness explained that before 2013, armed gendarmes

⁸²⁶⁰ P-1839: T-170, p. 45, lines 8-23. *See also* Sketch, CAR-OTP-2066-1460.

⁸²⁶¹ P-0954: T-166, p. 50, lines 2-25; P-1858 Statement, CAR-OTP-2063-0050-R04, at 0058, para. 50; P-1974 Statement, CAR-OTP-2068-0222-R05, at 0227, para. 34; P-1974: T-227, p. 19, lines 13-14.

⁸²⁶² P-1974 Statement, CAR-OTP-2068-0222-R05, at 0227, para. 32.

⁸²⁶³ P-1974 Statement, CAR-OTP-2068-0222-R05, at 0227, paras 33-34.

⁸²⁶⁴ P-1823: T-183, p. 19, lines 6-11, p. 21, line 10-17 *referring to* Video, CAR-OTP-2118-0415, at approximately 01:00:02. *See also* P-1823: T-183, p. 62, line 19 – p. 63, line 6.

⁸²⁶⁵ *See* paragraph 3412 below.

⁸²⁶⁶ P-1839: T-170, p. 57, lines 12-17.

⁸²⁶⁷ P-0888: T-120, p. 54, lines 19-24.

⁸²⁶⁸ D29-5016 Statement, CAR-D29-0009-0576-R01, at 0580, para. 24.

⁸²⁶⁹ P-2084: T-234, p. 6, lines 13-15.

⁸²⁷⁰ P-2084: T-234, p. 37, line 9 – p. 38, line 9.

were deployed at a checkpoint located ‘in front of the road that leads to the Centrapalm [...]’ to protect Centrapalm from thefts.⁸²⁷¹ Asked about a second checkpoint inside Bossongo, Roger Okoa-Penguia stated there were mobile checkpoints organised at specific times of the year.⁸²⁷² He also confirmed that a gendarmerie brigade in Bossongo provided security to Centrapalm.⁸²⁷³ The Chamber also recalls that the witness confirmed that the Anti-Balaka took over these checkpoints.⁸²⁷⁴ In a similar vein, P-1786 and Brice Emotion Namsio indicated that Mr Yekatom had elements at Centrapalm.⁸²⁷⁵ Raymond Mongbandi also mentioned that Mr Yekatom had been stationed at Centrapalm before the Seleka left Mbaïki.⁸²⁷⁶ Likewise, Brice Emotion Namsio testified that at some point in time Mr Yekatom ‘went to base himself’ in Centrapalm, controlling ‘all that area’.⁸²⁷⁷ In light of the evidence above, which indicates that Mr Yekatom’s elements controlled Bossongo and its checkpoints, the Chamber disregards this part of D29-5016’s evidence.

3375. Raymond Mongbandi, the mayor of Mbaïki, explained that in early February, the Seleka unexpectedly left Pissa overnight, leaving the town hall empty.⁸²⁷⁸ The Seleka group that had been based in Pissa until that point moved to Mbaïki.⁸²⁷⁹ Shortly thereafter, the Anti-Balaka moved to Pissa, where Mr Yekatom was in command of its base.⁸²⁸⁰ According to the witness, Mr Yekatom was based in Pissa at this time.⁸²⁸¹

⁸²⁷¹ P-2084: T-234, p. 36, lines 7-23, p. 37, lines 9-16.

⁸²⁷² P-2084: T-234, p. 37, line 17 – p. 38, line 2.

⁸²⁷³ P-2084: T-234, p. 38, lines 3-9.

⁸²⁷⁴ P-2084 Statement, CAR-OTP-2094-0968-R02, at 0983, para. 77.

⁸²⁷⁵ P-1786 Statement, CAR-OTP-2058-0200-R03, at 0207, para. 41; P-0446 Interview Transcript, CAR-OTP-2105-0611-R01, at 0643-44, lines 1110-45.

⁸²⁷⁶ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0264, para. 66. The Chamber notes that Raymond Mongbandi indicated that Mr Yekatom was based at Centrapalm ‘before D[jotodia] resigned and the Seleka left M[baïki]’, but considers that the witness’s reference to the period before Djotodia’s resignation is a mistake considering the contrary evidence indicating that Mr Yekatom was based at Yamwara until Djotodia’s resignation, as discussed above. See also CAR Panel Final Report 2015, CAR-OTP-2023-0032, at 0079-80, para. 240 (indicating that Mr Yekatom’s forces had been replaced by the gendarmerie at Centrapalm by late August 2015).

⁸²⁷⁷ P-0446: T-096, p. 73, lines 1-13.

⁸²⁷⁸ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0262, para. 52.

⁸²⁷⁹ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0262, para. 52.

⁸²⁸⁰ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0262, paras 52, 54.

⁸²⁸¹ P-1838: T-215, p. 7, lines 4-24.

3376.P-1823, a Muslim who travelled from Bangui to Mbaïki as further outlined below,⁸²⁸² also described passing through the Pissa roadblock. He testified that Pissa is a crossroad and its barrier or roadblock a strategic point, just like the roadblocks at PK9 and Mbaïki.⁸²⁸³

3377.Alexandre Kouroupe-Awo, prefect of Lobaye at the time, indicated, speaking of the Anti-Balaka checkpoints in Sekia and Pissa,⁸²⁸⁴ that the Anti-Balaka wore a mix of military uniforms and civilian clothes and were armed, with ‘children’ only carrying traditional weapons and not firearms.⁸²⁸⁵

3378.P-0954 also indicated that Rodrigue Momokama and Habib Beina were the heads of the checkpoints at PK9, Sekia, Pissa and Mbaïki.⁸²⁸⁶ He further stated that Mr Yekatom controlled the area on the road to Mbaïki with the checkpoints thereon.⁸²⁸⁷

3379.Witnesses indicated that Mr Yekatom was not permanently based at a particular location during this time. Instead, he moved from one village (and checkpoint) to the other, patrolling the area and inspecting the elements under his command.

3380.Indeed, P-1858 stated that Mr Yekatom moved around and was not permanently in any of the Anti-Balaka bases, but stayed at his houses in ‘K[alangoe]’, Bossongo, ‘P[alm d’Or]’ and Pissa.⁸²⁸⁸ P-1666 similarly indicated that when the Anti-Balaka were in Mbaïki, Mr Yekatom was not based there, but rather travelled in the area.⁸²⁸⁹

3381.Raymond Mongbandi detailed that Mr Yekatom patrolled the checkpoints on his red motorbike, stopping on each one so that his elements could report to him and he, in turn, could collect the money they had gathered.⁸²⁹⁰ P-1974 learned through frequent missions to

⁸²⁸² See paragraphs 3398-3405 above.

⁸²⁸³ P-1823: T-183, p. 15, lines 13-19.

⁸²⁸⁴ P-1813 Second Statement, CAR-OTP-2083-0279-R01, at 0283, para. 21.

⁸²⁸⁵ P-1813 Second Statement, CAR-OTP-2083-0279-R01, at 0283, paras 21-23; P-1813: T-180, p. 49, lines 7-17.

⁸²⁸⁶ P-0954: T-166, p. 50, lines 2-25.

⁸²⁸⁷ P-0954 Statement, CAR-OTP-2048-0171-R03, at 0187, para. 93.

⁸²⁸⁸ P-1858 Statement, CAR-OTP-2063-0050-R04, at 0064, para. 85.

⁸²⁸⁹ P-1666: T-232, p. 30, line 18 – p. 31, line 3.

⁸²⁹⁰ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0272, para. 109; P-1838: T-215, p. 13, line 10 – p. 14, line 10. The Chamber notes the evidence of Antareze-De-Neve Madongagba who stated that he saw Mr Yekatom always in a white pick-up truck with elements, but also indicated that he did not know if Mr Yekatom travelled around on a motorbike (see D29-5012: T-294, p. 78, lines 5-11), and does not find this to undermine the evidence of Raymond Mongbandi.

this area that Mr Yekatom visited villages on the Mbaïki to Boda route but that he did not spend much time there, leaving the area under the command of one of his ‘[l]ieutenant[s]’.⁸²⁹¹

3382. According to P-1839, Mr Yekatom knew of the progression of his elements throughout the PK9-Mbaïki axis by telephone, and once a locality was taken, he would go on the ground to see it.⁸²⁹²

By taking over these checkpoints, Mr Yekatom and his group aimed at searching and identifying Muslims in the area and raising money to finance the group and its needs. Mr Yekatom’s group was armed.

3383. The Chamber takes note of the Yekatom Defence’s arguments that the ultimate goal of Mr Yekatom’s group on the PK9-Mbaïki axis was to chase out the Seleka and secure the area. The Chamber finds that these arguments, addressed below in detail, are without merit. Rather, in the face of overwhelming evidence, also discussed below, the Chamber is of the view that Mr Yekatom and his group took over the checkpoints on the PK9-Mbaïki axis with the aims of identifying Muslims and financing the group and its needs.

3384. Turning to the Yekatom Defence’s arguments, the Chamber notes its submission that the ‘RFACPP’ first emerged and progressed on the PK9-Mbaïki axis to secure positions previously occupied by the Seleka to prevent their return, and in the total absence of functional public authority in Lobaye.⁸²⁹³ The Yekatom Defence argues that in this context, the ‘RFACPP’ assumed responsibility of pre-existing checkpoints in Pissa and Sekia, as well as in PK9.⁸²⁹⁴ It also submits that the ‘RFACPP’ encouraged gendarmes and water and forestry ministry personnel to return to service along the axis, and frequently collaborated with international forces and with the local authorities.⁸²⁹⁵

3385. The Chamber notes that Roger Okoa-Penguia confirmed that Mr Yekatom progressed along the axis and deployed his elements with the purpose of pushing the Seleka elements out of

⁸²⁹¹ P-1974 Statement, CAR-OTP-2068-0222-R05, at 0226, para. 26.

⁸²⁹² P-1839: T-171, p. 62, lines 8-25.

⁸²⁹³ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 481-483.

⁸²⁹⁴ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 483.

⁸²⁹⁵ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 483-484.

Lobaye and to ensure that they would not return to the region.⁸²⁹⁶ In fact, he described Mr Yekatom as being ‘instrumental in driving out the Seleka’.⁸²⁹⁷ Further, Roger Okoa-Penguia explained that when Catherine Samba-Panza arrived, the soldiers, police officers and gendarmes officially resumed their functions and the order was given to the Anti-Balaka elements to leave all the checkpoints from PK9 to Mbaïki, which they did.⁸²⁹⁸

3386. The Chamber further notes the evidence on the interactions of Mr Yekatom and his group in some instances with the CAR authorities and the international forces.

3387. For instance, video footage shows Henri Wanzet-Linguissara, the general director of the gendarmerie at the time, greeting Mr Yekatom and his elements at PK9, and explaining that there was ‘collaboration’ because the gendarmerie used to be unaware of what was happening on the other side of the barrier, while the men around him – identified in the video as Anti-Balaka – intercepted stolen goods and ‘*faux Centrafricains*’ and handed them to the gendarmerie.⁸²⁹⁹

3388. After being showed this extract of the video footage during his testimony, Alfred Legrand Ngaya indicated being in agreement with the Yekatom Defence’s propositions that Mr Yekatom and his people wanted to collaborate and support the gendarmerie and that the CAR security forces were practically non-existent at the time.⁸³⁰⁰ Likewise, after being shown this same extract, Brice Emotion Namsio confirmed that the cooperation between Mr Yekatom and other Anti-Balaka and the gendarmerie to ensure security started from the outset of the government of Catherine Samba-Panza.⁸³⁰¹

⁸²⁹⁶ P-2084: T-234, p. 69, line 23 – p. 70, line 9. *See also* P-1647: T-195, p. 42, lines 20-22.

⁸²⁹⁷ P-2084 Statement, CAR-OTP-2094-0968-R02, at 0983, para. 77.

⁸²⁹⁸ P-2084: T-234-ENG, p. 66, lines 1-20; T-234-FRA, p. 72, lines 6-27.

⁸²⁹⁹ Video, CAR-OTP-2055-2610, at 00:01:14-00:02:20; Translation, CAR-OTP-2122-2271, at 2275-76, lines 39-82. Regarding the timeframe of the video, *see* footnote 8175 above. The Chamber further notes that P-0876 testified, when shown this video, that he believed that this encounter was planned by the prime minister’s office since the person receiving the director-general of the gendarmerie was advisor to the prime minister for DDR, although P-0876 was not directly informed about the organisation of the encounter (*see* P-0876: T-087-ENG, p. 11, line 9 – p. 12, line 22; T-087-FRA, p. 12, line 2 – p. 14, line 14; T-089, p. 9, lines 4-21).

⁸³⁰⁰ P-0808: T-072, p. 26, line 19 – p. 28, line 2 *referring to* Video, CAR-OTP-2055-2610; Translation, CAR-OTP-2122-2271.

⁸³⁰¹ P-0446: T-099, p. 61, line 12 – p. 62, line 7 *referring to* Video, CAR-OTP-2055-2610; Translation, CAR-OTP-2122-2271.

3389. Further, Guerrino Perin testified that MISCA asked ‘Rambo’ to help them bring order in the zone or region, and that he heard that MISCA gave him fuel to carry out missions with this purpose.⁸³⁰²

3390. Moreover, in a letter Mr Yekatom addressed to the minister of national defence dated 21 April 2014, he described a number of missions he carried out in Lobaye at the time, including missions to Boboua and Bokoma on 11 April 2014, Boda, Bossongo Café and Pissa.⁸³⁰³

3391. Lastly, P-1839 confirmed that at some point, the gendarmes went back to their duty stations in collaboration with the elements who were at the PK9 checkpoint.⁸³⁰⁴ P-1839 further testified that at some point, Mr Yekatom did his best for people to resume their duties from PK9 to Sekia, calling upon these people to get back to duty, ‘but in collaboration with his elements’,⁸³⁰⁵ meaning people ‘from the state’ were there, but ‘people from Mr Yekatom’s side were also along with them’.⁸³⁰⁶

3392. The Chamber also notes the discussions on Mr Yekatom’s interactions with authorities present in Mbaïki in the context of his group’s arrival in the town as well as its stay there.⁸³⁰⁷

3393. In relation to all of the above instances of ‘cooperation’ between Mr Yekatom and the authorities, including him allowing the gendarmes and national staff to go back to some of their duty stations, the Chamber first notes that they took place *after* Mr Yekatom had gained effective control of the PK9-Mbaïki axis and following Catherine Samba-Panza’s election as president of the CAR transitional government on 20 January 2014.⁸³⁰⁸ It also notes that some of those ‘cooperation’ efforts, including the missions described by Mr Yekatom in his letter, occurred *after* a significant proportion of the Muslim civilian population along the axis had to flee their towns and villages and subsequently flee Mbaïki.⁸³⁰⁹

⁸³⁰² D29-5015: T-254, p. 54, line 20 – p. 55, line 22.

⁸³⁰³ Letter, CAR-D29-0013-0028. See also [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 485.

⁸³⁰⁴ P-1839: T-174, p. 26, line 19 – p. 27, line 7.

⁸³⁰⁵ P-1839: T-174, p. 31, line 24 – p. 33, line 19.

⁸³⁰⁶ P-1839: T-174, p. 34, lines 7-17.

⁸³⁰⁷ See section IV.E.5 below.

⁸³⁰⁸ See paragraph 1561 above.

⁸³⁰⁹ See sections IV.E.4, IV.E.6 below.

3394. Secondly, it notes that while the above evidence indicates that Mr Yekatom allowed the gendarmerie and the national staff to go back to their stations in the PK9 and Sekia checkpoints, that same evidence shows that Mr Yekatom did not give them back any effective power. In the words of the former general director of the gendarmerie in the context of the encounter at the PK9 bridge,⁸³¹⁰ whatever happened after crossing the PK9 barrier was under the Anti-Balaka's competence. It further notes that while these authorities were allowed to go back to the PK9 and Sekia checkpoints, they did so alongside Anti-Balaka elements posted there, who were mostly armed FACA members dressed in military uniform.⁸³¹¹ The Chamber considers that there is a nuanced but relevant difference between allowing the authorities to be physically present in their duty stations and handing them over effective responsibility for the checkpoints, as argued by the Yekatom Defence.⁸³¹² It is also the Chamber's view that this does not equate to the Anti-Balaka leaving all checkpoints, as Roger Okoa-Penguia described.

3395. Specifically with regard to Guerrino Perin's evidence above, the Chamber notes that the witness's source of information is unclear and that it contradicts Raymond Mongbandi's evidence, who testified that he did not hear that MISCA had asked Mr Yekatom to patrol the regions to re-establish public order.⁸³¹³ The Chamber, recalling the witness's unique position as Mbaïki's mayor at the time, considers his evidence more reliable on this point.

3396. The Yekatom Defence further argues that the objective of the presence of the 'RFACPP' in the checkpoints was 'to free the Bimbo road so that the population could circulate freely'.⁸³¹⁴ In line with this argument, Vivien Beina testified that at a certain point in time, Mr Yekatom made clear that Muslims could continue their activities on the PK9-Mbaïki axis without any problems. In particular, the witness explained that a young Muslim who lived in Kilometre 5 falsified his ID card to move around and find food.⁸³¹⁵ The Anti-Balaka identified him as a Muslim but Mr Yekatom allowed him to circulate freely on the axis.⁸³¹⁶ According to

⁸³¹⁰ See footnote 8175 above.

⁸³¹¹ See e.g. P-2084 Statement, CAR-OTP-2094-0968-R02, at 0984, para. 79.

⁸³¹² [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 483.

⁸³¹³ P-1838: T-216, p. 27, lines 9-12.

⁸³¹⁴ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 483.

⁸³¹⁵ P-0888: T-122, p. 19, line 4 – p. 21, line 21.

⁸³¹⁶ P-0888: T-122, p. 19, line 4 – p. 21, line 21.

Vivien Beina, ‘from that moment onwards ‘[Muslims] could cross the bridge of PK9 to go to Mbaïki and they could resume their commercial activities on that axis’.⁸³¹⁷

3397. Having assessed the entirety of the evidence, as outlined above and below – including, in particular, P-1823’s below account –, the Chamber considers that the above arguments concerning Mr Yekatom’s purported aim to ‘liberate’ the PK9-Mbaïki road are without merit. On the contrary, the Chamber is convinced that Mr Yekatom instrumentalised the checkpoints in the villages along the axis to search and identify Muslims. In this regard, it recalls the unambiguous evidence of P-1839, who said that at the time they were on the Mbaïki road, ‘the chiefs’ – Mr Yekatom, Cœur de Lion, Alkanto – instructed them to kill all the Muslims in the area they were occupying.⁸³¹⁸

3398. The Chamber notes that P-1823 provided a detailed account of his experience passing through the PK9 checkpoint. After Michel Djotodia’s resignation, P-1823 travelled from Bangui to Mbaïki on a commercial truck which the Anti-Balaka stopped at the PK9 bridge.⁸³¹⁹ According to P-1823, there were many Anti-Balaka at the roadblock, wearing *gris-gris*, carrying weapons such as machetes and Kalashnikovs, some of them dressed with a mixture of civilian clothes and military uniforms.⁸³²⁰ They were ‘searching vehicles systematically to identify Muslims’.⁸³²¹ P-1823 disguised the prayer mark on his forehead to avoid being recognised as a Muslim, since ‘everybody thought that anyone who was a Muslim was a Seleka’.⁸³²² P-1823 stated that he needed to take these precautions because his life was at risk.⁸³²³

3399. P-1823 saw Mr Yekatom at the PK9 checkpoint and knew that he was a chief of the Anti-Balaka because he was giving orders and the Anti-Balaka obeyed him.⁸³²⁴ Mr Yekatom instructed the Anti-Balaka to get everybody out of the truck and try to identify Muslims,

⁸³¹⁷ P-0888: T-122, p. 19, line 4 – p. 21, line 21.

⁸³¹⁸ P-1839: T-171, p. 35, lines 5-19.

⁸³¹⁹ P-1823 Statement, CAR-OTP-2063-0369-R02, at 0373-74, paras 24, 27; P-1823: T-183-ENG, p. 11, lines 13-22; T-183-FRA, p. 11, lines 18-28.

⁸³²⁰ P-1823 Statement, CAR-OTP-2063-0369-R02, at 0374, para. 27.

⁸³²¹ P-1823 Statement, CAR-OTP-2063-0369-R02, at 0374, para. 27.

⁸³²² P-1823 Statement, CAR-OTP-2063-0369-R02, at 0374, para. 27; P-1823: T-183-ENG, p. 11, line 24 – p. 12, line 25; T-183-FRA, p. 12, line 1 – p. 13, line 4.

⁸³²³ P-1823: T-183, p. 11, lines 20-22, p. 16, lines 24-25.

⁸³²⁴ P-1823 Statement, CAR-OTP-2063-0369-R02, at 0374-75, paras 28-29; P-1823: T-183, p. 61, lines 10-22.

which the elements did,⁸³²⁵ by checking for prayer marks or someone's accent.⁸³²⁶ There were no Muslims on the truck except for P-1823 who was not recognised as such.⁸³²⁷ The Anti-Balaka asked the passengers for money, which the passengers gave them, and thereafter let them go.⁸³²⁸

3400. P-1823 indicated that the truck passed through nine roadblocks on their way to Mbaïki, all of which were controlled by the Anti-Balaka because at that time 'the whole Lobaye was under control of the Anti-Balaka'.⁸³²⁹ P-1823 knew some of the Anti-Balaka at these roadblocks by sight from previous interactions, but did not know their names.⁸³³⁰ These other roadblocks were situated in locations such as Bimon, Pissa and Mbaïki.⁸³³¹ The Anti-Balaka at these roadblocks let them go after giving them money for coffee.⁸³³² In P-1823's view, they were not searched at the other roadblocks because the elements knew that 'their boss, Yekatom' had 'already taken care of business' and believed that there were no Muslims in the vehicle.⁸³³³

3401. The Chamber notes that the Yekatom Defence disputes P-1823's account, which it considers 'manifestly unreliable', in particular as regards the timing of the incident and his alleged recognition of the individuals involved.⁸³³⁴ However, for the reasons detailed below, the Chamber is unconvinced by its arguments.

3402. As regards the timing, the Chamber notes that P-1823 stated that after the Bangui Attack, he went to [REDACTED] and stayed in Bangui 'for almost a month' because it was not safe to travel at the time.⁸³³⁵ During his testimony, he explained that he returned to Mbaïki after Michel Djotodia's resignation because before, 'Mbaïki had been taken over by the Seleka,

⁸³²⁵ P-1823 Statement, CAR-OTP-2063-0369-R02, at 0374-75, para. 29; P-1823: T-183, p. 13, line 15 – p. 14, line 12.

⁸³²⁶ P-1823 Statement, CAR-OTP-2063-0369-R02, at 0374-75, para. 29; P-1823 Corrections, CAR-OTP-00000735, at 000001.

⁸³²⁷ P-1823 Statement, CAR-OTP-2063-0369-R02, at 0375, para. 30.

⁸³²⁸ P-1823 Statement, CAR-OTP-2063-0369-R02, at 0375, para. 30; P-1823: T-183, p. 16, lines 17-25.

⁸³²⁹ P-1823 Statement, CAR-OTP-2063-0369-R02, at 0374, para. 27; P-1823: T-183, p. 14, line 23 – p. 15, line 4.

⁸³³⁰ P-1823 Statement, CAR-OTP-2063-0369-R02, at 0375, para. 31; P-1823: T-183, p. 17, line 23 – p. 18, line 24.

⁸³³¹ P-1823: T-183, p. 15, line 7 – p. 16, line 1.

⁸³³² P-1823 Statement, CAR-OTP-2063-0369-R02, at 0375, paras 30-31.

⁸³³³ P-1823 Statement, CAR-OTP-2063-0369-R02, at 0375, para. 31.

⁸³³⁴ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 489.

⁸³³⁵ P-1823 Statement, CAR-OTP-2063-0369-R02, at 0373-74, para. 24.

and these are not people you can collaborate with'.⁸³³⁶ He further explained that after Michel Djotodia's resignation, he could not stay in Bangui 'doing nothing', so he 'got up [his] courage and took the risk of returning, but taking a lot of precautions at the same time'.⁸³³⁷ P-1823 also confirmed having attended a reconciliation meeting in Petevo during which an imam was attacked, and which the Yekatom Defence counsel suggested took place on 13 December 2013.⁸³³⁸ P-1823 indicated that after the incident in Petevo, he left Bangui 'after a few days' as he could not have spent 'the new year' in Bangui, he had to leave to join his family.⁸³³⁹

3403. The Chamber notes that while P-1823 provided a clear and concise answer when explaining his departure to Mbaïki after Michel Djotodia's resignation, he seemed more hesitant when the Yekatom Defence counsel repeatedly asked him to confirm that he left Bangui in a matter of days after the Petevo incident.⁸³⁴⁰ It also notes that when asked whether the 13 December 2013 date refreshed his memory, P-1823 responded that with everything they had gone through since 2013, it was difficult for him to sum up those memories.⁸³⁴¹ Further, the Chamber notes that when asked whether he spent New Year's in Mbaïki, P-1823 seemed to make reference to not wanting to stay in Bangui in 'the new year' rather than not spending New Year's in Bangui.⁸³⁴² In light of this, the Chamber gives more weight to the witness's affirmation that he left Bangui *after* Michel Djotodia's resignation.

3404. In relation to P-1823's prior knowledge of Mr Yekatom, the Chamber notes that he stated that when he saw Mr Yekatom at the barricade, he recognised him from before as he used to live in Kina neighbourhood, and that he knew Mr Yekatom though the latter did not know him.⁸³⁴³ In the Chamber's view, this is not contradictory with his testimony according to

⁸³³⁶ P-1823: T-183, p. 11, lines 13-22.

⁸³³⁷ P-1823: T-183, p. 11, lines 13-22.

⁸³³⁸ P-1823: T-183-ENG, p. 55, line 11 – p. 57, line 22 *referring to* Screenshot, CAR-D29-0016-0097; T-183-FRA, p. 57, line 8 – p. 60, line 4.

⁸³³⁹ P-1823: T-183-ENG, p. 57, lines 16-22; T-183-FRA, p. 57, line 26 – p. 58, line 4.

⁸³⁴⁰ P-1823: T-183, p. 55, line 20 – p. 56, line 12.

⁸³⁴¹ P-1823: T-183, p. 57, lines 8-15.

⁸³⁴² P-1823: T-183-ENG, p. 57, lines 16-22; T-183-FRA, p. 59, line 26 – p. 60, line 4 (stating '*Le nouvel an? Qui pouvait même passer le nouvel an avec cette situation? C'est pas ce qui est sorti de moi. Le nouvel an, je pouvais pas résister à Bangui, parce que là, il fallait partir rejoindre ma petite famille. Même s'il s'agissait de mourir, je mourais ensemble avec ma petite famille*').

⁸³⁴³ P-1823 Statement, CAR-OTP-2063-0369-R02, at 0374, para. 28.

which up until the event at the barricade, he had not personally known or met Mr Yekatom and had also not been aware that he was the leader of an Anti-Balaka group.⁸³⁴⁴ Likewise, the Chamber does not find this inconsistent with his testimony that he had seen Mr Yekatom in Mbaïki when Mr Yekatom went to see his relatives, and had been ‘introduced’ to him – an introduction which the witness clarified consisted in being told from a distance who that person was.⁸³⁴⁵

3405. Regarding the specific barrier at which P-1823 was stopped and Mr Yekatom’s presence thereat, the Chamber notes that P-1823 confirmed that ‘[t]he barrier was before crossing the bridge’.⁸³⁴⁶ He also indicated that people at the barrier wore ‘things around their neck and on their arms’, and confirmed that the *gris-gris* shown to him in a video footage was ‘the same get-up that they were wearing’.⁸³⁴⁷ P-1823 also confirmed, when asked twice, that Mr Yekatom was ‘omnipresent’, moving around, giving instructions, at ‘the main base’, PK9.⁸³⁴⁸ Lastly, P-1823 indicated that Mr Yekatom was in his ‘get-up’ but had no *gris-gris* as such.⁸³⁴⁹ The Chamber considers that while the witness indicated that he was stopped at a barrier before crossing the bridge ([REDACTED]),⁸³⁵⁰ every other detail he provided about the incident actually points to the barrier taken over by Mr Yekatom’s elements at the other side of the PK9 bridge.⁸³⁵¹ Accordingly, the Chamber is of the view that P-1823 erred when describing the exact location of the barrier but otherwise considers P-1823’s account of the incident credible and reliable.

3406. P-2419 explained that the Anti-Balaka at the Sekia ‘base’ would stop passing vehicles and search them and, ‘[i]f they found a Muslim in the vehicle, they would beat and harm

⁸³⁴⁴ P-1823: T-183, p. 17, lines 1-12, p. 61, lines 17-22.

⁸³⁴⁵ P-1823: T-183, p. 75, line 23 – p. 77, line 7. The Chamber notes, in particular, P-1823’s following explanations: ‘[REDACTED], so when somebody arrives, I am told, “This Is X” or “This is Y.” And that’s it. But there was no friendship or any relationship between him and I that would mean I would approach him. I was just presented [...] he was just presented as being either a policemen [sic] or a gendarme or a FACA’; ‘I did not meet him. That’s what I said. I did not meet him. But he was introduced to me. Meeting someone is going to him and exchanging and talking. But from a distance, being told, “This is Mr X.” That’s it. I did not meet him.’

⁸³⁴⁶ P-1823: T-183, p. 59, lines 8-12.

⁸³⁴⁷ P-1823: T-183, p. 59, line 15 – p. 60, line 25 *referring to* Video, CAR-OTP-2055-1915, at 00:01:45.

⁸³⁴⁸ P-1823: T-183, p. 61, p. 61, lines 1-22.

⁸³⁴⁹ P-1823: T-183, p. 62, lines 12-18.

⁸³⁵⁰ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 489.

⁸³⁵¹ [REDACTED]

them’.⁸³⁵² P-2419 heard of a man from Bimon who had converted to Islam that he was arrested and beaten by the Anti-Balaka.⁸³⁵³

3407. Moreover, Guerrino Perin testified that ‘[t]here was an Anti-Muslim sentiment generally’ and cars could be searched at the roadblocks, referring to his own experience.⁸³⁵⁴ In particular, he explained that he picked up a Muslim in Boboua and drove him to Mbaïki but that they were not stopped on the road because his car was known, so the ‘children’ at the roadblocks opened the barriers to him.⁸³⁵⁵ In Guerrino Perin’s words, he had done this man a favour because ‘he was running the risk of being recognised as a Muslim’.⁸³⁵⁶ He also indicated that they ‘had to take precautions so that he would not be recognised’ as a Muslim.⁸³⁵⁷

3408. Gérard Ouambou indicated, when asked if Muslims could pass through the checkpoints without paying, that there were no Muslims that would take this route because they were all in Mbaïki and no Muslim dared to take that route anyway because ‘[s]’il se faisait prendre, il aurait été tué, soit par l’Anti-Balaka, soit par la population’ (‘had they been caught, they would have been killed, either by the Anti-Balaka or by the population’).⁸³⁵⁸ In the witness’s view, even if Mr Yekatom said not to hurt Muslims, ‘sortir serait tent[er] le diable’ (‘going out would be like tempting the devil’).⁸³⁵⁹

3409. P-0954 described it as follows: ‘To pass these checkpoints, God had to be with you, really. Otherwise, you could be killed. So you had to be really careful. They were there to check the vehicles, to control the motorbikes, the people, and also to find out what equipment there was in the various vehicles, and whether it was a vehicle of the Muslims or the positions of the Muslims or whether the Muslims were passing through or finding out who was passing through in order to aid their position, to betray their position. These were all the points that

⁸³⁵² P-2419 Statement, CAR-OTP-2112-0036-R03, at 0042, para. 34.

⁸³⁵³ P-2419 Statement, CAR-OTP-2112-0036-R03, at 0042, para. 34.

⁸³⁵⁴ D29-5015: T-255, p. 19, line 10 – p. 20, line 11.

⁸³⁵⁵ D29-5015: T-255, p. 19, line 10 – p. 20, line 11.

⁸³⁵⁶ D29-5015: T-255, p. 19, line 9 – p. 20, line 11.

⁸³⁵⁷ D29-5015: T-256, p. 35, lines 1-18.

⁸³⁵⁸ P-1558 Statement, CAR-OTP-2105-0195-R01, at 0204, para. 51.

⁸³⁵⁹ P-1558 Statement, CAR-OTP-2105-0195-R01, at 0204, para. 51.

checkpoints were looking for'.⁸³⁶⁰ The Chamber notes that the Yekatom Defence challenges this part of P-0954's evidence,⁸³⁶¹ amongst others, but considers that [REDACTED] knowledge of the area, makes his evidence particularly relevant. In the Chamber's view, the fact that he used strong language to describe that situation in particular does not make this part of his evidence less reliable or credible. The Chamber also notes that in any event, his description accords with the other evidence outlined above.

3410. Significantly, P-1962 stated that Mr Yekatom's deputy, Cœur de Lion, had chased away the Muslims from PK9 to Mbaïki and along the road to Boda, that he wanted to chase out the Muslims that were still left in Boda, and that he did not hide the fact that he wanted to chase the Muslims out of the CAR and to their 'country of origin'.⁸³⁶²

3411. Moreover, the evidence also shows that the Anti-Balaka used the checkpoints on the PK9-Mbaïki axis to raise money to finance the group and its needs.

3412. In this context, the Chamber notes P-1839's description of the role and activities of the treasurer of Mr Yekatom's group during this time. In particular, P-1839 testified that the day after their arrival in Sekia, an element was assigned as treasurer and, as such, Mr Yekatom ordered this element 'to collect the money from the roadblocks'.⁸³⁶³ In the beginning, Mr Yekatom drove the treasurer to the roadblocks with his car, then the treasurer went by public transport; initially, it was every day and later every other day.⁸³⁶⁴ The treasurer collected money at the roadblocks of PK9, Sekia and Bimon gathered from the people crossing the road, and also vehicles, motorbikes and large trucks.⁸³⁶⁵ Mr Yekatom used this money if he needed to buy something and would sometimes direct to whom the treasurer had to give the collected money to.⁸³⁶⁶ [REDACTED].⁸³⁶⁷ When asked whether Mr Yekatom checked how the treasurer collected the money and what was done with it, P-1839 said that Mr Yekatom

⁸³⁶⁰ P-0954: T-166, p. 50, lines 14-25. *See also* p. 61, lines 2-11.

⁸³⁶¹ *See* Yekatom Defence Closing Statements: T-308, p. 41, line 17 – p. 42, line 8.

⁸³⁶² P-1962 First Statement, CAR-OTP-2068-0037-R04, at 0045, paras 33-35.

⁸³⁶³ P-1839: T-170, p. 56, line 18 – p. 57, line 3.

⁸³⁶⁴ P-1839: T-170, p. 57, lines 4-11.

⁸³⁶⁵ P-1839: T-170, p. 57, line 12 – p. 58, line 2.

⁸³⁶⁶ P-1839: T-170, p. 58, lines 3-7, p. 58, line 25 – p. 59, line 11.

⁸³⁶⁷ P-1839: T-170, p. 59, lines 15-19.

‘checked everything’.⁸³⁶⁸ She confirmed that the treasurer was with Mr Yekatom most of the time when the money was collected at checkpoints.⁸³⁶⁹

3413. Another insider witness, Stéphane Chrisostome Dawili, explained how their group was financed by the checkpoints at PK9, Sekia, Pissa and Mbaïki: ‘Everyone, who wanted to go through the checkpoints, paid some money for the A[nti]-B[alaka]. Some paid hundreds of CFA, some thousands. [...] The money that was taken at the checkpoints was taken to the ComZone, who would consult with his deputy in order to allocate the money for different needs, including food, medical treatment, fuel and transport. Every zone raised its money from the roadblocks.’⁸³⁷⁰

3414. P-0954 also stated that at his checkpoints on the road to Mbaïki, Mr Yekatom ‘would extort money’, and further indicated that ‘[t]he men at the checkpoints questioned the people, searched them and took their possession’.⁸³⁷¹

3415. Roger Okoa-Penguia indicated that people were asked to pay small amounts of money at the checkpoints, which were manned by the Anti-Balaka from January 2014 onwards, generally by FACA elements as ‘there was big money involved’.⁸³⁷² This suggests, contrary to the Yekatom Defence’s suggestion, that the money collected at the checkpoints amounted to more than ‘small amounts to pay for [the elements’] coffee’.⁸³⁷³

3416. Raymond Mongbandi stated that at the barriers in Sekia and Pissa, one had to pay the Anti-Balaka to pass through.⁸³⁷⁴

⁸³⁶⁸ P-1839: T-170, p. 60, lines 4-7.

⁸³⁶⁹ P-1839: T-170, p. 61, lines 4-8.

⁸³⁷⁰ P-1647 Statement, CAR-OTP-2050-0654-R02, at 0665, para. 79.

⁸³⁷¹ P-0954 Statement, CAR-OTP-2048-0171-R03, at 0187, para. 93.

⁸³⁷² P-2084 Statement, CAR-OTP-2094-0968-R02, at 0983-84, paras 78-79.

⁸³⁷³ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 483.

⁸³⁷⁴ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0271, para. 106.

4. *The flight of Muslims from locations along the PK9-Mbaïki axis*

A significant proportion of the Muslim civilian population fled their towns and villages along the PK9-Mbaïki axis due to and in fear of the advance of Mr Yekatom's group along the axis.

3417. The evidence outlined below demonstrates that Muslim civilians living in towns and villages along and around the PK9-Mbaïki axis fled out of fear of attacks by the Anti-Balaka. The Chamber notes in this regard that the evidence includes a considerable amount of information on Muslim civilians leaving locations within the Lobaye prefecture, but not along the PK9-Mbaïki axis.⁸³⁷⁵ This particular information is relevant only for the purposes of the general context. At the same time, this information is also relevant in relation to

⁸³⁷⁵ These locations include Ndolobo, Bagandou, Scad, Bangui-Bouchia, Bouchia, Mbata, Batalimo, Bouaka, Boukoko and Boboua. See for (i) Ndolobo: P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0041, para. 37; P-2389 Statement, CAR-OTP-2104-0033-R03, at 0041, para. 46; P-2041 Statement, CAR-OTP-2104-0003-R02, at 0010-11, para. 48; P-1595 Statement, CAR-OTP-2104-0274-R02, at 0282, para. 41; P-1666: T-231-FRA, p. 23, line 23 – p. 24, line 5; [REDACTED]. The Chamber notes that some witnesses referred to 'Ndolobo' and others to 'Dolobo', and considers that both terms concern the same location; (ii) Bagandou: P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0041, para. 37; P-1813: T-180, p. 69, lines 15-24 (indicating that Bagandou is the main town of the Moboma commune); [REDACTED]; P-2389 Statement, CAR-OTP-2104-0033-R03, at 0041, para. 46; [REDACTED]; P-2041 Statement, CAR-OTP-2104-0003-R02, at 0010-11, para. 48; P-1666: T-231-FRA, p. 23, line 23 – p. 24, line 5; (iii) Scad: P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0041, para. 37; P-1813: T-180, p. 68, line 19 – p. 69, line 14; P-2389 Statement, CAR-OTP-2104-0033-R03, at 0041, para. 46; P-2041 Statement, CAR-OTP-2104-0003-R02, at 0010-11, para. 48; P-1595 Statement, CAR-OTP-2104-0274-R02, at 0282, para. 41; [REDACTED]; P-1666: T-231-FRA, p. 23, line 23 – p. 24, line 5. The Chamber notes that witnesses referred to 'Scad', 'Escad' and 'Escade', and considers that they concern the same location; (iv) Bangui-Bouchia: P-2389 Statement, CAR-OTP-2104-0033-R03, at 0041, para. 46; P-1595 Statement, CAR-OTP-2104-0274-R02, at 0281-82, paras 40-41; P-1666: T-231-FRA, p. 23, line 23 – p. 24, line 5; (v) Bouchia: P-1813: T-180, p. 73, lines 6-9; [REDACTED]; P-2389 Statement, CAR-OTP-2104-0033-R03, at 0041, para. 46; P-1595 Statement, CAR-OTP-2104-0274-R02, at 0282, para. 41; P-1666: T-231-FRA, p. 23, line 23 – p. 24, line 5; (vi) Mbata: P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0040, para. 34; P-2389 Statement, CAR-OTP-2104-0033-R03, at 0041, para. 46; [REDACTED]; P-2041 Statement, CAR-OTP-2104-0003-R02, at 0010-11, para. 48; P-1595 Statement, CAR-OTP-2104-0274-R02, at 0282, para. 41; P-1666: T-231-FRA, p. 23, line 23 – p. 24, line 5; (vii) Batalimo: P-1813: T-180, p. 68, lines 5-10; P-1595 Statement, CAR-OTP-2104-0274-R02, at 0282, para. 41; P-2389 Statement, CAR-OTP-2104-0033-R03, at 0041, para. 46; P-1666: T-231-FRA, p. 23, line 23 – p. 24, line 5; (viii) Bouaka: [REDACTED]; P-1595 Statement, CAR-OTP-2104-0274-R02, at 0282, para. 41; P-1666: T-231-FRA, p. 23, line 23 – p. 24, line 5; (ix) Boukoko: P-1813: T-180, p. 73, lines 10-15 (indicating that Boukoko is the main town of one of the communes in the sub-prefecture of Mbaïki, situated 11 or 12 kilometres from Mbaïki on the road to Boda); [REDACTED]; P-2389 Statement, CAR-OTP-2104-0033-R03, at 0041, para. 46; [REDACTED]; P-2041 Statement, CAR-OTP-2104-0003-R02, at 0010-11, para. 48; P-1595 Statement, CAR-OTP-2104-0274-R02, at 0282, para. 41; P-1666: T-231-FRA, p. 23, line 23 – p. 24, line 5. The Chamber notes that some witnesses referred to 'Boukoko' and others to 'Bokoko', and considers that they concern the same location; and (x) Boboua: P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0041, para. 37; P-1595 Statement, CAR-OTP-2104-0274-R02, at 0282, para. 41; [REDACTED]. The Chamber notes that some witnesses referred to 'Boboua' and others to 'Boboa', and considers that they concern the same location.

Muslim civilians fleeing from Mbaïki to Chad and other locations in the CAR. The evidence below reflects what witnesses described in this general context.

3418. For instance, P-2389 stated that Muslims fled to Mbaïki from villages on the road from Bangui to Mbaïki and around Mbaïki because they feared that the Anti-Balaka were going to kill them; his friends from those villages told him so.⁸³⁷⁶ Regarding his hometown, Pissa, he stated that its Muslim inhabitants heard about ‘the Anti-Balaka attacks’ on the radio and television and through telephone contact with friends and family.⁸³⁷⁷ In fear of being attacked, the Muslims of Pissa, as well as Muslims from the surrounding villages who had gathered in Pissa, fled to Mbaïki.⁸³⁷⁸ This occurred around the time when ‘R[ombhot] and the Anti-Balaka’ were at the PK9 bridge.⁸³⁷⁹

3419. P-1666 testified that the fact that the Anti-Balaka started to attack civilians caused panic, and that events such as those in Boyali and Bouali where people were killed ‘led to a kind of psychosis’ which in turn led to the Muslims from the various communes in Mbaïki gathering together in the centre of Mbaïki.⁸³⁸⁰ P-1666 specified that Muslims began arriving to Mbaïki after Djotodia resigned.⁸³⁸¹

3420. P-2041 stated that Muslims mainly from the villages on the road from Bangui to Mbaïki and surrounding Mbaïki fled to Mbaïki because ‘they were running away from death at the hands of the Anti-Balaka’.⁸³⁸²

3421. P-2354 stated that Muslims started to flee to Mbaïki from villages along the main road and in the bush ‘out of fear of being killed by the Anti-Balaka’, who were ‘everywhere in the bush’.⁸³⁸³ He indicated that he personally drove Muslims from [REDACTED] to Mbaïki

⁸³⁷⁶ P-2389 Statement, CAR-OTP-2104-0033-R03, at 0041-42, paras 46-47. *See also* Map (annotated by P-2389), CAR-OTP-2104-0049-R01, in which P-2389 indicated that the location marked as “A” showed the [REDACTED] neighbourhood.

⁸³⁷⁷ P-2389 Statement, CAR-OTP-2104-0033-R03, at 0035, para. 11, at 0038-39, para. 33.

⁸³⁷⁸ P-2389 Statement, CAR-OTP-2104-0033-R03, at 0038-39, para. 33.

⁸³⁷⁹ P-2389 Statement, CAR-OTP-2104-0033-R03, at 0038-39, para. 33. *See also* paragraphs 3310-3313 above.

⁸³⁸⁰ P-1666: T-231, p. 22, line 16 – p. 23, line 10.

⁸³⁸¹ P-1666: T-231, p. 23, lines 11-16.

⁸³⁸² P-2041 Statement, CAR-OTP-2104-0003-R02, at 0010-11, paras 48-49.

⁸³⁸³ P-2354 Statement, CAR-OTP-2105-0991-R03, at 0998-99, para. 42.

after they called him to tell him that they feared for their lives.⁸³⁸⁴ At the time, there were still Seleka elements in Mbaïki and [REDACTED].⁸³⁸⁵

3422.P-2353 provided a list of the villages from where Muslims fled to Mbaïki ‘fearing Anti[-]Balaka violence’.⁸³⁸⁶ Similarly to P-2354, he stated that after hearing on the phone that Muslims in the small villages between Mbaïki and Bangui felt unsafe and feared for their lives at the hands of the Anti-Balaka, he drove Muslims and their goods from [REDACTED] to Mbaïki.⁸³⁸⁷ At the time, the Seleka were still in Mbaïki.⁸³⁸⁸

3423.Further, the evidence shows that Muslim civilians decided to flee their towns and villages along the PK9-Mbaïki axis after hearing that Mr Yekatom’s group advanced along the axis towards Mbaïki, and as the Seleka were retreating towards Mbaïki.

3424.P-2389, a Muslim inhabitant of Pissa, explained that he heard from various truck drivers travelling from Bangui that ‘the Anti-Balaka were coming to P[issa]’.⁸³⁸⁹ Around that time, the Christian friends of his children told them that they would come back and take over their house and property.⁸³⁹⁰ P-2389 realised that the situation was ‘serious’ when he then heard that ‘R[ombhot]’ was five kilometres away from Pissa.⁸³⁹¹ The Christian youth in Pissa said that the Anti-Balaka were going to attack Pissa and kill all the Muslims, and despite the youth [REDACTED], this ‘added to the fear that was building up’.⁸³⁹² At the same time, they were hearing that the Anti-Balaka had killed two individuals in the village of Sakoulou, whose bodies [REDACTED] brought to Pissa, as well as two Muslims in Bangui-Bouchia.⁸³⁹³

⁸³⁸⁴ P-2354 Statement, CAR-OTP-2105-0991-R03, at 0999, para. 43.

⁸³⁸⁵ P-2354 Statement, CAR-OTP-2105-0991-R03, at 0999, para. 44.

⁸³⁸⁶ P-2353 Statement, CAR-OTP-2100-0226-R03, at 0233-34, para. 44.

⁸³⁸⁷ P-2353 Statement, CAR-OTP-2100-0226-R03, at 0233, para. 41, at 0233-34, para. 44.

⁸³⁸⁸ P-2353 Statement, CAR-OTP-2100-0226-R03, at 0233-34, para. 44.

⁸³⁸⁹ P-2389 Statement, CAR-OTP-2104-0033-R03, at 0039, para. 36.

⁸³⁹⁰ P-2389 Statement, CAR-OTP-2104-0033-R03, at 0039, para. 37.

⁸³⁹¹ P-2389 Statement, CAR-OTP-2104-0033-R03, at 0039, para. 37.

⁸³⁹² P-2389 Statement, CAR-OTP-2104-0033-R03, at 0040, paras 39-40.

⁸³⁹³ P-2389 Statement, CAR-OTP-2104-0033-R03, at 0039-40, para. 38 (stating that the Anti-Balaka had attacked the Sakoulou village, situated on the main road between Bangui and Pissa, and had killed a Seleka element and a local civilian from the village, the latter one by mistake, as they thought he was a Seleka), para. 40 (stating that a Christian who had joined the Seleka told him that the Anti-Balaka had killed two Muslims, Zakharia and Abdoulaye, in Bangui-Bouchia).

3425.P-2389 further explained that on [REDACTED] January 2014, his family, scared when they saw the other Muslims leaving, also fled to Mbaïki.⁸³⁹⁴ That same evening, and believing that the Anti-Balaka would kill him if he did not leave Pissa, P-2389 also fled to Mbaïki, [REDACTED].⁸³⁹⁵ According to the witness, [REDACTED].⁸³⁹⁶ P-2389 heard that [REDACTED], ‘R[ombhot] and his men’ arrived in Pissa.⁸³⁹⁷

3426.P-2419, a Muslim inhabitant of Bimon, explained that two weeks before Michel Djotodia’s resignation, the Chadian embassy sent vehicles to Bimon to ‘evacuate’ the ‘Chadian’ Muslims, many of whom were born in the CAR and were ‘Central African themselves’.⁸³⁹⁸ These people told the witness that they had heard some youth saying that ‘the Chadians would be targeted because they had helped the Seleka’ and were fleeing because ‘they feared that there would be an Anti-Balaka attack against them’.⁸³⁹⁹ Some individuals of Fulata ethnicity who were also Muslims left with the ‘Chadians’, but 29 Fulata then returned to Bimon.⁸⁴⁰⁰ Thereafter, P-2419 was threatened by some villagers and saw ‘two Catholics’ breaking into the Bimon mosque.⁸⁴⁰¹

3427.P-2419 further explained that on the evening of the Saturday following Michel Djotodia’s resignation, the local youths of the village rose against the Seleka and after hearing a young Christian saying that ‘[a]ll Arabs are the same’, he decided to hide.⁸⁴⁰² From his hiding place, he saw how the local youth set alight the mosque, and looted and destroyed houses of Muslims.⁸⁴⁰³ P-2419 then hid [REDACTED] a Christian; on the following morning, he saw through a window how Mr Yekatom arrived in Bimon with ‘his men’ and parked their vehicles in [REDACTED] courtyard, and thereafter left, leaving some of the men that had

⁸³⁹⁴ P-2389 Statement, CAR-OTP-2104-0033-R03, at 0040, para. 41.

⁸³⁹⁵ P-2389 Statement, CAR-OTP-2104-0033-R03, at 0041, para. 43.

⁸³⁹⁶ P-2389 Statement, CAR-OTP-2104-0033-R03, at 0041, para. 43.

⁸³⁹⁷ P-2389 Statement, CAR-OTP-2104-0033-R03, at 0042, paras 48-49.

⁸³⁹⁸ P-2419 Statement, CAR-OTP-2112-0036-R03, at 0043, para. 37. *See also* at 0042-43, para. 35 (stating that ‘before the crisis’, Bimon had a population of 8,000 or 9,000 people, of which 300 people were Muslims, of which ‘120-130 were Chadian’).

⁸³⁹⁹ P-2419 Statement, CAR-OTP-2112-0036-R03, at 0043, para. 37.

⁸⁴⁰⁰ P-2419 Statement, CAR-OTP-2112-0036-R03, at 0043, para. 38.

⁸⁴⁰¹ P-2419 Statement, CAR-OTP-2112-0036-R03, at 0044, paras 40-41 (stating that an elderly Catholic told him that ‘[t]hose who are praying to the Gods of the Arabs, they will put them together and kill them’, and another villager told him that ‘[o]ne day your house will be mine’); P-2419: T-177, p. 24, lines 7-12.

⁸⁴⁰² P-2419 Statement, CAR-OTP-2112-0036-R03, at 0044-45, paras 42-45.

⁸⁴⁰³ P-2419 Statement, CAR-OTP-2112-0036-R03, at 0045-46, paras 45-52.

come in the vehicles behind.⁸⁴⁰⁴ On the night of Mr Yekatom's arrival, P-2419 fled to the bush near the village of États-Unis, where he met the 29 Fulata who had returned to Bimon.⁸⁴⁰⁵ He described that life was difficult in the bush, they slept outdoors, there was not enough to eat, and he did not have any news about his family.⁸⁴⁰⁶ While in the bush, P-2419 heard that the Anti-Balaka in Bimon searched the houses one by one looking for Muslims as well as people's mobile phones looking for Muslims' phone numbers.⁸⁴⁰⁷ After two weeks in the bush, he walked to Bangui with one of the Fulata, accompanied by a local Christian from Bimon, pushing a '*pousse-pousse*' with firewood as disguise, since this work is not usually done by Muslims.⁸⁴⁰⁸ On the way to Bangui, they passed Anti-Balaka barricades at Ndangala, Yamboro, Sekia Ngyabourou and Samba, with their cart being searched at each barricade and them being asked to pay 100 francs at the Sekia barrier.⁸⁴⁰⁹ P-2419 thought they arrived at the Central Mosque in PK5 on 27 January 2014.⁸⁴¹⁰ Once there, [REDACTED] told him that the Anti-Balaka had been informed of the place where the

⁸⁴⁰⁴ P-2419 Statement, CAR-OTP-2112-0036-R03, at 0047, paras 58, 60, at 0048, para. 69, at 0049-50, paras 71, 74, at 0053, paras 98, 100; P-2419: T-176, p. 11, line 18 – p. 12, line 11, p. 15, lines 3-21. The Chamber also notes that P-2419 described seeing Mr Yekatom, whom he had seen many times before, walking with two men whom he later introduced as Alkanto and Cœur de Lion and surrounded by about 15 Anti-Balaka on foot (see P-2419 Statement, CAR-OTP-2112-0036-R03, at 0050-51, paras 75-82, 87); seeing Mr Yekatom introducing himself as 'chief of the Anti-Balaka' and saying '[p]eople should not be afraid when they see the Anti-Balaka, I am their chief' (see at 0051-52, para. 87); hearing Cœur de Lion and Alkanto saying that they were planning to go to Mbaïki and Boda after Bimon (see at 0052, para. 90; P-2419: T-176, p. 13, line 19 – p. 14, line 6); and seeing Mr Yekatom appointing some local youth as chiefs of groups, giving them a 'Kala' and a stack of military shirts and trousers and telling them that they should select people and divide them over the groups, and that those selected would be recruited into the national army (see at 0052-53, paras 93-97). The Chamber notes that the witness referred to 'Rambo' in his written statement and his testimony, but that it is clear from the context that this is a reference to Mr Yekatom.

⁸⁴⁰⁵ P-2419 Statement, CAR-OTP-2112-0036-R03, at 0054, paras 103-104; P-2419: T-176, p. 16, line 10 – p. 17, line 17.

⁸⁴⁰⁶ P-2419 Statement, CAR-OTP-2112-0036-R03, at 0054, paras 104-105; P-2419: T-177, p. 5, lines 8-19.

⁸⁴⁰⁷ P-2419 Statement, CAR-OTP-2112-0036-R03, at 0055, paras 107, 109-111.

⁸⁴⁰⁸ P-2419 Statement, CAR-OTP-2112-0036-R03, at 0055-56, paras 112-114, at 0057, para. 121; T-177, p. 26, lines 16-21.

⁸⁴⁰⁹ P-2419 Statement, CAR-OTP-2112-0036-R03, at 0057, para. 122; P-2419: T-176, p. 19, line 6 – p. 20, line 8; T-177, p. 5, line 20 – p. 6, line 2. The Chamber notes that P-2419, in his statement, indicated that the Anti-Balaka asked them to pay 100 CFA at each barrier and that the FACA also asked them to pay 100 CFA at the PK9 bridge (see P-2419 Statement, CAR-OTP-2112-0036-R03, at 0058, para. 124). However, the witness clarified in oral testimony that they paid 100 CFA at the Sekia barricade, and nothing at the other barricades (see T-177, p. 5, line 20 – p. 6, line 2). The Chamber further notes that P-2419 indicated that at the Sekia barrier, he saw one of the youngsters who participated in the attack of Bimon and later joined Mr Yekatom's group (see P-2419 Statement, CAR-OTP-2112-0036-R03, at 0058, para. 123).

⁸⁴¹⁰ P-2419 Statement, CAR-OTP-2112-0036-R03, at 0058, para. 125.

Fulata had been hiding in the bush but that ‘Rambo’ had stopped them from killing the Fulata because some of them were his ‘cousins’.⁸⁴¹¹

3428. The Chamber notes that while P-2419 initially hid due to the threats and aggressiveness of the local youth, he was forced to continue hiding as a consequence of the arrival of Mr Yekatom’s group in Bimon. The Chamber further notes that in fact, P-2419 had to find a safer hiding place, the bush, upon the Anti-Balaka’s arrival in Bimon; and after hearing that they were looking for Muslims, he fled to Bangui, disguising himself as a non-Muslim. The Chamber therefore considers that P-2419 ultimately fled his village due to the arrival of Mr Yekatom’s group thereto.

3429. Alexandre Kouroupe-Awo stated that following an incident in Mbata around the time of Djotodia’s resignation in which the Seleka killed six people, ‘the local militia’ killed a Muslim and some houses were burnt and destroyed, Seleka colonel Anour helped the Muslims in Mbata move to Mbaïki.⁸⁴¹² He explained that the Muslims feared an Anti-Balaka attack after the Bangui Attack; they noticed that after 5 December 2013, the Anti-Balaka movement was gaining momentum as more people joined their ranks.⁸⁴¹³ He also explained that Muslims felt ‘unprotected’ because there were no Seleka in Mbata at the time, so they followed colonel Anour’s suggestion to join other Muslims in Mbaïki, ‘where they would be protected by the Seleka’.⁸⁴¹⁴ While Alexandre Kouroupe-Awo did not specify a timeframe for the departure of Muslims from Mbata to Mbaïki, the Chamber considers that the details of his account regarding the Seleka’s intervention, similar to those of P-2354,⁸⁴¹⁵ allow it to reasonably conclude that it occurred at the time when, and because, Mr Yekatom’s group advanced along the axis.

3430. Diakité Aboubakar stated that after ‘the Anti-Balaka’ killed a Muslim father and a son, and wounded a pregnant woman and her baby, in the area of Pissa, fear increased in the surrounding villages, rumours spread that ‘the Anti-Balaka’ who killed the two men were

⁸⁴¹¹ P-2419 Statement, CAR-OTP-2112-0036-R03, at 0056, paras 115-118.

⁸⁴¹² P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0039-40, paras 31, 33-34. The Chamber notes that P-1813 indicated that he received this information from the colonel himself and from the fleeing Muslims.

⁸⁴¹³ P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0040, para. 34.

⁸⁴¹⁴ P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0040, para. 34.

⁸⁴¹⁵ See paragraphs 3421, 3435 above.

going to attack one village after the other, and the Seleka ‘evacuated’ the Muslims to Mbaïki.⁸⁴¹⁶ The witness also stated that he believed that the Seleka ‘helped’ because they knew that their president had lost power and they were leaving so they wanted to protect the Muslims in the villages from being killed by bringing them to Mbaïki.⁸⁴¹⁷ Diakité Aboubakar indicated that they heard that the crimes were being committed by ‘the elements of R[ambo]’.⁸⁴¹⁸ At the same time, he specified that he heard of ‘R[ambo]’ for the first time on 5 December 2013, and that he also heard that he and his elements were based at PK9.⁸⁴¹⁹ Further, the witness stated that he had worried about what would happen when the Anti-Balaka arrived in Mbaïki, feared that they would kill their wives and children and ‘be left at God’s mercy’; and also feared that even if they ‘escaped from the city alive’, their mosques, property and livestock would be destroyed.⁸⁴²⁰

3431. The Chamber notes that Diakité Aboubakar indicated that the Seleka ‘evacuated’ the Muslims to Mbaïki following the Bangui-Bouchia incident, but at the same time indicated that he heard that Imam Mattar of Bagandou was killed ‘during this period’⁸⁴²¹ – when in fact, according to P-2041, the imam of Bagandou was killed at the end of January 2014.⁸⁴²² The Chamber considers that this timeframe, January 2014, is consistent with the timing of Mr Yekatom’s group’s advance towards Mbaïki – to which Diakité Aboubakar also referred when he expressed being worried at the time for what would happen ‘when the Anti-Balaka arrived to Mbaïki’ – and with the Seleka’s ‘evacuation’ of Muslims to Mbaïki – which the witness believed was taking place because ‘their president had lost power and they were leaving so they wanted to protect the Muslims in the villages from being killed by bringing them to Mbaïki’.⁸⁴²³

3432. Regarding P-2354 and P-2353, both of whom helped to transport Muslims from villages such as [REDACTED] to Mbaïki, the Chamber notes that while they also did not provide any timeframe, they indicated that the Seleka were ‘still’ in Mbaïki (and also ‘still’ in

⁸⁴¹⁶ P-1595 Statement, CAR-OTP-2104-0274-R02, at 0281-82, paras 40-41.

⁸⁴¹⁷ P-1595 Statement, CAR-OTP-2104-0274-R02, at 0282, para. 41.

⁸⁴¹⁸ P-1595 Statement, CAR-OTP-2104-0274-R02, at 0282, paras 41-42.

⁸⁴¹⁹ P-1595 Statement, CAR-OTP-2104-0274-R02, at 0282, para. 42.

⁸⁴²⁰ P-1595 Statement, CAR-OTP-2104-0274-R02, at 0281, para. 39.

⁸⁴²¹ P-1595 Statement, CAR-OTP-2104-0274-R02, at 0282, para. 43.

⁸⁴²² See paragraph 3433 below.

⁸⁴²³ P-1595 Statement, CAR-OTP-2104-0274-R02, at 0282, para. 41.

[REDACTED], in P-2354's case). In the Chamber's view, this indication, in combination with other details of their evidence as outlined below, suggests that they helped Muslims flee to Mbaïki *after* Djotodia's resignation and *after* Mr Yekatom's group initiated its advance along the PK9-Mbaïki axis.

3433. In relation to P-2353,⁸⁴²⁴ the Chamber notes that while he initially stated that he first made a trip to [REDACTED] to take Muslims to Mbaïki on 29 December 2013,⁸⁴²⁵ he later testified that the last trip he made was to [REDACTED] and that it took place on the evening that the Seleka left Mbaïki⁸⁴²⁶ – which, according to the Chamber's finding below, occurred on 29 January 2014.⁸⁴²⁷ Therefore, according to his testimony, P-2353 would have made the trip to [REDACTED] on [REDACTED] January 2014, when indeed the Seleka were still in Mbaïki.⁸⁴²⁸ Further, P-2353 indicated that at the time, all the Muslims left [REDACTED] except for some farmers and [REDACTED] who was killed by 'young people acting [...] as Anti-Balaka'.⁸⁴²⁹ The Chamber notes that this timeframe is consistent with P-2041's evidence according to which Imam Matar of Bagandou was killed by 'the youth of B[agandou]' on 25 January 2014, when the Anti-Balaka had not yet arrived in the village.⁸⁴³⁰

3434. Further, the Chamber notes that P-2353 indicated that people felt safer in Mbaïki because of the Seleka's presence and that as long as the Seleka remained in Mbaïki, the Anti-Balaka stayed away.⁸⁴³¹ In the Chamber's view, this suggests that the Anti-Balaka were already active in the area, but had not yet reached Mbaïki. Significantly, P-2353 added that '[a]fter D[jotodia] resigned, the number of people fleeing the villages increased'.⁸⁴³²

3435. Regarding P-2354, he stated that people left their villages out of fear of being killed by the Anti-Balaka, who were 'everywhere in the bush' according to the rumours brought by the

⁸⁴²⁴ The Chamber notes that while P-2353 provided evidence about the fleeing of Muslims from villages that are not along the axis but in Lobaye, such as [REDACTED], his evidence is relevant in terms of the timing of certain events, including the killing of [REDACTED] and the overall departure of Muslims to Mbaïki.

⁸⁴²⁵ P-2353 Statement, CAR-OTP-2100-0226-R03, at 0232-33, para. 38.

⁸⁴²⁶ P-2353: T-161, p. 18, line 20 – p. 19, line 9.

⁸⁴²⁷ See paragraph 3462 below.

⁸⁴²⁸ See paragraph 3462 below. In this regard, the Chamber notes that the evidence indicates that the Seleka left Mbaïki on the night of 29 January 2014, before Mr Yekatom's group arrived in Mbaïki on 30 January 2014.

⁸⁴²⁹ P-2353 Statement, CAR-OTP-2100-0226-R03, at 0232-33, para. 38.

⁸⁴³⁰ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0010, para. 45.

⁸⁴³¹ P-2353 Statement, CAR-OTP-2100-0226-R03, at 0233-34, para. 44.

⁸⁴³² P-2353 Statement, CAR-OTP-2100-0226-R03, at 0233-34, para. 44.

Muslims who fled their villages and made their way to Mbaïki.⁸⁴³³ He also stated that the Seleka encouraged Muslims to gather in the centre of Mbaïki so that they could protect them better than if they would stay far away in the bush.⁸⁴³⁴ Considering the above evidence that indicates that the Seleka retreated towards Mbaïki after Djotodia's resignation and around the time that Mr Yekatom's group advanced along the PK9-Mbaïki axis,⁸⁴³⁵ the Chamber is satisfied that the fleeing of Muslims referred to by P-2354 can also be situated around that time.

3436. The Chamber is indeed of the view that the advance of Mr Yekatom's group along the PK9-Mbaïki axis caused the retreat of the Seleka from the area. In this regard, the Chamber notes that as discussed further below, the Seleka based in Mbaïki in fact left the town the night prior to the Anti-Balaka's arrival thereto.⁸⁴³⁶ The Chamber further considers that this is also how Muslim residents of the villages and towns along the axis *perceived* these movements – as Mr Yekatom's group progressively advanced along the axis, the Seleka retreated and assisted the Muslim civilian population to move to Mbaïki, where the Seleka were 'still' present and could protect them from the Anti-Balaka.⁸⁴³⁷

3437. In this regard, the Chamber takes note of the evidence pointing to the Seleka encouraging the Muslim civilian population to move to Mbaïki or assisting them with the transport,⁸⁴³⁸ and is satisfied, in light of the evidence outlined in the present section, that they would have fled regardless of the assistance provided by the Seleka.

⁸⁴³³ P-2354 Statement, CAR-OTP-2105-0991-R03, at 0998-99, para. 42.

⁸⁴³⁴ P-2354 Statement, CAR-OTP-2105-0991-R03, at 0999, para. 45.

⁸⁴³⁵ See paragraphs 3297, 3335 below.

⁸⁴³⁶ See paragraph 3462 below.

⁸⁴³⁷ See e.g. paragraphs 3430-3431 above.

⁸⁴³⁸ See e.g. P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0040, para. 34; P-2354 Statement, CAR-OTP-2105-0991-R03, at 0999, para. 45; D29-5012: T-294, p. 40, lines 3-8.

3438. The Chamber notes that Muslims fled leaving their houses and other possessions behind.⁸⁴³⁹
Subsequently, some of these houses were occupied or destroyed.⁸⁴⁴⁰

3439. Turning to the Yekatom Defence's arguments, the Chamber takes note of its assertion that 'Muslims left the axis due to coercive circumstances that were not created or contributed to by the RFACPP', arguing that (i) the Bangui-Bouchia incident that set in motion the progressive 'exodus' of Muslims from towns and villages along and near the axis cannot be attributed to Mr Yekatom nor to the 'RFACPP';⁸⁴⁴¹ (ii) Muslims' departure from the axis was caused by 'the interrelated factors of the withdrawal of the Seleka and the outbreak of mass anti-Muslim violence';⁸⁴⁴² (iii) plans to evacuate Muslims from Lobaye were in motion prior to the arrival of 'the RFACPP' in Mbaïki;⁸⁴⁴³ and (iv) the advance of 'the RFACPP' was not a factor in the departure of Muslims from towns and villages along the axis.⁸⁴⁴⁴

3440. First, the Chamber indeed notes that the killing of two men in Bangui-Bouchia in October 2013 occurred months before Mr Yekatom's group advanced along the PK9-Mbaïki axis.⁸⁴⁴⁵

⁸⁴³⁹ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0262, para. 53 (stating that 'Muslims had abandoned their houses before the Anti-Balaka arrived, as they feared for their lives believing that the Anti-Balaka would kill them with their machetes or axes as had happened in B[angui]-B[uchia] and in various locations in B[angui]'), at 0263, para. 59 (also stating that 'Muslims fleeing to M[baïki] were married couples and families, the father, the mother and the children', 'they brought a few clothes and a mat to sleep on', 'they could not bring a lot', and '[t]heir property was abandoned'); P-2041: T-229, p. 81, lines 4-12 (testifying that some of the Muslims who fled to Mbaïki from neighbouring villages could not take their belongings with them while others were able to; however, later when they had to leave Mbaïki and be 'evacuated' to Chad they had to leave their things in Mbaïki); P-1666: T-231, p. 23, line 24 – p. 24, line 5 (testifying that people took what was absolutely necessary and had to leave their other possessions behind); P-2354 Statement, CAR-OTP-2105-0991-R03, at 1000, para. 47 (stating that 'fleeing Muslims left with only a small bag of their belongings, all the rest of their possessions were abandoned in their houses which they left unattended'; '[t]he Muslim refugees lived on what they managed to carry with them'; '[t]he Muslims fleeing from the villages had left nearly everything behind').

⁸⁴⁴⁰ See e.g. D29-5013: T-286, p. 44, lines 13-20 (testifying that the houses of the Muslims she saw in PK5, who were displaced from Mbaïki, were occupied); D29-5012: T-294, p. 42, line 24 – p. 44, line 24 (testifying that after the Muslims left Mbaïki, their houses were occupied by the non-Muslims, which were 'local people, people from Mbaïki', and that there were instances in which Muslims themselves entrusted their houses to non-Muslims to protect them, in the hope that they would return one day); P-2353 Statement, CAR-OTP-2100-0226-R03, at 0238, para. 64, at 0239, para. 70 (stating that his properties in Mbaïki, from where he fled in fear of the Anti-Balaka, were completely destroyed, although he was told that '[n]ot very many houses were broken into and destroyed in M[baïki]'). See also P-2353: T-161, p. 38, line 3 – p. 39, line 11. See further P-1666: T-232, p. 38, line 18 – p. 39, line 20 (testifying that he received information according to which shortly after his departure from Mbaïki, the Anti-Balaka took over his house and [REDACTED], as a result of which his house was completely vandalised).

⁸⁴⁴¹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 490.

⁸⁴⁴² [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Conf-Corr, paras 495-505.

⁸⁴⁴³ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 506-510.

⁸⁴⁴⁴ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 511-515.

⁸⁴⁴⁵ Report, CAR-D29-0005-0497, at 0499.

3441. Second, the Chamber notes that even if some witnesses relate the movement of Muslims from along the axis also to the events in Bangui-Bouchia, their evidence includes further details which allow to date such movement more specifically.⁸⁴⁴⁶ P-1666, for instance, testified that people from the various communes began to travel to Mbaïki after the events concerning ‘Aba Zakaria and Mahamat’ (referring to the Bangui-Bouchia incident), over the course of seven to 10 days,⁸⁴⁴⁷ but at the same time indicated that Muslims began moving, going to Mbaïki, after Michel Djotodia resigned.⁸⁴⁴⁸ Bearing in mind that placing this movement generally ‘after’ the Bangui-Bouchia incident does not indicate that it was immediately thereafter, the Chamber considers of import the witness’s specification as to when Muslims moving from the communes began arriving to Mbaïki.

3442. Third, and relatedly, the Chamber notes that the fact that witnesses mentioned incidents such as the one in Bangui-Bouchia and described how these fuelled their fear does not detract from their evidence that they fled their villages due to Mr Yekatom’s group becoming active in the area and progressively advancing along the axis, towards their villages. As outlined above, this is the case of P-2389 and his family, who fled to Mbaïki [REDACTED] January 2014 after hearing that Mr Yekatom was five kilometres away from their village, Pissa. It is also the case of P-2354, who drove Muslims from [REDACTED] to Mbaïki around that time. Likewise, P-2419 hid in the bush and later fled to Bangui after seeing how Mr Yekatom’s group arrived and took over Bimon.⁸⁴⁴⁹

3443. Fourth, regarding the Yekatom Defence’s suggestion that two interrelated factors, notably the withdrawal of the Seleka and ‘the outbreak of mass anti-Muslim violence’, *exclusively* explain the Muslims’ departure from the axis,⁸⁴⁵⁰ the Chamber considers that the fact that *some* Muslim inhabitants along the axis could have fled due to these factors does not detract from the fact that other Muslim inhabitants fled due to the advance of Mr Yekatom’s group along the axis. In fact, considering the evidence outlined above, the Chamber is of the view

⁸⁴⁴⁶ See e.g. paragraphs 3430-3431 above.

⁸⁴⁴⁷ P-1666: T-231-FRA, p. 23, line 23 – p. 24, line 16.

⁸⁴⁴⁸ P-1666: T-231, p. 23, lines 11-16.

⁸⁴⁴⁹ The Chamber further notes that P-2353 and P-1813 discussed the fleeing of Muslims from [REDACTED] and Mbata, respectively, to Mbaïki, and while these villages are not located *along* the axis, the Chamber considers that they were sufficiently close to the axis for their Muslim inhabitants to flee in fear of Mr Yekatom’s group’s approach to Mbaïki.

⁸⁴⁵⁰ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 495.

that a significant proportion of the Muslim civilian population along the axis fled to Mbaïki due to this advance.

3444. Accordingly, and in light of the above conclusion, the Chamber considers that the Yekatom Defence's further submission that the 'RFACPP's advance was not a factor in the departure of Muslims from towns and villages along the axis' is without merit.⁸⁴⁵¹ Regarding its related submission that evidence indicating the contrary 'arose from an objectively unfounded belief that the RFACPP would target Muslims that remained',⁸⁴⁵² the Chamber recalls P-1839's evidence that at the time of the group's presence on the Mbaïki road, Mr Yekatom, Cœur de Lion and Alkanto instructed the elements to kill all the Muslims in the area.⁸⁴⁵³ The Chamber further recalls its discussion of the way in which Anti-Balaka groups, including that of Mr Yekatom, pursued and implemented its core objective of removing Michel Djotodia and the Seleka from power, which equated the Muslim civilian population in general, especially in western CAR, with the Seleka and thus perceived this population as their enemy.⁸⁴⁵⁴ The Chamber also refers to its findings on the acts perpetrated by Mr Yekatom's elements in Mbaïki, including the harassing and threats made to the Muslim civilian population⁸⁴⁵⁵ and Djido Saleh's killing.⁸⁴⁵⁶ Likewise, in relation to the Yekatom Defence's submission that 'Muslims' fear of the RFACPP appears to have been rooted in their mistaken belief that the RFACPP and the "anti-balaka" [...] were one and the same',⁸⁴⁵⁷ the Chamber recalls its findings concerning the relation of Mr Yekatom's group with the Anti-Balaka movement.⁸⁴⁵⁸

3445. Lastly, the Chamber also considers without merit the Yekatom Defence's arguments that '[p]lans to evacuate Muslims from Lobaye were in motion prior to the arrival of the RFACPP in Mbaïki'.⁸⁴⁵⁹ As discussed in detail further below, the evidence shows that the decision to remove the Muslim civilian population from Mbaïki was taken at the Mbaïki meeting on 30

⁸⁴⁵¹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 511.

⁸⁴⁵² [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 511-512.

⁸⁴⁵³ See paragraph 3300 above.

⁸⁴⁵⁴ See section IV.A.5 above.

⁸⁴⁵⁵ See paragraph 121 above.

⁸⁴⁵⁶ See paragraph 125 above.

⁸⁴⁵⁷ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 511-512.

⁸⁴⁵⁸ See paragraphs 1619-1647 above.

⁸⁴⁵⁹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 506-510.

January 2014 and while there were initial enquiries and discussions in advance, these occurred in any event after Mr Yekatom's group initiated its advance along the axis.⁸⁴⁶⁰

At least 1,000 Muslim civilians who fled from locations along the PK9-Mbaïki axis and in the Lobaye prefecture went to Mbaïki, substantially increasing the Muslim population of the town. Muslims in Mbaïki at the time were living in difficulty, under conditions of overcrowding, hunger and fear of death from the Anti-Balaka.

3446. The Chamber recalls its finding that due to the advance of Mr Yekatom's group along the PK9-Mbaïxi axis, a significant proportion of the Muslim civilian population fled their towns and villages along the axis.⁸⁴⁶¹ The Chamber further recalls the information received on Muslim civilians leaving locations within the Lobaye prefecture, but not along the PK9-Mbaïki axis.⁸⁴⁶²

3447. Raymond Mongbandi stated that Muslims fleeing to Mbaïki 'were numerous running into thousands' and 'might have doubled the number of Muslims [already living] in Mbaïki'.⁸⁴⁶³ Alexandre Kouroupe-Awo indicated that he believed there was anything between 500 to thousands of Muslims from other areas which were added to the population of Muslims already residing in Mbaïki at the time.⁸⁴⁶⁴ P-2389 stated that at least 500 Muslims moved to Mbaïki at that time.⁸⁴⁶⁵ P-2041 estimated that around 2,000 Muslims fled from the neighbouring villages to Mbaïki.⁸⁴⁶⁶ D29-5013 testified that at least 3,000 Muslims fled to Mbaïki to find refuge.⁸⁴⁶⁷ Guerrino Perin testified that 'over a thousand' Muslims fled to Mbaïki.⁸⁴⁶⁸ P-2354 stated that while he did not know the number of refugees in Mbaïki, 'there were many, more than a thousand'.⁸⁴⁶⁹ P-1666 provided a number far beyond these

⁸⁴⁶⁰ See paragraphs 3491-3496 below.

⁸⁴⁶¹ See paragraph 3443 above.

⁸⁴⁶² See paragraph 3417 above.

⁸⁴⁶³ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0263, para. 57. Raymond Mongbandi estimated that 60,000 Muslims may have been living in the entire Lobaye area before the crisis (see P-1838 Statement, CAR-OTP-2100-0252-R05, at 0254-55, para. 15).

⁸⁴⁶⁴ P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0041, para. 39.

⁸⁴⁶⁵ P-2389 Statement, CAR-OTP-2104-0033-R03, at 0042, para. 47.

⁸⁴⁶⁶ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0010-11, para. 48. See also P-2041: T-229, p. 80, lines 18-25.

⁸⁴⁶⁷ D29-5013: T-286, p. 47, lines 9-12.

⁸⁴⁶⁸ D29-5015: T-256, p. 31, lines 13-25.

⁸⁴⁶⁹ P-2354 Statement, CAR-OTP-2105-0991-R03, at 0999-1000, para. 46.

estimations, indicating that he estimated that 15,000 or 16,000 Muslims from Mbaïki's commune fled to Mbaïki over the course of seven to 10 days.⁸⁴⁷⁰

3448. The Chamber notes that while the numbers in the estimates provided by these witnesses differ, they remain at a coherent scale, with the exception of P-1666. Further noting that the Muslim population in Mbaïki by the end of 2012 amounted to at least 2,000 individuals,⁸⁴⁷¹ the Chamber considers that it can reasonably conclude, based on the evidence above, that at least 1,000 Muslim civilians fled to Mbaïki.⁸⁴⁷²

3449. Several witnesses described the living conditions of the Muslim community in Mbaïki as being very difficult at the time.⁸⁴⁷³

⁸⁴⁷⁰ P-1666: T-231, p. 24, line 19 – p. 25, line 4.

⁸⁴⁷¹ To make this calculation, the Chamber took into account the following information. First, P-1813, who was the prefect of the Lobaye prefecture residing in Mbaïki at the relevant time, stated that the population in Mbaïki by the end of 2012 approximately ranged between 22,000 to 25,000 and that 'about 1 out of every 10 individuals was a Muslim' (see P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0038, para. 21). Second, Antareze-De-Neve Madongagba testified that Muslims represented between 12 and 15 per cent of the population of Mbaïki in 2013 (see D29-5012: T-293, p. 11, lines 21-22).

⁸⁴⁷² See also Press Article, CAR-OTP-2117-0687, at 0687 (indicating that on 6 February, more than 2,500 Muslims of Mbaïki embarked on Chadian military trucks to be 'evacuated'); Press Article, CAR-OTP-2001-4422, at 4422 (referring to the fact that between 4 and 12 February 2014, thousands of Muslims chased out of their villages and sheltered in Mbaïki, left the town). The Chamber notes the Ngaïssona Defence's observations regarding reliability and authenticity of CAR-OTP-2117-0687 (see Annex A to Defence Response to "Prosecution's Fifteenth submission of miscellaneous items of evidence via the "bar table"" ICC-01/14-01/18-2058, 7 September 2023, ICC-01/14-01/18-2084-Conf-AnxA, pp. 20-22, 24). In the view of the Chamber, its use of this item is limited to underscore its finding based on other evidence available. While the information from the article as such has not been verified with the author, it was considered merely in the context of additional evidence. Furthermore, while the URL may not be entirely visible to thereby verify the information, the Chamber notes that according to the JEM code, as well as the submission of the Prosecution (see Annex to Prosecution's Fifteenth submission of miscellaneous items of evidence via the "bar table", 25 August 2023, ICC-01/14-01/18-2058-Conf-Anx, p. 15), the document was provided by an individual who used to be on the Prosecution's witness list, and who appears to be the author of this article. The Chamber also notes the Yekatom Defence's opposition to the submission of CAR-OTP-2001-4422 on the basis of prejudice outweighing its probative value (see Annex A to Yekatom Defence Response to 'Prosecution's Eleventh Application for the Submission of Open-source Evidence from the Bar Table', 21 August 2023, ICC-01/14-01/18-2037-Conf-AnxA, pp. 11-12). In this regard, the Chamber notes that the Yekatom Defence's arguments mainly concerned the content of this article in relation to the killing of Djido Saleh. As in the current context, the Chamber merely considered the information regarding the situation in Mbaïki in the context of other information, and the Chamber is of the view that no prejudice arises in this regard.

⁸⁴⁷³ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0263-64, para. 61; P-2041 Statement, CAR-OTP-2104-0003-R02, at 0010-11, para. 48; P-2041: T-229, p. 81, line 24 – p. 82, line 9; P-2353 Statement, CAR-OTP-2100-0226-R03, at 0234, para. 46; P-2353: T-161, p. 22, line 20 – p. 23, line 24; P-2354 Statement, CAR-OTP-2105-0991-R03, at 0999-1000, para. 46.

3450. According to P-2353, Muslims arrived in Mbaïki with ‘nothing on them’.⁸⁴⁷⁴ In this context, the Chamber recalls that Muslims had to flee leaving their possessions behind.⁸⁴⁷⁵ Muslims arriving to Mbaïki mainly stayed in the neighborhoods of Yerima and Baguirmi, which were predominantly Muslim.⁸⁴⁷⁶ Witnesses indicated that within these neighborhoods, some Muslims were hosted by Muslim family or friends,⁸⁴⁷⁷ while others had to sleep on house porches,⁸⁴⁷⁸ under trees⁸⁴⁷⁹ or at the Baguirmi mosque.⁸⁴⁸⁰ Raymond Mongbandi reported that Muslims coming from ‘the B[oda] area’ went to the MISCA base, located at the coffee cooperative behind the prefect’s office in Mbaïki.⁸⁴⁸¹

3451. According to Raymond Mongbandi, there was ‘little food’ in Mbaïki.⁸⁴⁸² P-2389 stated that ‘[a]s the number of Muslims in Mbaïki started to increase it became more difficult to get food’.⁸⁴⁸³ P-2353 indicated that they could ‘barely eat’ in Mbaïki.⁸⁴⁸⁴ Diakité Aboubakar provided the following detailed account:

⁸⁴⁷⁴ P-2353: T-161, p. 22, line 20 – p. 23, line 12.

⁸⁴⁷⁵ See paragraph 3438 above.

⁸⁴⁷⁶ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0254-55, para. 15, at 0263, para. 57; P-2041 Statement, CAR-OTP-2104-0003-R02, at 0010-11, para. 48 *together with* Annotated Map, CAR-OTP-2104-0020-R01 (where the witness indicated the location of, *inter alia*, the Baguirmi neighbourhood); P-2354 Statement, CAR-OTP-2105-0991-R03, at 0999-1000, para. 46 (referring to the ‘B[agerimy] and Y[irima] neighbourhoods’); P-2389 Statement, CAR-OTP-2104-0033-R03, at 0041, para. 46.

⁸⁴⁷⁷ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0010-11, para. 48; P-1595 Statement, CAR-OTP-2104-0274-R02, at 0289, para. 82.

⁸⁴⁷⁸ P-2353 Statement, CAR-OTP-2100-0226-R03, at 0234, para. 46.

⁸⁴⁷⁹ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0010-11, para. 48.

⁸⁴⁸⁰ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0010-11, para. 48; P-1595 Statement, CAR-OTP-2104-0274-R02, at 0289, para. 82.

⁸⁴⁸¹ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0263, para. 58.

⁸⁴⁸² P-1838 Statement, CAR-OTP-2100-0252-R05, at 0263-64, para. 61.

⁸⁴⁸³ P-2389 Statement, CAR-OTP-2104-0033-R03, at 0041, para. 45. The Chamber notes that D29-5013 testified that Muslims in Mbaïki ‘were able to eat because they were traders so they did have something to eat and they used the young people who they paid in order to buy foodstuffs for them, vegetables, [etc.]’, and also responded, when asked whether there were food problems, that Muslims ‘were able to manage this’ (see D29-5013: T-286, p. 31, lines 3-19). The Chamber, however, notes that according to the information provided by D29-5013, she was not based in Mbaïki and only went there three or four times in January and February 2014. It therefore considers that other witnesses, such as those living in Mbaïki at the time, can provide a more accurate picture of the living conditions, and will thus not take into consideration this part of D29-5013’s testimony.

⁸⁴⁸⁴ P-2353: T-161, p. 23, lines 1-12. The Chamber notes that witnesses highlighted the help provided by both the Muslim and non-Muslim communities and, in particular, by Guerrino Perin, who provided the displaced Muslims with milk, flour, oil, sugar, rice or soap (see *e.g.* P-1838 Statement, CAR-OTP-2100-0252-R05, at 0263-64, para. 61; P-2041: T-229, p. 81, line 24 – p. 82, line 4; P-2353 Statement, CAR-OTP-2100-0226-R03, at 0234, para. 46, at 0237, para. 60; P-2353: T-161, p. 22, line 20 – p. 23, line 12; P-2354 Statement, CAR-OTP-2105-0991-R03, at 0999-1000, paras 46-47). The Chamber also notes that Guerrino Perin clarified that he did not provide this help directly, but through Caritas (see D29-5015: T-254, p. 52, lines 11-13).

When the evacuees arrived in M[baïki], prices of everything went high. There was not enough meat for the people. There was a general shortage of food including vegetables like coco, aubergines, peanuts, manioc etc. Some of the evacuees had brought food but that was all finished. The reserve in the city was all depleted. By the time they left the city, there was nothing left. Life was very difficult. They must have remained in M[baïki] for about two weeks before the trucks came and took them. At this time, the women were even scared to go to the market because the Anti-Balaka were walking around armed with knives and machetes. We had never seen anything like this.⁸⁴⁸⁵

3452. According to P-2353 and P-2354, there were health problems because the hospitals and health centres were not working.⁸⁴⁸⁶ P-2354 specified that except for matrons, there were no doctors or nurses available.⁸⁴⁸⁷

3453. Several witnesses described the atmosphere in Mbaïki as one of hunger and fear. In particular, Raymond Mongbandi reported that '[t]he refugees were constantly worried, fearing an Anti-Balaka attack with them as the target for retribution and they were unhappy as they felt they were being forced out and into Chad'.⁸⁴⁸⁸ In the same vein, P-2353 testified that 'it was hunger and the death threat that weighed on the populations. When you are hungry, when you've got nothing to eat and you've got the death threats as well, life becomes terrible'.⁸⁴⁸⁹

5. *Arrival of Mr Yekatom's group to Mbaïki*

Mr Yekatom and elements under his control entered Mbaïki on 30 January 2014. That day, a meeting was held at the *St Jeanne d'Arc* Church in Mbaïki, with Mr Yekatom and members of his group, representatives of the Mbaïki civilian and religious authorities, international organisations and NGOs, as well as the Sangaris. At the meeting, the removal of the Muslim civilian population from Mbaïki, which was a foregone conclusion at that point, was decided. After the meeting finished, Mr Yekatom addressed the crowds outside of the meeting location and subsequently at Mbaïki's bus station, where he delivered 'peace messages' similar to those he had expressed at the meeting. The presence of the Sangaris and other international actors in Mbaïki at that time compelled Mr Yekatom to bring this 'peace message' to Mbaïki and prevented attacks of his group against the Muslim civilian

⁸⁴⁸⁵ P-1595 Statement, CAR-OTP-2104-0274-R02, at 0289, para. 83.

⁸⁴⁸⁶ P-2353: T-161, p. 23, lines 13-18; P-2354 Statement, CAR-OTP-2105-0991-R03, at 0999-1000, para. 46.

⁸⁴⁸⁷ P-2354: T-210, p. 26, lines 16-25.

⁸⁴⁸⁸ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0263, para. 56.

⁸⁴⁸⁹ P-2353: T-161, p. 43, lines 5-17.

population. After the meeting, the prefect and other individuals contacted the authorities to arrange the convoy that would transport the Muslim civilian population out of Mbaïki.

3454. The Chamber recalls that before the arrival of Mr Yekatom's group to Pissa, the Seleka left the village,⁸⁴⁹⁰ and further recalls in this context that the Seleka retreated from the area due to the advance of Mr Yekatom's group along the PK9-Mbaïki axis.⁸⁴⁹¹ The evidence indicates that once Mr Yekatom and his group had settled in Pissa, contacts were established, including with individuals from Mbaïki, with a view to discussing Mr Yekatom and his group setting up also in Mbaïki.

3455. Alexandre Kouroupe-Awo, prefect of the Lobaye prefecture at the time, testified that the Seleka leaders in Mbaïki told him that Mr Yekatom contacted them, telling them to leave Mbaïki so that the Anti-Balaka could take control of the town.⁸⁴⁹² Following this first conversation, the Seleka leaders contacted Mr Yekatom and passed the phone to the witness.⁸⁴⁹³ Mr Yekatom introduced himself as 'the person in charge of the Anti-Balaka in the area' and told the witness that he wanted to go to Mbaïki to meet the Seleka leaders⁸⁴⁹⁴ to negotiate the departure of the Seleka.⁸⁴⁹⁵ Alexandre Kouroupe-Awo told Mr Yekatom that it would not be possible for him and the Anti-Balaka to come to Mbaïki unless the witness met with them before, to which Mr Yekatom agreed.⁸⁴⁹⁶ After obtaining the agreement of the Seleka leaders in Mbaïki, Alexandre Kouroupe-Awo went to Pissa together with priest 'A[ntarez]' and a pastor to meet the Anti-Balaka.⁸⁴⁹⁷

⁸⁴⁹⁰ See paragraph 3327 above.

⁸⁴⁹¹ See paragraph 3335 above.

⁸⁴⁹² P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0041, para. 42.

⁸⁴⁹³ P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0041-42, para. 43.

⁸⁴⁹⁴ P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0041-42, para. 43. In oral testimony, P-1813 specified that Mr Yekatom introduced himself as 'the person in charge of the Anti-Balaka south of Bangui', area which the witness understood to be 'the region of Bimbo, in the direction of the prefecture of Lobaye' (see P-1813: T-180, p. 9, lines 2-22).

⁸⁴⁹⁵ P-1813: T-182, p. 25, line 20 – p. 26, line 7.

⁸⁴⁹⁶ P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0041-42, para. 43.

⁸⁴⁹⁷ P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0042, paras 44-45; P-1813: T-180, p. 9, line 23 – p. 10, line 12 (explaining that he wanted to be assisted by them as witnesses, as they were part of the interreligious platform and he feared that on his return, 'the colonels' would say that he was misleading them in favour of Mr Yekatom); P-1813: T-182, p. 26, line 8 – p. 27, line 1. See also P-1838 Statement, CAR-OTP-2100-0252-R05, at 0264, para. 66 (stating that prefect Kouroupe-Owe went to Pissa to persuade Mr Yekatom not to attack Mbaïki, but to negotiate instead); D29-5012: T-295, p. 5, line 18 – p. 6, line 4 (indicating that the interreligious platform approached Colonel Anour to discuss their initiative, and after he agreed, they went to see Mr Yekatom in Pissa).

3456. Antareze-De-Neve Madongagba testified that he first contacted Mr Yekatom proposing to hold a meeting in Pissa, which Mr Yekatom accepted.⁸⁴⁹⁸ The witness and the members of the interreligious platform, whose mission was to bring peace and social cohesion in Mbaïki, considered it ‘absolutely necessary’ to contact Mr Yekatom.⁸⁴⁹⁹ Antareze-De-Neve Madongagba referred to the ‘climate of fear and worry’ in Mbaïki related to the general context in the CAR, including incidents occurring in neighbouring villages, and the fact that the Seleka were in Mbaïki and the Anti-Balaka in Pissa, less than 30 minutes away.⁸⁵⁰⁰ The witness testified he contacted Mr Yekatom because he received information that the person responsible for the Anti-Balaka group in Pissa was Mr Yekatom.⁸⁵⁰¹ Antareze-De-Neve Madongagba went to Pissa with the prefect ‘Mr Alexandre’, and two pastors.⁸⁵⁰²

3457. The Chamber notes that despite the disparities in the accounts of how the meeting with Mr Yekatom in Pissa was arranged, Alexandre Kouroupe-Awo and Antareze-De-Neve Madongagba agreed on the fundamental fact that, after Mr Yekatom accepted, they met him in Pissa together with one or two pastors from Mbaïki.

3458. Both witnesses indicated that they waited for Mr Yekatom at the Anti-Balaka base or barrier in Pissa.⁸⁵⁰³ Alexandre Kouroupe-Awo said some of the elements threatened them verbally.⁸⁵⁰⁴ Some minutes later, Mr Yekatom and his ‘assistants’, including Cœur de Lion, arrived at the barrier in two Toyota pick-up trucks, holding Kalashnikovs, some wearing civilian clothes and others military attire.⁸⁵⁰⁵ Antareze-De-Neve Madongagba indicated that he had not seen Mr Yekatom before but that when he arrived at the Anti-Balaka base, he knew it was him because ‘when the leader is present, you can feel it and [they] understood

⁸⁴⁹⁸ D29-5012: T-293, p. 51, lines 7-15; T-295, p. 46, lines 24-25. *See also* D29-5015: T-254, p. 44, line 24 – p. 45, line 4 (testifying that ‘abbot Antarese’ was the one who initially contacted the prefect and Mr Yekatom, and describing ‘abbot Antarese’ as ‘the one running things’). *See further* D29-5015: T-255, p. 34, line 16 – p. 35, line 8 (testifying that he sent ‘Abbot Antarese’, who then went with the prefect, with a view to saying that they needed to find a location to gather and to see what they could do to avoid being taken short by events).

⁸⁴⁹⁹ D29-5012: T-295, p. 46, lines 15-23, p. 47, line 16 – p. 48, line 3.

⁸⁵⁰⁰ D29-5012: T-295, p. 47, lines 1-15.

⁸⁵⁰¹ D29-5012: T-295, p. 46, lines 7-14.

⁸⁵⁰² D29-5012: T-293, p. 51, lines 16-23.

⁸⁵⁰³ P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0042, para. 45 (indicating that they waited for Mr Yekatom at ‘the barrier’ in Pissa); D29-5012: T-293, p. 51, line 24 – p. 52, line 9 (testifying that they went to ‘the gendarmerie brigade’ of Pissa, where the roadblock was located and where Mr Yekatom’s elements were based).

⁸⁵⁰⁴ P-1813: T-180, p. 11, line 12 – p. 12, line 1.

⁸⁵⁰⁵ P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0042, para. 45; P-1813: T-180, p. 12, line 2 – p. 13, line 6.

that it was him'.⁸⁵⁰⁶ Antareze-De-Neve Madongagba indicated that the elements wore military clothes and carried Kalashnikovs.⁸⁵⁰⁷

3459. Alexandre Kouroupe-Awo and Antareze-De-Neve Madongagba indicated that they held the meeting with Mr Yekatom inside a church in Pissa.⁸⁵⁰⁸ According to Alexandre Kouroupe-Awo, Mr Yekatom said that he wanted the Seleka to leave Mbaïki without any damage, 'upon mutual consent'.⁸⁵⁰⁹ Antareze-De-Neve Madongagba recalled that Mr Yekatom introduced himself as a member of the FACA and said that he and his men were not there to attack or clash with the civilian Muslims, but that the movement was against Djotodia and the Seleka.⁸⁵¹⁰ Mr Yekatom agreed to have a meeting with the Seleka in Mbaïki and, thereafter, the delegation returned to Mbaïki and informed the Seleka leaders, who accepted to have the meeting.⁸⁵¹¹

3460. D29-5013 described the preface to the meeting which was eventually held at the *St Jeanne d'Arc* Church in Mbaïki, as further outlined below, differently. According to D29-5013, after learning that the Sangaris were in Mbaïki to 'observe' rather than to protect the civilian population, [REDACTED].⁸⁵¹² At the same time, she specified that [REDACTED].⁸⁵¹³ [REDACTED] had contacted Mr Yekatom, 'the prefecture in Mbaïki', 'Bishop Guerino' and 'everybody in Mbaïki' to hold a meeting and find a solution for the Muslims in the town.⁸⁵¹⁴ [REDACTED] Alexandre Kouroupe-Awo further mentioned that there had been 'an attempt at reconciliation' between the Seleka and the Anti-Balaka 'prepared hand in hand by

⁸⁵⁰⁶ D29-5012: T-293, p. 52, lines 5-16.

⁸⁵⁰⁷ D29-5012: T-293, p. 52, lines 17-20.

⁸⁵⁰⁸ P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0242, paras 45-46; D29-5012: T-293, p. 51, line 24 – p. 52, line 16, p. 53, lines 11-20 (providing in detail that they held the meeting at the *Saint-Esprit de Pissa* parish).

⁸⁵⁰⁹ P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0242, para. 46; P-1813: T-180, p. 13, lines 7-19.

⁸⁵¹⁰ D29-5012: T-293, p. 53, line 21 – p. 54, line 10.

⁸⁵¹¹ P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0242, paras 47-48; P-1813: T-180, p. 14, lines 5-18; D29-5012: T-293, p. 54, line 21 – p. 55, line 16. See D29-5015: T-254, p. 41, line 5 – p. 42, line 20 (confirming that 'the prefect to Pissa' and 'Abbot Antarese' met Mr Yekatom in Pissa and agreed on having a meeting in Mbaïki). See also P-1838: T-215, p. 24, lines 12-18 (indicating that the Lobaye prefect sent him a memo since he was the mayor of Mbaïki and the meeting was going to be held at the *St Jeanne d'Arc* Church in Mbaïki, as well as to Mr Yekatom).

⁸⁵¹² D29-5013: T-285, p. 37, line 16 – p. 38, line 13.

⁸⁵¹³ D29-5013: T-285, p. 37, line 16 – p. 38, line 13.

⁸⁵¹⁴ [REDACTED] The Chamber notes that Guerrino Perin was also referred to or known as the 'Bishop of Mbaïki', 'Bishop Rhino' or 'Rhino' (see e.g. P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0043, para. 52).

[REDACTED] the inter-religious platform and the *préfet*, which was transformed into ‘a security meeting’ on 30 January 2014.⁸⁵¹⁵

3461. The Chamber does not consider the above evidence to be mutually exclusive. The evidence by Alexandre Kouroupe-Awo and Antareze-De-Neve Madongagba is clear on their meeting with Mr Yekatom in Pissa to arrange a meeting with the Seleka still present in Mbaïki. That D29-5013 [REDACTED] which then included further international stakeholders does not distract from this evidence. Importantly, and as further discussed below, a meeting at the *St Jeanne d’Arc* Church in Mbaïki did take place, albeit not involving the Seleka.

3462. During the night of the day before the meeting was supposed to take place, the Seleka groups based in Mbaïki left the town.⁸⁵¹⁶

3463. The Yekatom Defence submits that Mr Yekatom’s negotiations with Seleka colonel Anour led to the peaceful withdrawal of the latter’s forces from Mbaïki by the end of January 2014.⁸⁵¹⁷ The Chamber considers that the evidence pointed to in this regard is inapt to reach this conclusion. While Alexandre Kouroupe-Awo described hearing from Seleka elements that Mr Yekatom had reached out to them and told them to leave Mbaïki, as discussed above, and Guerrino Perin suggested that there was good will between ‘the Seleka, Adam’ and Mr Yekatom to avoid inter-communal violence,⁸⁵¹⁸ the evidence available does not indicate that

⁸⁵¹⁵ [REDACTED]

⁸⁵¹⁶ P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0042-43, para. 49 (stating that at midnight of the day before they were supposed to hold the meeting, the Seleka called him to say they were leaving Mbaïki); D29-5012: T-293, p. 41, lines 12-18, p. 45, line 15 – p. 46, line 6 (indicating that the Seleka left Mbaïki one night, before 30 January 2014); D29-5015: T-254, p. 36, lines 10-24, p. 42, lines 6-20; T-255, p. 38, line 20 – p. 39, line 5 (testifying that the Seleka were supposed to attend the meeting but ‘the day before [they] were supposed to have a meeting, they left’). The Chamber notes in this regard that (i) P-1813 testified that one night the Seleka called him to say that they were leaving and moving to another place following their superior’s instructions; (ii) Guerrino Perin testified that Colonel Anour called his deputy ‘Abbot Antarese’ and informed him that the Seleka were leaving; and (iii) Antareze-De-Neve Madongagba testified that they learned the Seleka left one night because two or three Central African Seleka elements who refused to leave sought refuge at the cathedral the same night. The Chamber does not consider that Antareze-De-Neve Madongagba not mentioning being called by Colonel Anour discredits, as such, the evidence of Guerrino Perin or, in turn, the reliability of the testimony of Antareze-De-Neve Madongagba. The fact remains that the Seleka left Mbaïki on the night of 29 January 2014. The Chamber further notes the evidence of P-2353, who, while stating that the Seleka left ‘shortly’ after Michel Djotodia had resigned, also said that the Seleka left at night, without warning, and that the Anti-Balaka arrived the next morning (see P-2353 Statement, CAR-OTP-2100-0226-R03, at 0234, para. 47). P-1666 similarly testified that the Seleka left ‘one day or two days’ before the Anti-Balaka arrived in Mbaïki (see P-1666: T-230, p. 58, line 21 – p. 59, line 2).

⁸⁵¹⁷ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 481, 517.

⁸⁵¹⁸ D29-5015: T-255, p. 6, lines 20-24.

the Seleka in Mbaïki left because of any exchanges with Mr Yekatom. Guerrino Perin himself said as much when indicating that while the Seleka had agreed to have a meeting, they received orders ‘from elsewhere’ to depart and regroup in the north,⁸⁵¹⁹ as did Alexandre Kouroupe-Awo.⁸⁵²⁰

3464. According to the speech made by Alexandre Kouroupe-Awo on 12 February 2014, the Sangaris arrived in Mbaïki the day before the Seleka fled the town.⁸⁵²¹ Diakité Aboubakar confirmed that the Sangaris arrived in Mbaïki before the Anti-Balaka’s arrival.⁸⁵²² According to Guerrino Perin, the Sangaris set up their base at the primary school of Mbaïki.⁸⁵²³

3465. P-1839 confirmed that Mr Yekatom, [REDACTED] explained to his elements that they were going to Mbaïki ‘to have an exchange with our Muslim brothers who are over there’.⁸⁵²⁴

3466. On 30 January 2014, Mr Yekatom and elements under his control entered Mbaïki.⁸⁵²⁵

3467. P-1839 confirmed that [REDACTED] on the day of their arrival in Mbaïki, [REDACTED].⁸⁵²⁶ Likewise, P-2354 stated that he saw the Anti-Balaka elements that had arrived with Mr Yekatom in Mbaïki on the day of the meeting at the church.⁸⁵²⁷ P-1666

⁸⁵¹⁹ D29-5015: T-254, p. 36, lines 10-24, p. 43, lines 2-4.

⁸⁵²⁰ P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0042-43, para. 49. Further, the Chamber recalls its finding that the advance of Mr Yekatom’s group along the PK9-Mbaïki axis caused the retreat of the Seleka from the area (see paragraph 3436 above).

⁸⁵²¹ Video, CAR-OTP-2023-1636, at approximately 00:12:00-00:12:20; Translation, CAR-OTP-00002254, at 0005, lines 111-116 (in particular, during the speech given by Alexandre Kouroupe-Awo in the framework of the visit made by Catherine Samba-Panza and the French minister of justice at that time to Mbaïki, the witness said that the Sangaris forces had conveniently arrived on the day before the Seleka retreated from the town of Mbaïki). See also P-1813: T-182, p. 29, lines 15-25.

⁸⁵²² P-1595: T-106, p. 37, lines 6-14. The Chamber notes that by contrast, P-2354 stated that the Sangaris arrived in Mbaïki immediately after the Anti-Balaka’s arrival and that he thought Guerrino Perin had called them to protect the Muslim community (see P-2354 Statement, CAR-OTP-2105-0991-R03, at 1001, para. 56). The Chamber, however, finds P-1813’s evidence on this aspect more reliable, since he was better positioned to have this kind of information, and notes that Diakité Aboubakar testified similarly. Moreover, it notes that there is abundant evidence, set out below, showing that Sangaris was already in Mbaïki when the Anti-Balaka, including Mr Yekatom, approached the *St Jeanne d’Arc* Church for the meeting held on that day. P-2354 indeed also thought that Sangaris attended this meeting (see P-2354 Statement, CAR-OTP-2105-0991-R03, at 1002, para. 60).

⁸⁵²³ D29-5015: T-255, p. 52, line 23 – p. 53, line 7.

⁸⁵²⁴ P-1839: T-174, p. 64, lines 13-19.

⁸⁵²⁵ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0011, para. 50. The Chamber also notes the evidence of P-2389, who indicated that he left [REDACTED] and travelled to Mbaïki on [REDACTED] January 2014, and that the Anti-Balaka arrived in Mbaïki approximately [REDACTED] (see P-2389 Statement, CAR-OTP-2104-0033-R03, at 0040-41, paras 41-44, at 0043, para. 54).

⁸⁵²⁶ P-1839: T-174, p. 60, line 9 – p. 62, line 7. See also D29-5013: T-285, p. 40, lines 1-11 [REDACTED].

⁸⁵²⁷ P-2354 Statement, CAR-OTP-2105-0991-R03, at 1001, para. 53.

testified that the meeting was held first and on the next day, the Anti-Balaka entered Mbaïki,⁸⁵²⁸ with the number of Anti-Balaka elements growing over the following days.⁸⁵²⁹

3468. The Chamber notes that Diakité Aboubakar indicated that Mr Yekatom's elements arrived in Mbaïki before Mr Yekatom,⁸⁵³⁰ and that the meeting at the Mbaïki church was held the day after Mr Yekatom's arrival in the town.⁸⁵³¹ The Chamber does not consider the witness's evidence on this particular point to be reliable, in light of the evidence outlined above on the timing of the Seleka's departure from Mbaïki as well as the arrival of Mr Yekatom and elements of his group for purposes of the meeting at the *St Jeanne d'Arc* Church, as also discussed in further detail below. Further, the Chamber does not consider the evidence of P-1666 to be discrepant on this point. On the contrary, his evidence together with that of P-1839 and P-2354 indicates that on the following day or days to Mr Yekatom's arrival in Mbaïki together with some of his elements, more elements of his group reached Mbaïki.

3469. Regarding the number of elements who arrived in Mbaïki, the Chamber notes that some witnesses seemed to distinguish between those who first arrived with Mr Yekatom to attend the meeting, and those who arrived subsequently to the meeting. Other witnesses seemed to refer to elements who thereafter stayed in Mbaïki and were based there.

3470. Notably, P-1839 confirmed that less than a hundred Anti-Balaka elements went to Mbaïki together with Mr Yekatom on that first day.⁸⁵³² Raymond Mongbandi stated that Mr Yekatom arrived in Mbaïki accompanied by many Anti-Balaka elements, including Cœur de Lion, 'to install his about 50 to 100 elements in Mbaïki'.⁸⁵³³ P-2041 estimated that on 30 January 2014, at least 2,000 Anti-Balaka entered Mbaïki.⁸⁵³⁴ P-1666 testified that on the first day, about 100 to 200 Anti-Balaka elements entered Mbaïki, that this number 'slowly but surely' grew in the following days, and that by the time he left Mbaïki, he estimated that

⁸⁵²⁸ P-1666: T-230, p. 47, lines 6-11, p. 59, lines 3-9.

⁸⁵²⁹ P-1666: T-230, p. 57, lines 2-10. *See also* T-232, p. 29, lines 5-13 (concerning the timeline of the events since the Anti-Balaka arrived in Mbaïki).

⁸⁵³⁰ P-1595 Statement, CAR-OTP-2104-0274-R02, at 0287, para. 72; P-1595: T-106, p. 6, lines 15-19.

⁸⁵³¹ P-1595: T-106, p. 7, lines 10-13. The witness also stated that the Anti-Balaka arrived in Mbaïki two days after the Seleka left (*see* P-1595 Statement, CAR-OTP-2104-0274-R02, at 0283, para. 49).

⁸⁵³² P-1839: T-174, p. 72, lines 10-18.

⁸⁵³³ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0268, para. 89.

⁸⁵³⁴ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0011, para. 50.

they amounted to almost 1,000 elements, including ‘the young people from the locality who joined their ranks’.⁸⁵³⁵ Stéphane Chrisostome Dawili stated that when he became deputy ComZone of Mbaïki, he and the ComZone had around 80 to 90 people under their command.⁸⁵³⁶ He later testified that he and the ComZone Sete had about 40 elements under their control in Mbaïki.⁸⁵³⁷ Antareze-De-Neve Madongagba estimated that there were between 25 and 30 Anti-Balaka elements in Mbaïki on the day of the meeting; and further indicated that it is possible that ‘other people came to join Mr Yekatom’s elements’ but that he did not believe there had been 1,000 elements present in Mbaïki at any time.⁸⁵³⁸

3471. The Chamber notes that Antareze-De-Neve Madongagba’s estimate seems to accord with the evidence provided by the other witnesses, with the exception of the evidence of P-2041, to which the Chamber gives little weight in light of its marked discrepancy with the rest of the estimates provided. Accordingly, the Chamber concludes that Mr Yekatom and the elements who arrived with him to Mbaïki on 30 January 2014 amounted to at least 25 individuals. Further, the Chamber concludes that the total number of elements in Mbaïki in the following days amounted to at least 80 individuals.

3472. Various witnesses described how the non-Muslim population welcomed the arrival of Mr Yekatom’s group to Mbaïki by applauding them and throwing flowers and branches at them.⁸⁵³⁹ Some women gave Mr Yekatom and his elements a traditional welcome by spreading on the road the ‘*pagnes*’ they wore around their waist so that they could walk on

⁸⁵³⁵ P-1666: T-230, p. 57, line 2 – p. 58, line 7.

⁸⁵³⁶ P-1647 Statement, CAR-OTP-2050-0654-R02, at 0660, para. 43. The Chamber notes that P-1647 indicated that he became deputy ComZone of Mbaïki when they took over Mbaïki ‘around March 2014’. The Chamber notes that the witness erred in the timing as the evidence in the case clearly indicates that Mr Yekatom’s group entered Mbaïki on 30 January 2014, but considers this a minor detail in any event.

⁸⁵³⁷ P-1647: T-194, p. 61, line 25 – p. 62, line 16.

⁸⁵³⁸ D29-5012: T-294, p. 17, line 14 – p. 18, line 9.

⁸⁵³⁹ P-1647 Statement, CAR-OTP-2050-0654-R02, at 0661, para. 47; P-1839: T-174, p. 58, line 24 – p. 59, line 2; P-2041 Statement, CAR-OTP-2104-0003-R02, at 0011, para. 51; P-1595 Statement, CAR-OTP-2104-0274-R02, at 0287, para. 73.

them.⁸⁵⁴⁰ According to P-2041, the ‘Christian’ population chanted ‘Muslims where are you? R[ombhot] is coming’ to honour ‘Rombhot’.⁸⁵⁴¹

3473. In contrast, Diakité Aboubakar explained that the Muslim community did not go out to welcome ‘Rambo’ because he was known for one thing, ‘killing people’.⁸⁵⁴² P-1666 testified that no Muslim cheered when the Anti-Balaka entered because of what had happened in Bangui and Boali.⁸⁵⁴³

3474. Several witnesses mentioned that the Anti-Balaka arrived in two vehicles.⁸⁵⁴⁴ P-1839 testified that Mr Yekatom was in one of these vehicles, a Hilux pickup, together with the element ‘Cube Maggi’, the journalist Gérard Ouambou [REDACTED].⁸⁵⁴⁵ Mr Yekatom sat in the front, ‘Cube Maggi’ sat behind him, [REDACTED] sat behind in the middle and Gérard Ouambou sat behind the driver.⁸⁵⁴⁶ According to some witnesses, other elements arrived in motorbikes and some walked.⁸⁵⁴⁷

⁸⁵⁴⁰ P-1647 Statement, CAR-OTP-2050-0654-R02, at 0661, para. 47; P-2041 Statement, CAR-OTP-2104-0003-R02, at 0011, para. 51; P-2041: T-229, p. 82, line 23 – p. 83, line 4; P-1666: T-230, p. 58, lines 9-13.

⁸⁵⁴¹ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0011, para. 51; P-2041: T-229, p. 82, line 23 – p. 83, line 4. The Chamber notes that P-2389 provided slightly different evidence, indicating that he first saw the Anti-Balaka arriving in Mbaiki and that they stopped at the *St Jeanne d’Arc* Church (see P-2389 Statement, CAR-OTP-2104-0033-R03, at 0043, para. 54; P-2389: T-238, p. 6, line 22 – p. 7, line 18); and that later, or on the next day, he saw the Anti-Balaka arriving to the centre of Mbaiki with two vehicles, at which point he saw the Christians welcoming and applauding them (see P-2389 Statement, CAR-OTP-2104-0033-R03, at 0043, para. 56; P-2389: T-238, p. 30, line 16 – p. 31, line 19). In light of the abundant evidence indicating that part of the population welcomed Mr Yekatom and his elements when they first arrived in Mbaiki prior to the meeting, the Chamber will not take into consideration this part of P-2389’s evidence.

⁸⁵⁴² P-1595 Statement, CAR-OTP-2104-0274-R02, at 0287, para. 73.

⁸⁵⁴³ P-1666: T-230, p. 58, lines 14-18.

⁸⁵⁴⁴ P-2389 Statement, CAR-OTP-2104-0033-R03, at 0043, para. 56, at 0044, para. 60 (describing the vehicles as one being ‘a grey Hilux, [with] a logo of a lion head on the door and the words Cœur de Lion written on the door’, and the other one of ‘sky blue’ colour); P-1595 Statement, CAR-OTP-2104-0274, at 0284, para. 53 (describing the vehicles as ‘[o]ne of the pick-ups was white with camouflage spots double cabin LD100 Mitsubishi model’; ‘[t]he other was a light brown military colour with black spots single cabin’); D29-5012: T-293, p. 68, lines 9-22.

⁸⁵⁴⁵ P-1839: T-174, p. 70, line 20 – p. 71, line 8. The Chamber notes that P-1558 himself described going to the meeting in Mbaiki and filming at the relevant time; and identified ‘Cube Magique’ in a video footage (see P-1558 Statement, CAR-OTP-2105-0195-R01, at 0200-01, para. 29, at 0206, para. 65 referring to Video, CAR-OTP-2094-7618, at 00:04:10). The Chamber further notes that P-0888 identified a soldier nicknamed ‘Cube Magie’ in a different part of the same video, in a scene together with Mr Yekatom and Cœur de Lion (see P-0888 Second Statement, CAR-OTP-2108-0333-R01, at 0336, para. 20 referring to Video, CAR-OTP-2094-7618, at 00:11:30).

⁸⁵⁴⁶ P-1839: T-174, p. 70, line 20 – p. 71, line 8.

⁸⁵⁴⁷ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0011, para. 50; P-1595 Statement, CAR-OTP-2104-0274-R02, at 0284, paras 52-53.

3475. Some of the elements that arrived in this group were armed with Kalashnikovs,⁸⁵⁴⁸ rocket launchers,⁸⁵⁴⁹ machetes⁸⁵⁵⁰ and hunting weapons.⁸⁵⁵¹ Some of them were dressed in military uniform, others in civilian clothes and others, according to P-2389, wore a mixture of military trousers and civilian shirts.⁸⁵⁵² Some of the elements wore amulets (*gris-gris*) and/or had a cloth tied around their heads like a bandana.⁸⁵⁵³

3476. Thereafter, the vehicles driven by the Anti-Balaka approached the *St Jeanne d'Arc* Church in Mbaïki, close to the training centre of the diocese where the meeting was going to take place.⁸⁵⁵⁴ According to Roger Okoa-Penguia, the vehicles stopped 'at the level of the Sangaris', 'Alfred' got out of the vehicle with his aide-de-camp, the Sangaris elements told them to lay down their weapons and enter the hall, after which 'he entered into the hall with his aide-de-camp'.⁸⁵⁵⁵ Mr Yekatom, together with some of his elements, including Habib Beina and Cœur de Lion, entered the building while the rest of the elements remained

⁸⁵⁴⁸ P-2389 Statement, CAR-OTP-2104-0033-R03, at 0043, para. 56; P-2041 Statement, CAR-OTP-2104-0003-R02, at 0011, para. 50; P-2354 Statement, CAR-OTP-2105-0991-R03, at 1001, para. 53.

⁸⁵⁴⁹ P-2389 Statement, CAR-OTP-2104-0033-R03, at 0043, para. 56.

⁸⁵⁵⁰ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0011, para. 50; P-1595 Statement, CAR-OTP-2104-0274-R02, at 0284, para. 52; P-2354 Statement, CAR-OTP-2105-0991-R03, at 1001, para. 53.

⁸⁵⁵¹ P-2389 Statement, CAR-OTP-2104-0033-R03, at 0043, para. 56; P-2041 Statement, CAR-OTP-2104-0003-R02, at 0011, para. 50; P-1595 Statement, CAR-OTP-2104-0274-R02, at 0284, para. 52 (stating that the Anti-Balaka mainly carried hunting guns).

⁸⁵⁵² P-2389 Statement, CAR-OTP-2104-0033-R03, at 0043, para. 56; P-2041 Statement, CAR-OTP-2104-0003-R02, at 0011, para. 50; P-2041: T-229, p. 82, lines 18-22; P-1595 Statement, CAR-OTP-2104-0274-R02, at 0284, para. 55.

⁸⁵⁵³ P-2389 Statement, CAR-OTP-2104-0033-R03, at 0043, para. 56; P-2041 Statement, CAR-OTP-2104-0003-R02, at 0011, para. 50 (specifying that those dressed in military uniform did not wear *gris-gris*); P-1595 Statement, CAR-OTP-2104-0274-R02, at 0284, para. 55.

⁸⁵⁵⁴ D29-5015: T-254, p. 41, line 5 – p. 42, line 9, p. 42, line 21 – p. 43, line 1, p. 47, lines 12-19 *referring to* Photograph, CAR-D29-0010-0165 (confirming that the room appearing in the photograph is the room where the meeting took place); D29-5012: T-293, p. 66, line 19 – p. 67, line 7. *See also* P-1838 Statement, CAR-OTP-2100-0252-R05, at 0274, para. 121 *in combination with* Map, CAR-OTP-2100-0278-R01 (indicating that he had marked '[t]he church of St Jeanne d'Arc where the meeting with Y[ekatom] was held'); P-2041: T-229, p. 84, lines 17-20. The Chamber notes that witnesses seemed to indistinctly refer to the *St Jeanne d'Arc* Church and the training centre next to the church as the meeting location. As it is clear from the witnesses' evidence that they spoke of the same meeting at one location, the Chamber considers this to be of no consequence for its assessment (for a description of the location of both the church and centre, *see* D29-5015: T-254, p. 11, lines 1-12).

⁸⁵⁵⁵ P-2084: T-233, p. 11, lines 2-5.

outside.⁸⁵⁵⁶ They were dressed in military attire.⁸⁵⁵⁷ The elements who remained outside were armed.⁸⁵⁵⁸

3477. According to the evidence, all those who held positions of responsibility in Mbaïki attended the meeting, representing their respective sectors or communities.⁸⁵⁵⁹ This included, *inter alia*, the prefect of Lobaye;⁸⁵⁶⁰ the sub-prefect;⁸⁵⁶¹ the mayor of Mbaïki;⁸⁵⁶² the second deputy of the mayor of Mbaïki, Djido Saleh;⁸⁵⁶³ the imams of the Central Mosque of the

⁸⁵⁵⁶ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0265, para. 69 (stating that Mr Yekatom was present in the meeting with ‘two of his [aide-de-camp]’, one of them being Cœur de Lion); P-1838: T-215, p. 28, lines 11-13 (testifying that Mr Yekatom and ‘his two deputies’ were present at the meeting at *Jeanne d’Arc* Church); D29-5015: T-255, p. 49, line 3-13 *referring to* Photograph, CAR-D29-0010-0168 (indicating that he believed that the two men in military uniform depicted in the photograph were together with Mr Yekatom but that he did not talk to them); P-1813 Statement, CAR-OTP-2069-0035-R02, at 0043, para. 51 (stating that following the Seleka’s departure from Mbaïki, ‘R[ombo] went there with two or three of his assistants’, including Cœur de Lion); P-1813: T-182, p. 30, lines 19-25 (testifying, when asked, that ‘Mr Rambo’ was in the church with ‘two or three of his lieutenants’ but that he did not specifically know Cœur de Lion, he had only seen him ‘maybe once or twice’). The Chamber notes that P-1666 initially testified that Cœur de Lion was present at the meeting (see P-1666: T-230, p. 47, line 22 – p. 48, line 5), but later said that he was not (see T-230, p. 67, line 16 – p. 68, line 1).

⁸⁵⁵⁷ P-1666: T-230, p. 48, lines 6-8, 14-15; D29-5015: T-254, p. 44, lines 21-23.

⁸⁵⁵⁸ P-1666: T-230, p. 48, lines 9-12. The Chamber notes that P-1666 also testified that Mr Yekatom had an automatic pistol on him. Indeed, a firearm in a holster which Mr Yekatom can be seen wearing on his left thigh is visible in Photograph, CAR-D29-0010-0183, which shows Mr Yekatom talking to the crowd outside the meeting location. However, it also notes that P-2084 indicated that Mr Yekatom and his aide-de-camp were told by the Sangaris to lay down their weapons before entering the meeting location (see P-2084: T-233, p. 11, lines 2-5). In the photographs taken during the meeting, Mr Yekatom does not appear to have any visible arms on him, although the holster is still visible on his thigh (see e.g. Photographs, CAR-D29-0010-0165; CAR-D29-0010-0166; CAR-D29-0010-0167; CAR-D29-0010-0170; CAR-D29-0010-0173). See also P-1558 Statement, CAR-OTP-2105-0195-R01, at 0200-01, para. 29 (indicating that at the meeting, nobody was armed because the Sangaris provided security); D29-5012: T-293, p. 69, lines 16-18 (indicating that one or two Sangaris elements were posted at the entrance, trying to keep an eye on things to make sure that people did not gain access with weapons or with anything that might disturb the proper unfolding of the event). In light of this evidence, the Chamber disregards D29-5013’s testimony according to which Mr Yekatom arrived without a weapon to the meeting (see D29-5013: T-286, p. 34, line 22 – p. 35, line 5).

⁸⁵⁵⁹ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0264-65, para. 68; D29-5015: T-254, p. 43, lines 21-25.

⁸⁵⁶⁰ P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0043, paras 52-54; P-2084 Statement, CAR-OTP-2094-0968-R02, at 0981, para. 65; P-1595 Statement, CAR-OTP-2104-0274-R02, at 0287-88, para. 75; P-2041 Statement, CAR-OTP-2104-0003-R02, at 0012, para. 53; P-1666: T-230, p. 44, line 6 – p. 45, line 3 (referring to the ‘Prefect Yao’); D29-5013: T-285, p. 45, line 22 – p. 46, line 14 *referring to* Photograph, CAR-D29-0010-0167, p. 48, lines 2-7 *referring to* Photograph, CAR-D29-0010-0175.

⁸⁵⁶¹ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0264-65, para. 68; P-2041 Statement, CAR-OTP-2104-0003-R02, at 0012, para. 53.

⁸⁵⁶² P-1838 Statement, CAR-OTP-2100-0252-R05, at 0264-65, para. 68; P-2041 Statement, CAR-OTP-2104-0003-R02, at 0012, para. 53 (referring to ‘the Mayor’); P-1666: T-230, p. 44, line 6 – p. 45, line 3; P-1595: T-106, p. 37, lines 2-5; D29-5013: T-285, p. 45, line 22 – p. 46, line 14 *referring to* Photograph, CAR-D29-0010-0167.

⁸⁵⁶³ P-1666: T-230, p. 44, line 6 – p. 45, line 3; D29-5013: T-285, p. 48, lines 14-17 *referring to* Photograph, CAR-D29-0010-0181.

Baguirmi neighbourhood;⁸⁵⁶⁴ the president of the Islamic community;⁸⁵⁶⁵ the representative or delegate of the ‘Chadian community’;⁸⁵⁶⁶ the deputy imam of the Bagandou mosque;⁸⁵⁶⁷ the imam of the *Grand Marché* mosque in the Yerima neighbourhood;⁸⁵⁶⁸ the ‘*chef de quartier*’ in Pissa;⁸⁵⁶⁹ the president of the Muslim youth;⁸⁵⁷⁰ the vice president of the Muslim youth;⁸⁵⁷¹ the mayor of Pissa;⁸⁵⁷² the mayor of Mbata;⁸⁵⁷³ the bishop of Mbaïki;⁸⁵⁷⁴ Antareze-De-Neve Madongagb;⁸⁵⁷⁵ abbot Maximin Mozanga;⁸⁵⁷⁶ abbot Alain Patrick;⁸⁵⁷⁷ ‘Sister

⁸⁵⁶⁴ P-1595 Statement, CAR-OTP-2104-0274-R02, at 0277, para. 18, at 0287-88, para. 75; P-2041 Statement, CAR-OTP-2104-0003-R02, at 0011-12, para. 52; P-1666: T-230, p. 44, line 6 – p. 45, line 3; D29-5012: T-293, p. 78, lines 6-11 *referring to* Photograph, CAR-D29-0010-0174. *See also* Notes, CAR-OTP-2104-0021-R01, where the attendance of Imam Issa Langaba to the meeting was noted down.

⁸⁵⁶⁵ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0011-12, para. 52. *See also* Notes, CAR-OTP-2104-0021-R01, where his attendance to the meeting was noted down; P-2389 Statement, CAR-OTP-2104-0033-R03, at 0043, para. 54.

⁸⁵⁶⁶ P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0043, para. 52; P-1666: T-230-FRA, p. 42, lines 17-18 (the Chamber notes that this name is not reflected in the English transcript of the witness’s testimony, and therefore relies on the French transcript in this regard); P-2041 Statement, CAR-OTP-2104-0003-R02, at 0011-12, para. 52. *See also* Notes, CAR-OTP-2104-0021-R01, where this person’s attendance to the meeting was noted down.

⁸⁵⁶⁷ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0011-12, para. 52. *See also* Notes, CAR-OTP-2104-0021-R01, where his attendance to the meeting was noted down.

⁸⁵⁶⁸ P-1595 Statement, CAR-OTP-2104-0274-R02, at 0277, para. 18, at 0288, para. 75; P-2389 Statement, CAR-OTP-2104-0033-R03, at 0043, para. 54.

⁸⁵⁶⁹ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0011-12, para. 52. *See also* Notes, CAR-OTP-2104-0021-R01, where his attendance to the meeting was noted down.

⁸⁵⁷⁰ P-1666: T-230, p. 43, line 24 – p. 46, line 7; P-2041 Statement, CAR-OTP-2104-0003-R02, at 0011-12, para. 52; D29-5013: T-285, p. 47, lines 6-10 *referring to* Photograph, CAR-D29-0010-0169. *See also* Notes, CAR-OTP-2104-0021-R01, where the president of the Muslim youth’s attendance to the meeting was noted down; P-2389 Statement, CAR-OTP-2104-0033-R03, at 0043, para. 54; P-2389: T-238, p. 27, lines 10-14; P-1813: T-182, p. 30, lines 2-8.

⁸⁵⁷¹ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0011-12, para. 52; D29-5013: T-285, p. 47, lines 6-10 *referring to* Photograph, CAR-D29-0010-0169. *See also* Notes, CAR-OTP-2104-0021-R01, where his attendance to the meeting was noted down.

⁸⁵⁷² P-2084 Statement, CAR-OTP-2094-0968-R02, at 0981, para. 65; D29-5015: T-255, p. 50, line 17 – p. 51, line 5 *referring to* Photograph, CAR-D29-0010-0178.

⁸⁵⁷³ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0011-12, para. 52. *See also* Notes, CAR-OTP-2104-0021-R01, where his attendance to the meeting was noted down.

⁸⁵⁷⁴ P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0043, para. 52; P-1813: T-180, p. 16, lines 12-16; T-182, p. 45, lines 20-23; P-1595 Statement, CAR-OTP-2104-0274-R02, at 0287-88, para. 75; P-2084 Statement, CAR-OTP-2094-0968-R02, at 0981, para. 65; P-2041 Statement, CAR-OTP-2104-0003-R02, at 0012, para. 53.

⁸⁵⁷⁵ P-1595 Statement, CAR-OTP-2104-0274-R02, at 0287-88, para. 75; P-1666: T-230, p. 44, line 6 – p. 45, line 3; D29-5013: T-285, p. 45, lines 16-20, p. 46, line 24 – p. 47, line 5 *referring to* Photograph, CAR-D29-0010-0172, p. 47, lines 17-22 *referring to* Photograph, CAR-D29-0010-0174; D29-5015: T-254, p. 44, line 24 – p. 45, line 4, p. 46, lines 4-18 *referring to* Photographs, CAR-D29-0010-0165; CAR-D29-0010-0172. The Chamber notes that Antareze-De-Neve Madongagb was also referred to or known as ‘abbot Antarese’ or ‘the abbot’ (*see e.g.* D29-5015: T-254, p. 17, line 25 – p. 28, line 9, p. 46, lines 16-18).

⁸⁵⁷⁶ D29-5015: T-254, p. 46, lines 21-24; T-255, p. 50, lines 17-25 *both referring to* Photograph, CAR-D29-0010-0178.

⁸⁵⁷⁷ D29-5015: T-255, p. 53, line 23 – p. 54, line 6 *referring to* Photograph, CAR-D29-0010-0181.

Charlotte’;⁸⁵⁷⁸ a representative of UNHCR;⁸⁵⁷⁹ and a representative of DRC.⁸⁵⁸⁰ The commander of the gendarmerie,⁸⁵⁸¹ a MISCA colonel,⁸⁵⁸² and members of the Sangaris⁸⁵⁸³ were also present.

3478. In addition, and as already indicated above, Mr Yekatom attended the meeting together with his aides-de-camp, including Cœur de Lion.⁸⁵⁸⁴

3479. The Chamber heard the testimony of eight individuals who participated in the meeting: Raymond Mongbandi, Alexandre Kouroupe-Awo, P-2041, Diakité Aboubakar, P-1666, Guerrino Perin, D29-5013 and Antareze-De-Neve Madongagba. Based on their evidence, as well as the notes taken during the meeting [REDACTED] (the ‘Notes’),⁸⁵⁸⁵ the Chamber concludes that it unfolded as described below.

3480. According to P-1666, the main aim of the meeting was to avoid a confrontation between the Anti-Balaka and the Muslim community,⁸⁵⁸⁶ and the heads of the neighbourhoods asked to

⁸⁵⁷⁸ D29-5015: T-254, p. 46, line 25 – p. 47, line 11 *referring to* Photograph, CAR-D29-0010-0177; D29-5012: T-293, p. 75, lines 10-25 *referring to* Photograph, CAR-D29-0010-0177.

⁸⁵⁷⁹ P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0043, para. 52; P-1813: T-180, p. 16, lines 12-16; P-2084 Statement, CAR-OTP-2094-0968-R02, at 0981, para. 65; P-2041 Statement, CAR-OTP-2104-0003-R02, at 0012, para. 53; P-1666: T-230, p. 44, line 6 – p. 45, line 3.

⁸⁵⁸⁰ P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0043, para. 52; P-1813: T-180, p. 16, lines 12-16; P-2084 Statement, CAR-OTP-2094-0968-R02, at 0981, para. 65; P-1666: T-230, p. 44, line 6 – p. 45, line 3; P-1595: T-106, p. 37, lines 15-22; D29-5013: T-285, p. 38, lines 19-23.

⁸⁵⁸¹ P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0043, para. 52; P-1813: T-180, p. 16, lines 12-16; P-2084 Statement, CAR-OTP-2094-0968-R02, at 0981, para. 65; D29-5013: T-285, p. 45, line 22 – p. 46, line 14 *referring to* Photograph, CAR-D29-0010-0167, p. 48, lines 2-7 *referring to* Photograph, CAR-D29-0010-0175. The Chamber disregards P-1595’s evidence that neither police nor gendarmerie were present at the meeting (*see* P-1595 Statement, CAR-OTP-2104-0274-R02, at 0287-88, para. 75), as it considers that the contrary is indicated by more reliable evidence on this point.

⁸⁵⁸² P-1838 Statement, CAR-OTP-2100-0252-R05, at 0264-65, para. 68.

⁸⁵⁸³ P-2084 Statement, CAR-OTP-2094-0968-R02, at 0981, para. 65; P-2041 Statement, CAR-OTP-2104-0003-R02, at 0012, para. 53, at 0013, para. 56 (providing details that two Sangaris representatives attended the meeting, and about 10 Sangaris soldiers waited outside of the church); P-1595: T-106, p. 37, lines 6-8; P-1666: T-230, p. 44, line 6 – p. 45, line 3.

⁸⁵⁸⁴ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0265, para. 69; P-1813: T-180, p. 16, lines 12-16; T-182, p. 30, lines 19-25 (the witness recalled that Mr Yekatom attended with two ‘deputies’ or ‘two or three of his lieutenants’, respectively, but stated that he did not specifically know Cœur de Lion). *See also* D29-5015: T-255, p. 6, lines 9-24, p. 49, line 3-13 *referring to* Photograph, CAR-D29-0010-0168, p. 50, line 17 – p. 51, line 13 *referring to* Photograph, CAR-D29-0010-0178. The Chamber notes that P-1666 testified that Cœur de Lion did not attend the meeting (*see* P-1666: T-230, p. 67, line 16 – p. 68, line 1), and P-2041 stated that Cœur de Lion did not enter the ‘cathedral’ (*see* P-2041 Statement, CAR-OTP-2104-0003-R02, at 0012, para. 53). However, the Chamber puts little weight on this aspect of their evidence as it contradicts abundant and more reliable evidence indicating the contrary.

⁸⁵⁸⁵ Notes, CAR-OTP-2104-0021-R01.

⁸⁵⁸⁶ P-1666: T-230, p. 44, lines 23-24. *See also* P-1813: T-182, p. 28, line 20 – p. 29, line 1.

avoid ‘any bloodbath in the town of Mbaïki’, that ‘the Muslims [could] move around freely in the town’ and that ‘the other members of the population could live together peacefully’.⁸⁵⁸⁷ Guerrino Perin described the goal of the meeting in similar terms.⁸⁵⁸⁸ This is supported by the Notes, according to which the priority subject matter of the meeting was security and, in particular, (a) security in Lobaye, (b) free circulation of people and their goods, and (c) the protection of persons.⁸⁵⁸⁹

3481. During his intervention, Mr Yekatom introduced himself as ‘corporal of the FACA’⁸⁵⁹⁰ and indicated that he was not an Anti-Balaka.⁸⁵⁹¹ The Chamber notes in this regard the Yekatom Defence’s arguments that Mr Yekatom ‘would routinely present himself by his FACA title, Caporal Chef’, including at the meeting in Mbaïki and ‘private meetings’, which would reflect that he did not perceive himself as ‘the overarching and sole leader of the FRACPPP’.⁸⁵⁹² The Chamber first notes that this is an inaccurate statement, as there is video material showing Mr Yekatom introducing himself as ‘*caporal-chef* Yekatom Rambo Alfred, *chef* of the Anti-Balaka movement of the south’.⁸⁵⁹³ Second, and regardless of how Mr Yekatom publicly introduced himself in certain settings, the Chamber recalls that witnesses unambiguously identified him as the leader of the Anti-Balaka group on the PK9-Mbaïki axis.⁸⁵⁹⁴ Third, and specifically with regard to the Mbaïki meeting, it notes that witnesses indicated that they had contact with him prior to and for the purposes of preparing the meeting in his role as leader of the Anti-Balaka in the area.⁸⁵⁹⁵ Fourth, the Chamber notes

⁸⁵⁸⁷ P-1666: T-230, p. 61, lines 17-20. *See also* P-2084: T-233, p. 11, lines 2-8 (indicating that ‘the prefecture of Lobaye’ also mentioned that he did not want a bloodbath in Mbaïki as had happened in Bangui).

⁸⁵⁸⁸ D29-5015: T-254, p. 43, lines 12-13 (testifying that the meeting was ‘to create dialogue and try to find solutions to have free movement of people and that we live in peace’).

⁸⁵⁸⁹ Notes, CAR-OTP-2104-0021-R01, at 0021.

⁸⁵⁹⁰ P-2041: T-229, p. 87, lines 7-13; P-1666: T-230, p. 45, lines 4-7; D29-5015: T-254, p. 43, lines 12-15; T-255, p. 31, lines 9-13; D29-5012: T-293, p. 68, lines 1-3.

⁸⁵⁹¹ P-2041: T-229, p. 87, lines 6-17; Notes, CAR-OTP-2104-0021-R01, at 0021 (where it was noted down that Mr Yekatom had taken the floor, and referred to him as ‘*caporal chef FACA et non Anti-Balaka*’).

⁸⁵⁹² Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 270-272.

⁸⁵⁹³ Video, CAR-OTP-2118-0415, at approximately 00:53:30-00:54:43; Translation, CAR-OTP-2127-4410, at 4432, lines 763-764.

⁸⁵⁹⁴ *See e.g.* paragraphs 3345-3347 above.

⁸⁵⁹⁵ *See e.g.* P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0041-42, para. 43 (stating that Mr Yekatom introduced himself as ‘the person in charge of the Anti-Balaka in the area’); P-1813: T-180, p. 9, lines 2-22 (testifying that ‘Rombhot’ introduced himself as ‘the person in charge of the Anti-Balaka south of Bangui’); P-1838: T-215, p. 7, lines 14-16 (testifying that ‘[a]t that point of time, we held meetings, and we would call upon the leaders of the Anti-Balaka, and that was Rambo’); D29-5012: T-295, p. 46, lines 7-18 (testifying that he received the information

that regardless of how he introduced himself that day, Mr Yekatom's statements at the meeting, which are subsequently discussed, could have only been made by a leader and a representative of the Anti-Balaka with the sufficient authority to speak and make commitments on its behalf.

3482. Several witnesses indicated that Mr Yekatom said that he did not have a problem with Muslims, only with Djotodia, and that he had not given orders to harm Muslims.⁸⁵⁹⁶ Some witnesses also pointed out that Mr Yekatom told them that he wanted to secure peace and order in Mbaïki.⁸⁵⁹⁷ In this regard, Raymond Mongbandi testified that Mr Yekatom mentioned that the Anti-Balaka's role was not to kill but 'to secure the country'.⁸⁵⁹⁸ Further, P-1666 testified that Mr Yekatom assured that he was not there to kill anybody, to fight the Muslims, destroy mosques or loot, but to fight the Seleka.⁸⁵⁹⁹

3483. P-2041 confirmed, when asked, that Mr Yekatom said that without the gendarmerie and the police, the country could not have peace⁸⁶⁰⁰ and that the aim of the meeting was to organise the protection of the Muslim and Christian populations.⁸⁶⁰¹

3484. According to the Notes, other people intervened in the meeting, including the mayor of Mbaïki, the president of the Islamic community, the '*chef de quartier Pissa*', the president

that 'the people responsible for this group who were called the Anti-Balaka, who were in Pissa, [...] that the person responsible for them, or the person in charge, was Mr Yekatom, Mr Rambo'). See further D29-5015: T-255, p. 44, line 11 – p. 45, line 4 (providing the following explanation when asked about Mr Yekatom's introduction at the meeting: 'The mere fact that we invited him shows that in one way or another we knew that he could represent the Anti-Balaka, the self-proclaimed defence that were against, just like the Seleka [...] I understood that he could represent the side against the Seleka [...] And the mere fact that he mustn't come to Mbaïki presupposed that I saw him because of what I had heard, that he could represent, he had a certain degree of authority representing the Anti-Balaka').

⁸⁵⁹⁶ P-1595 Statement, CAR-OTP-2104-0274-R02, at 0288, para. 78; P-1595 Corrections, CAR-OTP-2135-2397, at 2401, para. 78 (corrected by adding that Mr Yekatom said, '[o]n ne doit toucher à aucun musulman, ni à aucun imam'); P-1595: T-106, p. 7, line 23 – p. 8, line 5 (specifically, the witness indicated that Mr Yekatom said, 'You the Muslims of Mbaïki, I have no problem with you. When I was young, the Muslims took care of me and educated me. I only have problems with Djotodia but he has already left'); P-2041: T-230, p. 8, line 18 – p. 9, line 10; P-2084: T-233, p. 11, lines 14-20. See also P-2353 Statement, CAR-OTP-2100-0226-R03, at 0235, para. 52; P-2353: T-161, p. 24, line 8 – p. 25, line 20; T-162, p. 3, line 12 – p. 6, line 5. The Chamber notes that while P-2353 was not present at the meeting himself, he received information about it from some [REDACTED] who were present.

⁸⁵⁹⁷ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0265, para. 72; P-1838: T-215, p. 25, lines 4-16; D29-5015: T-254, p. 47, line 20 – p. 48, line 5; D29-5012: T-293, p. 67, lines 8-24.

⁸⁵⁹⁸ P-1838: T-215, p. 25, lines 4-16. See also P-1595: T-106, p. 38, line 22 – p. 39, line 2 (indicating that Mr Yekatom said that he came to re-establish peace in the town of Mbaïki).

⁸⁵⁹⁹ P-1666: T-230, p. 45, lines 4-9; T-232, p. 15, lines 11-25.

⁸⁶⁰⁰ P-2041: T-230, p. 9, lines 11-15.

⁸⁶⁰¹ P-2041: T-230, p. 9, lines 17-24.

of the Muslim youth, the ‘*préfet de la ville de Mbaïki*’,⁸⁶⁰² the vice president of the Muslim youth, the representative of UNHCR, and Guerrino Perin.⁸⁶⁰³

3485. In this regard, P-2041 confirmed recalling that [REDACTED] said that they had all grown up together in Mbaïki, were one big family, and ‘that if today you get up and get hold of machetes and knives against us, that is not a good thing’ – nobody answered.⁸⁶⁰⁴

3486. According to P-2041, ‘Bishop Rino’ told Mr Yekatom that the Seleka caused insecurity in Mbaïki, that this insecurity persisted despite the Seleka’s departure, and that he, Mr Yekatom, was responsible for that situation.⁸⁶⁰⁵ P-2041 further explained that Guerrino Perin told Mr Yekatom that despite him saying that he was not an Anti-Balaka, the Anti-Balaka elements who were ‘destroying the mosques and doing bad things’ followed him and acted under his orders.⁸⁶⁰⁶ According to P-2041, Guerrino Perin then warned Mr Yekatom that he might face justice in the CAR or before the International Criminal Court.⁸⁶⁰⁷ A reference to this warning is included in the Notes taken during the meeting.⁸⁶⁰⁸

3487. Guerrino Perin denied during his testimony the proposition that he had warned Mr Yekatom that ‘what he was going to do one day was going to take him to the ICC’, that his behaviour would bring him to trial or that he and his elements could not continue to harm the population.⁸⁶⁰⁹ When specifically asked about the warning recorded in the Notes, Guerrino Perin testified that he did not remember having said that and that he did not think he ever made a warning to Mr Yekatom.⁸⁶¹⁰

⁸⁶⁰² The Chamber considers this to be a reference to Alexandre Kouroupe-Awo, the prefect of Lobaye at the time. As explained by Alexandre Kouroupe-Awo, no prefect of Mbaïki existed, as prefects exist in prefectures and Lobaye is the prefecture, and he was the prefect of Lobaye residing in Mbaïki (see P-1813: T-180, p. 58, lines 11-19).

⁸⁶⁰³ Notes, CAR-OTP-2104-0021-R01, at 0021-22.

⁸⁶⁰⁴ P-2041: T-230, p. 11, line 25 – p. 12, line 9.

⁸⁶⁰⁵ P-2041: T-229, p. 87, lines 7-13.

⁸⁶⁰⁶ P-2041: T-229, p. 88, line 3 – p. 89, line 9.

⁸⁶⁰⁷ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0011-12, para. 52; P-2041: T-229, p. 88, line 3 – p. 89, line 9.

⁸⁶⁰⁸ Notes, CAR-OTP-2104-0021-R01, at 0022 (stating ‘*Mr Monsignor Rino mis en garde Mr R[ambo] [...] la justice [...] ce sois en Centrafrique ou Cour penal International CPI*’).

⁸⁶⁰⁹ D29-5015: T-254, p. 49, lines 15-24.

⁸⁶¹⁰ D29-5015: T-254, p. 50, line 8 – p. 51, line 4.

3488. Antareze-De-Neve Madongagba was also asked whether Guerrino Perin had made any warnings to Mr Yekatom. He responded that he did not remember and that, in fact, he did not hear Guerrino Perin ‘addressing the meeting and warning anyone at all’.⁸⁶¹¹

3489. The Chamber is mindful that no other witnesses mentioned Guerrino Perin’s warning to Mr Yekatom, as well as of the evidence of Guerrino Perin and Antareze-De-Neve Madongagba on this point as outlined above. Nonetheless, the Chamber considers P-2041’s testimony reliable on this aspect, and notes that his evidence is supported by the Notes taken contemporaneously during the meeting in question. Accordingly, the Chamber relies on his evidence regarding Guerrino Perin’s warning to Mr Yekatom in the terms described.

3490. According to Alexandre Kouroupe-Awo and D29-5013, they both asked Mr Yekatom to protect the Muslim population. In particular, Alexandre Kouroupe-Awo indicated that he felt that there was a high risk that the Anti-Balaka would attack the Muslim population and therefore asked Mr Yekatom to ensure the Muslim population that they would not be harmed.⁸⁶¹² Likewise, D29-5013 testified that she asked Mr Yekatom to make his elements available to protect the Muslims in Mbaïki before their departure, and that Mr Yekatom accepted her request by designating Cœur de Lion for this task.⁸⁶¹³

3491. In this regard, the Chamber notes that several witnesses indicated that the removal of Muslims from Mbaïki was decided at the meeting. Their evidence, as well as the evidence outlined further below,⁸⁶¹⁴ shows that at this point, their removal from Mbaïki was a foregone conclusion. Notably, Alexandre Kouroupe-Awo stated that one of the issues they discussed at the meeting was ‘the movement of the Chadian Muslim community’.⁸⁶¹⁵ He later clearly indicated that the decision to take them out of Mbaïki ‘was taken and discussed during the

⁸⁶¹¹ D29-5012: T-294, p. 13, line 16 – p. 14, line 16.

⁸⁶¹² P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0043, para. 54. The witness further stated that he called Mr Yekatom to ensure security in Mbaïki and to avoid disorder as there would be confrontations in light of the Seleka, who wanted to be seen as the protector of the Muslims, having left, and many people ‘improvising being Anti-Balaka’ (see P-1813: T-180, p. 16, lines 3-11, p. 25, lines 4-12; T-182, p. 27, lines 22-25).

⁸⁶¹³ D29-5013: T-285, p. 43, lines 10-22; T-286, p. 26, lines 2-23. See also P-2041 Statement, CAR-OTP-2104-0003-R02, at 0014, para. 62 (stating that when ‘R[ombhot]’ was not present in Mbaïki, Cœur de Lion appeared to be in charge and he therefore assumed him to be ‘R[ombhot]’s deputy).

⁸⁶¹⁴ See paragraphs 3595-3609 below.

⁸⁶¹⁵ P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0043, para. 53.

meeting in *St Jeanne d’Arc*’ and on that occasion only.⁸⁶¹⁶ Roger Okoa-Penguia stated that ‘[a] decision was taken to have the Muslims leave for their security, to avoid a blood bath, to avoid the Muslims being killed by the Anti-Balaka’.⁸⁶¹⁷ Diakité Aboubakar confirmed that the departure of Muslims to Chad was discussed at the meeting and that he specifically recalled the prefect and Imam Langaba talking about it.⁸⁶¹⁸ D29-5013 further indicated that part of ‘their’ request during the meeting was that when the convoy moved on, everybody guaranteed their safety until they left the Lobaye zone.⁸⁶¹⁹ She also indicated the ‘conclusion’ of the meeting was that ‘the Muslim communities would be able to leave the place without any acts of violence or abuse’.⁸⁶²⁰ Further, the Notes include a reference to ‘*notre sorti de [Mbaïki] pour [aller] au Tchad le 06/02/2014*’.⁸⁶²¹

3492. The evidence also indicates that while the decision to remove the Muslim community from Mbaïki was taken at the meeting, informal enquiries and discussions on the dislocation took place beforehand. In particular, Alexandre Kouroupe-Awo stated that the Chadian Muslim community in Mbaïki felt threatened and prior to the Anti-Balaka’s arrival in Mbaïki spoke with the Chadian authorities ‘to see if there was a way they could be evacuated’.⁸⁶²² Alexandre Kouroupe-Awo also stated that prior to the Mbaïki meeting, the representatives of the Malian Muslim community also told him that they would leave with the Chadian Muslims if the latter were being ‘evacuated’.⁸⁶²³ Moreover, a witness testified that in the context of the preparations of the meeting, an individual involved in these preparations went to see Mr Yekatom ‘to negotiate’ and ask him whether he could agree ‘to some kind of solution for the Muslims in Mbaïki’, further indicating that this individual was successful in their mission, namely, ‘to ensure the release of the Muslims’.⁸⁶²⁴ In the Chamber’s view, this shows that [REDACTED] discussed with Mr Yekatom the possibility of moving Muslims out of Mbaïki before the meeting. This would explain [REDACTED]’s indication, when asked whether the decision to ‘evacuate’ Muslims had been taken before the meeting, that

⁸⁶¹⁶ P-1813: T-182, p. 36, lines 7-21.

⁸⁶¹⁷ P-2084 Statement, CAR-OTP-2094-0968-R02, at 0981, para. 66.

⁸⁶¹⁸ P-1595: T-106, p. 37, line 23 – p. 38, line 5.

⁸⁶¹⁹ D29-5013: T-285, p. 53, lines 9-13.

⁸⁶²⁰ D29-5013: T-285, p. 43, line 24 – p. 44, line 9.

⁸⁶²¹ Notes, CAR-OTP-2104-0021-R01, at 0022.

⁸⁶²² P-1813 Statement, CAR-OTP-2069-0035-R02, at 0043, para. 53.

⁸⁶²³ P-1813 Statement, CAR-OTP-2069-0035-R02, at 0043, para. 53.

⁸⁶²⁴ [REDACTED]

[REDACTED] when ‘they’ spoke to ‘them’, ‘they’ all said that it was preferable and necessary for their security to leave.⁸⁶²⁵

3493. The Chamber notes the Yekatom Defence’s reference to P-2354,⁸⁶²⁶ who stated that he thought he first heard about ‘a plan to evacuate all the Muslims’ from Mbaïki in December 2013.⁸⁶²⁷ Noting that P-2354 did not seem certain about what he heard and that he was unable to provide any other detail when asked about it,⁸⁶²⁸ and bearing in mind the evidence outlined above, the Chamber gives little weight to this part of his evidence.

3494. The evidence shows that after the meeting, the prefect and other individuals contacted the authorities to arrange the convoy that would transport the Muslim community out of Mbaïki. Indeed, Alexandre Kouroupe-Awo testified that he, the bishop and the DRC and HCR representatives were given the mission of contacting ‘the highest authorities in Bangui’ so that some of the vehicles that had come from Chad could be sent ‘to get the Muslims out of Mbaïki, the Muslims who were being threatened’.⁸⁶²⁹ Alexandre Kouroupe-Awo mentioned that the delegate of the Chadian Muslim community was responsible for contacting the ambassador or the representative of the Chadian state who was in Bangui with the same purpose.⁸⁶³⁰ Raymond Mongbandi stated that the prefect and the bishop travelled to Bangui to inform the head of state, who then informed the Chadian head of state, who then made arrangements to ‘evacuate’ the Muslims from Mbaïki.⁸⁶³¹

3495. The Chamber observes that Raymond Mongbandi’s evidence is consistent with the overall evidence on this subject. Raymond Mongbandi stated that the decision to ‘evacuate’ Muslims from Mbaïki was made after the meeting,⁸⁶³² but also that the decision to ‘evacuate’

⁸⁶²⁵ [REDACTED]

⁸⁶²⁶ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 506.

⁸⁶²⁷ P-2354 Statement, CAR-OTP-2105-0991-R03, at 1002, para. 62.

⁸⁶²⁸ P-2354: T-210, p. 42, lines 9-25.

⁸⁶²⁹ P-1813: T-180, p. 17, line 8 – p. 18, line 7.

⁸⁶³⁰ P-1813: T-180, p. 17, line 8 – p. 18, line 7. *See also* P-1813, T-182, p. 36, lines 7-21 (explaining that he ‘informally negotiated with some Muslim dignitaries and asked them to approach the Chad embassy so that when trucks coming from Chad would reach Bangui, that some elements could be put at the disposal of the Muslim community in Mbaïki in order to take them to Bangui and maybe elsewhere, at least temporarily, while waiting for things to calm down some day because the tension was too high’).

⁸⁶³¹ P-1838, Statement, CAR-OTP-2100-0252-R05, at 0265, para. 74. *See also* at 0266, para. 76.

⁸⁶³² P-1838, Statement, CAR-OTP-2100-0252-R05, at 0265, para. 74.

was ‘basically the fruit of this meeting’.⁸⁶³³ He also referred to a meeting in which the Muslims learnt about the decision to ‘evacuate’, when ‘[t]he Seleka were still present in Mbaïki’, and which was ‘an open invitation for the Anti-Balaka to attend and agree not to harm Muslims’.⁸⁶³⁴ In the Chamber’s view, the witness seemed to be referring to the 30 January 2014 meeting in Mbaïki despite confusing some details. Further, when asked during his testimony, Raymond Mongbandi referred to one meeting in which ‘the Anti-Balaka’ were present ‘that had to do with cohabitation between the two communities in Mbaïki’ – which the Chamber considers makes reference to the meeting held in Mbaïki on 30 January 2014 –; and another one related to the ‘evacuation’ of Muslims to Chad, held in a ‘discreet way’, which concerned the local authorities and the administration’ and which ‘the Anti-Balaka did not attend’.⁸⁶³⁵ In the Chamber’s view, the description of this second ‘meeting’ corresponds to the arrangements made by the authorities after the meeting held in Mbaïki on 30 January 2014 to secure the convoy.

3496. The Chamber considers that the steps taken to discuss logistical arrangements of the convoy in the immediate aftermath of the meeting are a further indication that the removal of Muslims from Mbaïki was determined at the meeting.

3497. In addition to the discussions on the fate of the Muslims in Mbaïki at the meeting, according to several witnesses, Mr Yekatom was asked to repeat what he had said in the meeting in front of the population.⁸⁶³⁶

⁸⁶³³ P-1838: T-215, p. 26, lines 4-13.

⁸⁶³⁴ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0265-66, para. 75. The Chamber also notes that Raymond Mongbandi stated that the Seleka left Mbaïki on 10 January 2014 and that the meeting occurred in December 2013. The Chamber considers these mistakes on the dates of the events of minor relevance.

⁸⁶³⁵ P-1838: T-215, p. 28, line 14 – p. 29, line 18.

⁸⁶³⁶ D29-5015: T-254, p. 43, lines 17-21 (testifying that he asked Mr Yekatom ‘to repeat the same thing [...] before thousands of people who [...] gathered at the city hall’); D29-5013: T-285, p. 42, lines 18-25 (testifying that [REDACTED] asked Mr Yekatom to speak to the young people who were outside and ask them to calm down); P-1666: T-230, p. 49, lines 13-20 (testifying that [REDACTED] asked Mr Yekatom to make a statement to the people gathered outside ‘to calm the situation’); P-1595 Statement, CAR-OTP-2104-0274-R02, at 0288, para. 78 (stating that Djido Saleh asked Mr Yekatom to go to the city centre and say the same things he had said in the meeting). The Chamber notes that the witnesses are not aligned on who asked Mr Yekatom to repeat his statement, but considers the question of who asked Mr Yekatom to do so of no import in the current context.

3498. After a reception with drinks inside the church,⁸⁶³⁷ Mr Yekatom went outside and addressed the crowd.⁸⁶³⁸ According to D29-5013, many young people, including minors, were waiting outside for Mr Yekatom, and were ‘extremely agitated’ and ‘really angry’.⁸⁶³⁹ In D29-5013’s view, they regarded Mr Yekatom as ‘someone who could help them defend themselves’, they wanted ‘to participate in the defence of their community by being together with Mr Yekatom’.⁸⁶⁴⁰ Similarly, Guerrino Perin explained that the people outside expected Mr Yekatom to avenge the Seleka harassment and thought that ‘he was there to do something against the Muslims’.⁸⁶⁴¹ In Guerrino Perin’s words, they thought that ‘in Yekatom they would find a leader against the Muslims’.⁸⁶⁴²

3499. P-1839 described Mr Yekatom’s speech as a ‘peace message’ so that Christians and Muslims could be together and not discriminate each other.⁸⁶⁴³ Several witnesses indicated that Mr Yekatom told the crowd not to harm Muslims. In particular, according to Guerrino Perin, Mr Yekatom said, ‘if a youth attacks a Muslim, I will kill him. If another Muslim attacks yet another, [...] I will kill him’.⁸⁶⁴⁴ In a similar vein, P-1666 testified that Mr Yekatom told the crowd that he was not there to kill the Muslims, asked his elements not to touch the Muslims, and said that any element that attacked a Muslim would be killed immediately.⁸⁶⁴⁵ Gérard Ouambou indicated that Mr Yekatom told them that anyone who killed a Muslim civilian would have a problem with him.⁸⁶⁴⁶

3500. According to D29-5013, Mr Yekatom told the young people who were waiting outside that they were too young, that their place was either in the fields with their parents or in school, and that he needed professionals.⁸⁶⁴⁷

⁸⁶³⁷ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0012-13, para. 55; P-2041: T-229, p. 91, lines 1-7.

⁸⁶³⁸ P-1839: T-174, p. 64, line 20 – p. 65, line 12 (confirming that Mr Yekatom launched a peace message after the meeting, outside the church); P-1666: T-230, p. 45, lines 10-20.

⁸⁶³⁹ D29-5013: T-285, p. 41, line 22 – p. 42, line 3.

⁸⁶⁴⁰ D29-5013: T-285, p. 42, lines 4-7.

⁸⁶⁴¹ D29-5015: T-254, p. 42, line 21 – p. 44, line 4.

⁸⁶⁴² D29-5015: T-255, p. 31, line 18 – p. 32, line 4.

⁸⁶⁴³ P-1839: T-174, p. 64, line 20 – p. 65, line 4.

⁸⁶⁴⁴ D29-5015: T-254, p. 44, lines 5-11.

⁸⁶⁴⁵ P-1666: T-230, p. 45, lines 20-24.

⁸⁶⁴⁶ P-1558 Statement, CAR-OTP-2105-0195-R01, at 0201, para. 30.

⁸⁶⁴⁷ D29-5013: T-285, p. 42, line 18 – p. 43, line 5. *See also* p. 48, line 21 – p. 49, line 1 *referring to* Photograph, CAR-D29-0010-0182.

3501. The impression of some of those who witnessed the scene was that the youth was disappointed with Mr Yekatom's words.⁸⁶⁴⁸ Diakité Aboubakar stated that they noticed that the Anti-Balaka were generally not happy about the meeting and right after Mr Yekatom's speech, they started saying, 'We do not agree with what Rambo is saying, he has to leave us to do what we were doing'.⁸⁶⁴⁹ When specifically asked whether he heard this, Alexandre Kouroupe-Awo indicated that he indeed heard those comments, and also heard accusations that he had paid Mr Yekatom to make such a speech and that Mr Yekatom had accepted the money from the Muslim community 'to take a step back'.⁸⁶⁵⁰ When asked the same question, P-2041 indicated that he did not hear what they said, but he saw people making gestures to Mr Yekatom indicating that they were not in agreement with him.⁸⁶⁵¹ P-2041 provided a detailed account of what happened when the Muslims who attended the meeting intended to leave the place of the meeting. According to this witness, while Mr Yekatom's elements wearing FACA uniforms remained inside the vehicles, 'many other Anti-Balaka' surrounding the perimeter alongside the road, whom he described as 'the young people in civvies with hunting rifles and knives and arrows', approached and threatened the Muslim delegation by pointing their firearms at them.⁸⁶⁵² A Sangaris officer asked Mr Yekatom to order the young people to withdraw and Mr Yekatom signed to them, after which they backed off, allowing the Muslims who had attended the meeting to leave in their cars.⁸⁶⁵³ When specifically asked about these youngsters, P-2041 confirmed that he considered them to be part of the local young people who, after learning that the Anti-Balaka had arrived in Mbaïki, had mobilised to join their ranks.⁸⁶⁵⁴

⁸⁶⁴⁸ D29-5015: T-254, p. 35, line 21 – p. 36, line 7, p. 44, lines 3-11; T-255, p. 32, lines 2-4; D29-5013: T-285, p. 43, lines 1-9.

⁸⁶⁴⁹ P-1595 Statement, CAR-OTP-2104-0274-R02, at 0288, para. 79.

⁸⁶⁵⁰ P-1813: T-182, p. 32, line 21 – p. 33, line 10.

⁸⁶⁵¹ P-2041: T-230, p. 13, line 24 – p. 14, line 10.

⁸⁶⁵² P-2041 Statement, CAR-OTP-2104-0003-R02, at 0013, para. 56; P-2041: T-230, p. 13, lines 5-22, p. 19, lines 13-22.

⁸⁶⁵³ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0013, para. 56; P-2041: T-229, p. 91, lines 1-11; T-230, p. 10, lines 18-21, p. 13, lines 20-22.

⁸⁶⁵⁴ P-2041: T-230, p. 12, line 12 – p. 13, line 1. *See also* P-2041: T-229, p. 83, lines 16-23.

3502. The evidence shows that thereafter, Mr Yekatom went to Mbaïki's bus station and delivered a similar speech to the crowd gathered there.⁸⁶⁵⁵

3503. According to Alexandre Kouroupe-Awo, Mr Yekatom spoke 'barely for one minute', 'very "dryly"' and using 'a commanding tone', which made people think that the Muslim community had paid him to give that speech.⁸⁶⁵⁶ Raymond Mongbandi indicated that the crowd, which included Muslims, non-Muslims and Anti-Balaka elements, seemed happy and applauded Mr Yekatom's speech, though he also thought it was difficult for Muslims to accept what Mr Yekatom said and that maybe they applauded 'out of fear'.⁸⁶⁵⁷

3504. The Chamber heard the testimony of witnesses whose impressions of Mr Yekatom's statements at the meeting and speeches thereafter outside differed widely.

3505. Some witnesses, including P-1666, Guerrino Perin, Antareze-De-Neve Madongagba and P-2354, found Mr Yekatom's message reassuring and considered that it brought peace to Mbaïki.

3506. P-1666 indicated that after the meeting and Mr Yekatom's statements, 'things calmed down quite considerably' and they felt 'relieved to a degree'.⁸⁶⁵⁸ In his view, if Mr Yekatom had not given those statements, 'it is quite sure that there would have been a very tricky conflict'.⁸⁶⁵⁹ In this regard, P-1666 pointed out that thereafter, they did not experience any attacks in the neighbourhoods where Muslims lived.⁸⁶⁶⁰

3507. Guerrino Perin testified that Mr Yekatom's words made him view him as 'a consequential figure' who 'didn't say one thing here and something completely different elsewhere'.⁸⁶⁶¹

⁸⁶⁵⁵ P-1838 Statement, CAR-OTP-2100-0252, at 0265, para. 73; P-1838: T-216, p. 12, lines 8-12; P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0043, para. 55 (stating that Mr Yekatom asked Muslims not to attack non-Muslims and non-Muslims not to attack Muslims, and warned them that there would otherwise be a punishment); P-1813: T-182, p. 32, lines 11-19; P-2354 Statement, CAR-OTP-2105-0991-R03, at 1001, para. 54; D29-5012: T-293, p. 65, line 19 – p. 66, line 4; P-1558 Statement, CAR-OTP-2105-0195-R01, at 0201, para. 31; P-1666: T-230, p. 45, line 25 – p. 46, line 6.

⁸⁶⁵⁶ P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0044, para. 56; P-1813: T-182, p. 33, lines 12-23.

⁸⁶⁵⁷ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0265, para. 73; P-1838: T-215, p. 25, lines 17-23.

⁸⁶⁵⁸ P-1666: T-230, p. 52, line 20 – p. 53, line 3.

⁸⁶⁵⁹ P-1666: T-230, p. 46, lines 3-6.

⁸⁶⁶⁰ P-1666: T-232, p. 22, line 19 – p. 23, line 6.

⁸⁶⁶¹ D29-5015: T-254, p. 42, line 21 – p. 44, line 11.

3508.P-2354 indicated that after hearing Mr Yekatom's speech about not harming Muslims, he felt reassured as did other members of the Muslim population.⁸⁶⁶²

3509.Antareze-De-Neve Madongagba considered that Mr Yekatom's speech at the meeting brought everyone together.⁸⁶⁶³ In fact, the witness testified that Mr Yekatom became a sort of 'partner' for the inter-religious platform of Mbaïki because he shared their objectives.⁸⁶⁶⁴

3510.Other witnesses, such as Raymond Mongbandi and Alexandre Kouroupe-Awo, expressed doubts regarding Mr Yekatom's sincerity and pointed to their persisting fears despite the speeches and promises he made.

3511.Alexandre Kouroupe-Awo stated that at the time of the meeting, he felt that there was a high risk that the Anti-Balaka would attack the Muslim population and asked Mr Yekatom to ensure that they would not be harmed.⁸⁶⁶⁵

3512.Raymond Mongbandi stated that he did not believe Mr Yekatom and considered his words that he wanted to act peacefully to be 'hollow' because 'he acted differently, such as at Bangui-Buchia'.⁸⁶⁶⁶

3513.In fact, several witnesses shared the view that the only reason why Mr Yekatom and his group did not attack the Muslim population in Mbaïki was because of the presence of the Sangaris and other international forces.

3514.P-1666, while feeling reassured by Mr Yekatom's words, also indicated that if the Anti-Balaka did not attack, it was because their leader had instructed them in this regard, because 'he' made a commitment during the meeting, and because the FOMAC and the Sangaris forces were present, all of which ensured that no attack occurred.⁸⁶⁶⁷

⁸⁶⁶² P-2354 Statement, CAR-OTP-2105-0991-R03, at 1001, para. 54.

⁸⁶⁶³ D29-5012: T-293, p. 67, lines 8-24.

⁸⁶⁶⁴ D29-5012: T-293, p. 64, lines 13-20.

⁸⁶⁶⁵ P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0043, para. 54.

⁸⁶⁶⁶ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0265, para. 72. *See also* P-1838: T-216, p. 32, line 23 – p. 33, line 6.

⁸⁶⁶⁷ P-1666: T-232, p. 42, lines 13-22.

3515.P-2389 felt that Mr Yekatom and the Anti-Balaka could not attack them ‘only because of the presence of the S[angaris]’ and opined that if the Sangaris had not been in Mbaïki, the Anti-Balaka would have attacked and killed Muslims in Mbaïki.⁸⁶⁶⁸

3516.Relatedly, one of Mr Yekatom’s former elements, Stéphane Chrisostome Dawili, stated that when the group arrived in Mbaïki, ‘[t]he only obstacle to take the town was the French Army’ and that ‘the French Army’ instructed Mr Yekatom’s group ‘not to harass people and not to pillage or to create disorder’.⁸⁶⁶⁹

3517.P-1666 testified that [REDACTED] not to walk around Mbaïki town with weapons, after which the Anti-Balaka retreated with their weapons to the *abattoir*.⁸⁶⁷⁰

3518.The Chamber further recalls P-2041’s detailed explanation of how the Sangaris asked Mr Yekatom to order the youngsters surrounding the church on the day of the meeting to stop harassing the Muslim delegation that wanted to leave the place.⁸⁶⁷¹

3519.The evidence outlined above shows that the presence of Sangaris forces and other international actors in Mbaïki at that time compelled Mr Yekatom to bring a peace message to Mbaïki and prevented his group from attacking the Muslim population. The role played by the Sangaris forces in Mbaïki was not limited to being physically present in the town, but also included the concrete orders and interventions described above, such as instructing Mr Yekatom and his group not to harass people and not to walk around with weapons. While the Sangaris forces later left Mbaïki to intervene in Boda,⁸⁶⁷² as already discussed above, the decision to remove the Muslim civilians inhabiting Mbaïki had already been decided at the *St Jeanne d’Arc* Church meeting.⁸⁶⁷³ Indeed, at the time at which Mr Yekatom pledged securing order in Mbaïki and not harming its Muslim inhabitants, he was aware that these same inhabitants would leave not long thereafter.

⁸⁶⁶⁸ P-2389 Statement, CAR-OTP-2104-0033-R03, at 0044, para. 63.

⁸⁶⁶⁹ P-1647 Statement, CAR-OTP-2050-0654-R02, at 0661, para. 47.

⁸⁶⁷⁰ P-1666: T-230, p. 61, lines 13-16.

⁸⁶⁷¹ See paragraph 3501 above.

⁸⁶⁷² See section IV.A.8.ii.c above.

⁸⁶⁷³ See paragraphs 3491-3496 above.

3520. The Chamber notes Raymond Mongbandi's views on what could have happened should the 'evacuation' not have taken place: 'The Muslims could only accept evacuation, if not they risked being overwhelmed by the Anti-Balaka and slaughtered'.⁸⁶⁷⁴ It notes that Raymond Mongbandi elaborated on this point further during his testimony: '[...] this decision was taken because there was a total breach of trust. The authorities understood that the Anti-Balaka couldn't keep up their promises, there was a doubt. So this is why it was important to evacuate the Muslims. Tension was rife and it would have been very dangerous. If we hadn't proceeded to evacuat[e] the Muslims, there would have been a lot of deaths. Thank God that the procedure was adopted and this actually saved a good chunk of the Muslim population and reduced casualties'.⁸⁶⁷⁵

3521. The Chamber is thus convinced that with the removal of the Muslim civilian population from Mbaïki, after which very few Muslim civilians remained in Mbaïki,⁸⁶⁷⁶ Mr Yekatom achieved his goal of chasing out the Seleka, which necessarily included Muslim civilians. In this regard, the Chamber recalls P-1839's evidence that at the time of the group's presence on the Mbaïki road, Mr Yekatom instructed the elements to kill all the Muslims in the area.⁸⁶⁷⁷ The Chamber further recalls its discussion of the way in which Anti-Balaka groups, including that of Mr Yekatom, pursued and implemented its core objective of removing Michel Djotodia and the Seleka from power, which equated the Muslim civilian population in general, especially in western CAR, with the Seleka and thus perceived this population as their enemy.⁸⁶⁷⁸

3522. Furthermore, several witnesses mentioned that Mr Yekatom's elements asked certain Muslim inhabitants of Mbaïki for money and/or that some of these inhabitants offered the elements money.

3523. P-2041 stated that on the day of the Anti-Balaka's arrival in Mbaïki, the Muslim community gathered [REDACTED] and handed it over to Mr Yekatom's group 'for them to buy

⁸⁶⁷⁴ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0265-66, para. 75.

⁸⁶⁷⁵ P-1838: T-215, p. 26, lines 14-23.

⁸⁶⁷⁶ See paragraphs 3448 and 3628 above and below.

⁸⁶⁷⁷ See paragraph 3300 above.

⁸⁶⁷⁸ See section IV.A.5 above.

food’.⁸⁶⁷⁹ According to P-2041, the Muslims hoped that by paying the Anti-Balaka, the latter would not attack them, as ‘a form of insurance’.⁸⁶⁸⁰ P-2041 did not participate in the contributions, but he heard [REDACTED].⁸⁶⁸¹ P-2041 testified that a person who handed over the money to ‘Rombhot’ told the witness that ‘Rombhot’ said that there would not be a problem, there would not be any attacks.⁸⁶⁸²

3524. P-1666 testified about a first encounter with Cœur de Lion in which certain individuals from the Mbaïki Muslim community handed over to Cœur de Lion the money collected among [REDACTED].⁸⁶⁸³ Cœur de Lion told these individuals that ‘after Rambo he was the boss and was in control’, gave them his telephone number and told them to call him if ‘any uncontrolled element’ threatened or abused civilians so that he could intervene.⁸⁶⁸⁴ Because ‘the boss’ was not there when the first collection took place, a second collection was carried out when Mr Yekatom arrived and the abovementioned individuals handed him [REDACTED].⁸⁶⁸⁵ Mr Yekatom gave them ‘reassurances’, explained to them why he had taken up arms and that he carried out patrols between Bangui, Pissa and PK9, and that they should cooperate with his deputy in the field if there were any problems.⁸⁶⁸⁶

3525. P-2354 [REDACTED].⁸⁶⁸⁷ P-2354 also testified that Mr Yekatom said that he was not Anti-Balaka but a FACA member, that he did not have any issues with Muslims, and that he was going back to Bangui but that [REDACTED] should call him if they threatened them.⁸⁶⁸⁸

3526. P-2353 knew of an encounter with Mr Yekatom at which [REDACTED] thanked him for what he had said at the church, and [REDACTED] ‘for his petrol so that he could continue

⁸⁶⁷⁹ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0013, para. 57.

⁸⁶⁸⁰ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0013, para. 57; P-2041: T-229, p. 92, line 10 – p. 93, line 1.

⁸⁶⁸¹ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0013, para. 57; P-2041: T-229, p. 92, line 10 – p. 93, line 1.

⁸⁶⁸² P-2041: T-230, p. 15, lines 3-14.

⁸⁶⁸³ P-1666: T-230, p. 50, line 4 – p. 51, line 22, p. 53, line 19 – p. 55, line 17.

⁸⁶⁸⁴ P-1666: T-230, p. 53, line 19 – p. 54, line 2, p. 55, lines 7-17.

⁸⁶⁸⁵ P-1666: T-230, p. 55, line 18 – p. 56, line 2.

⁸⁶⁸⁶ P-1666: T-230, p. 56, lines 3-8. *See also* P-2389 Statement, CAR-OTP-2104-0033-R03, at 0043, para. 55 (stating that ‘Rombhot’ gave his phone number to [REDACTED] to call him in case anything happened).

⁸⁶⁸⁷ P-2354 Statement, CAR-OTP-2105-0991-R03, at 1001, para. 55; P-2354: T-210, p. 43, line 21 – p. 44, line 19. The Chamber notes that P-2354’s account of the encounter with Mr Yekatom [REDACTED], but considers that they are minor and do not undermine the reliability of their evidence (*e.g.* P-2354 stated that [REDACTED]). The Chamber also notes that according to P-2354, [REDACTED] told Mr Yekatom that they were not Seleka and that they hoped that he ‘would look upon [them] favourably’ and not harm them.

⁸⁶⁸⁸ P-2354: T-210, p. 17, lines 4-12, p. 20, lines 1-16.

his patrols to protect us'.⁸⁶⁸⁹ According to P-2353, 'R[ambo]' said that he was not there to hurt people, but to protect civilians, and that [REDACTED] should call him about any instance where he was harassed or threatened.⁸⁶⁹⁰ P-2353 stated that [REDACTED] did not know if 'Rambo' was sincere and that [REDACTED], as he was a 'military man and the leader of the Anti Balaka'.⁸⁶⁹¹

3527. Witnesses indicated that after giving the speech at the bus station, Mr Yekatom left Mbaïki.⁸⁶⁹² Witnesses also indicated that Mr Yekatom did not live in Mbaïki, but 'constantly moved around the area' in his vehicle to control the elements under his command.⁸⁶⁹³

3528. Witnesses also indicated that Mr Yekatom left Cœur de Lion in charge of Mbaïki.⁸⁶⁹⁴ According to P-1666, Cœur de Lion said in an encounter after the meeting that 'after Rambo he was the boss and was in control' of Mbaïki.⁸⁶⁹⁵ P-1666 also testified that during a meeting with Cœur de Lion, [REDACTED] Cœur de Lion talking to Mr Yekatom on the phone and calling him 'kotazo', meaning chief or authority.⁸⁶⁹⁶

3529. Stéphane Chrisostome Dawili stated that the group under Mr Yekatom's control with which the witness entered Mbaïki was based 'next to the Mayor's office'.⁸⁶⁹⁷

3530. Diakité Aboubakar indicated that, on the day of their arrival, he saw the Anti-Balaka settling in three bases in Mbaïki: the first base was at Baguirmi, the second at *Maison de Jeunesse* and the third at Socatel.⁸⁶⁹⁸ He further stated that while passing by one of the bases, he saw

⁸⁶⁸⁹ P-2353 Statement, CAR-OTP-2100-0226-R03, at 0236, para. 58.

⁸⁶⁹⁰ P-2353 Statement, CAR-OTP-2100-0226-R03, at 0236, para. 58.

⁸⁶⁹¹ P-2353 Statement, CAR-OTP-2100-0226-R03, at 0236, para. 58. On the basis of P-2353's evidence, the Chamber cannot conclude that [REDACTED]. [REDACTED].

⁸⁶⁹² P-1839: T-174, p. 68, lines 9-11 (testifying that she did not know whether the situation in Mbaïki was calmer after Mr Yekatom gave his speech because 'after [their] mission in Mbaïki', they left); P-2389: T-238, p. 31, line 21 – p. 32, line 1 (confirming, when asked, that he was told that Mr Yekatom left Mbaïki after the meeting).

⁸⁶⁹³ P-2353 Statement, CAR-OTP-2100-0226-R03, at 0236, para. 56; P-1786: T-198, p. 40, lines 12-17; P-1666: T-232, p. 30, line 18 – p. 31, line 3 (indicating that Mr Yekatom controlled and patrolled the PK9-Mbaïki axis to inspect his elements and went back and forth to and from Mbaïki).

⁸⁶⁹⁴ P-2353 Statement, CAR-OTP-2100-0226-R03, at 0236, para. 56; P-1838: T-215, p. 18, lines 6-22.

⁸⁶⁹⁵ P-1666: T-230, p. 53, line 18 – p. 54, line 2.

⁸⁶⁹⁶ P-1666: T-230, p. 68, line 18 – p. 69, line 1. The Chamber notes that while P-1666 mentioned that Lieutenant Gouga said [REDACTED] that he was higher in military rank than Cœur de Lion and Mr Yekatom, he also made clear that Mr Yekatom was the leader of the group (see P-1666: T-230, p. 60, lines 20-23, p. 63, lines 16-25; T-232, p. 31, lines 9-25).

⁸⁶⁹⁷ P-1647 Statement, CAR-OTP-2050-0654-R02, at 0661, para. 48.

⁸⁶⁹⁸ P-1595 Statement, CAR-OTP-2104-0274-R02, at 0284-85, paras 52, 57, 60-63.

a tall man with ‘*rastaman longs cheveux tressés*’ which he believed was Cœur de Lion.⁸⁶⁹⁹ P-1786, confirmed, when asked, that the Anti-Balaka were based at the town hall, the tax office, and Socatel.⁸⁷⁰⁰ Raymond Mongbandi indicated that the Anti-Balaka took control of Mbaïki’s city hall and occupied all the offices, including his office, where he later had several meetings with Cœur de Lion.⁸⁷⁰¹ P-1666 testified that the Anti-Balaka in Mbaïki were based at Socatel and at the town hall, and that one week later, when the ‘French army’ asked them to ‘liberate’ the town hall, they settled at the ‘*abattoir*’.⁸⁷⁰² The Chamber notes that while witnesses do not seem to agree on the number and location of the bases, it can conclude that Mr Yekatom’s group settled in at least one base in Mbaïki.

3531. P-2041 stated that the Anti-Balaka also set up barriers in Mbaïki to prevent Muslims from leaving and entering Mbaïki.⁸⁷⁰³ Diakité Aboubakar specified that upon their arrival in Mbaïki, the Anti-Balaka took over the checkpoints used by the authorities to check the movement of vehicles and people and to ask for money ‘in the same way that the Seleka had done before them’, and from then on the Muslims ‘felt like that they had become prisoners in their own city and did not dare to leave the city out of fear of being killed’.⁸⁷⁰⁴

3532. Guerrino Perin testified that he did not know whether the Anti-Balaka were billeted in Mbaïki.⁸⁷⁰⁵ D29-5013 testified that she did not believe Mr Yekatom’s elements had a base in Mbaïki.⁸⁷⁰⁶ She also testified that Mr Yekatom did not have elements in Mbaïki, which is why she personally asked Mr Yekatom to designate one person. According to D29-5013, Mr Yekatom left only one person, Cœur de Lion, ‘in charge of the town’.⁸⁷⁰⁷ The Chamber notes that D29-5013 also indicated that she was not based in Mbaïki, and went back ‘two or three

⁸⁶⁹⁹ P-1595 Statement, CAR-OTP-2104-0274-R02, at 0285, para. 58; P-1595 Corrections, CAR-OTP-2135-2397, at 2399, para. 58.

⁸⁷⁰⁰ P-1786: T-198, p. 40, lines 12-14.

⁸⁷⁰¹ P-1838: T-215, p. 18, lines 6-22, p. 19, lines 7-14.

⁸⁷⁰² P-1666: T-230, p. 54, lines 6-12, p. 57, lines 11-16. The Chamber notes in this regard that Antareze-De-Neve Madongagba testified that he did not see any Anti-Balaka base at the ‘slaughterhouse’ or ‘*abattoir*’ (see D29-5012: T-294, p. 25, lines 9-13). The Chamber does not consider this to affect its overall conclusion that there was at least one base in Mbaïki.

⁸⁷⁰³ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0013-14, para. 58 *in combination with* Map (annotated by P-2041), CAR-OTP-2104-0020-R01, where P-2041 marked the ‘Anti-Balaka barriers’ in Mbaïki as ‘O’; P-2041: T-229, p. 93, lines 3-7.

⁸⁷⁰⁴ P-1595 Statement, CAR-OTP-2104-0274-R02, at 0287, para. 71.

⁸⁷⁰⁵ D29-5015: T-255, p. 41, lines 1-11.

⁸⁷⁰⁶ D29-5013: T-285, p. 44, lines 24-25.

⁸⁷⁰⁷ D29-5013: T-286, p. 26, line 2 – p. 27, line 11.

times’ between the time of the meeting and the Muslims’ departure from Mbaïki.⁸⁷⁰⁸ Further noting the evidence to the contrary, as set out above, the Chamber does not rely on this part of D29-5013’s testimony.

Mr Yekatom’s group settled in at least one base in Mbaïki. During this time, elements of Mr Yekatom’s group threatened and harassed Muslim civilians in Mbaïki, telling them to leave the area. Both Mr Yekatom and Cœur de Lion knew that elements of the group committed acts of violence in Mbaïki. Efforts and measures to prevent these acts were taken only after the removal of the Muslim civilian population from Mbaïki had been decided and/or carried out. The Anti-Balaka also attacked a gendarme patrol in Mbaïki which was there to protect the population, taking the patrol’s weapons and the service car that they were using.

3533. The Chamber heard numerous witnesses who described the threats made to the Muslims in Mbaïki, and the harassment they were subjected to, following the arrival of Mr Yekatom’s group in the town.

3534. Some of these witnesses claimed that those who threatened and harassed Muslims were mostly the local youngsters of Mbaïki, who saw in the Anti-Balaka an opportunity to take revenge for the abuses committed by the Seleka, considered the ‘protectors’ of Muslims. These witnesses seemed to draw a clear line between the Anti-Balaka elements that arrived in Mbaïki and the local youngsters who were not officially part of the group, and who outnumbered the Anti-Balaka elements, according to their evidence.

3535. This is the case of Alexandre Kouroupe-Awo, who explained that after the abuses committed by the Seleka, deemed ‘the protectors of the Muslims’, and following their departure from Mbaïki and the arrival of the Anti-Balaka, the ‘indigenous population’ were up in arms against the Chadian community.⁸⁷⁰⁹ They assumed that the Anti-Balaka would enable them ‘to wreak revenge upon the Muslim population because their protectors were no longer there’.⁸⁷¹⁰ Alexandre Kouroupe-Awo explained that ‘independently of the Anti-Balaka’, many individuals ‘amongst the indigenous population’ wanted to attack the Muslims and loot their possessions.⁸⁷¹¹ The witness stated that ‘a lot of young people were interested in

⁸⁷⁰⁸ D29-5013: T-285, p. 45, lines 6-9.

⁸⁷⁰⁹ P-1813: T-180, p. 18, lines 8-25, p. 22, lines 5-21.

⁸⁷¹⁰ P-1813: T-180, p. 22, lines 5-21.

⁸⁷¹¹ P-1813: T-180, p. 27, line 9 – p. 28, line 18. See Video, CAR-OTP-2023-1636, at approximately 00:12:01-00:15:00; Translation, CAR-OTP-00002254, at 0005, lines 114-119 (Alexandre Kouroupe-Awo’s speech on 12

this, [...] they invented themselves as Anti-Balaka', and got close to the Anti-Balaka 'to come to an agreement and to harm the Muslim community'.⁸⁷¹² He also testified that the Anti-Balaka in Mbaïki were FACA and 'young people who had set themselves up as Balakas and had integrated that group of Balakas against the Muslims'.⁸⁷¹³

3536. With regard to his statement that Mr Yekatom and his elements committed 'a number of crimes', harassed and threatened people, and looted their possessions,⁸⁷¹⁴ Alexandre Kouroupe-Awo testified that there were some of Mr Yekatom's elements in different places, such as in Boda, who threatened and attacked the population, but there were also young people 'who were passing themselves off as elements of the accused, while they were not', acting under Mr Yekatom's name although they had no mandate from him.⁸⁷¹⁵

3537. In a similar vein, P-2354 explained that some local Christian youths who called themselves Anti-Balaka issued verbal threats against Muslims and tried to provoke them, telling them things like 'you Arabs you will see what will happen to you, we will kill you'.⁸⁷¹⁶

3538. Likewise, D29-5013 testified that the young people of Mbaïki wanted to fight the Muslims and that the Christian population said that they had to leave.⁸⁷¹⁷ She also testified that people in Mbaïki feared for their security not because of the Anti-Balaka's advance but because 'the young people, the self-defence groups' took up arms to take vengeance as soon as the Seleka left, driving out all the Muslims.⁸⁷¹⁸ She also indicated, when asked, that she saw young people making threatening gestures to Muslims in Mbaïki.⁸⁷¹⁹

3539. The Chamber notes that P-1666 and P-2041 described an incident in which two Muslims from Bagandou tried to enter Mbaïki and were apprehended and tied up by the Anti-Balaka

February 2014 on occasion of Catherine Samba-Panza's visit to Mbaïki, in which he 'greeted' the intervention of the Sangaris in Mbaïki, '*qui a permis d'éviter la ruée vers l'or ou le village [...] mort*' and mentioned that '*[l]es Anti-Balakas qui se léchaient les lèvres et dont la hargne aurait remis en cause les acquis de toute la sensibilisation faite en amont*').

⁸⁷¹² P-1813: T-180, p. 29, line 23 – p. 30, line 15.

⁸⁷¹³ P-1813: T-180, p. 23, lines 7-10.

⁸⁷¹⁴ P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0046, para. 74, at 0047, para. 76.

⁸⁷¹⁵ P-1813: T-180, p. 32, line 12 – p. 33, line 4.

⁸⁷¹⁶ P-2354 Statement, CAR-OTP-2105-0991-R03, at 1000, para. 49.

⁸⁷¹⁷ D29-5013: T-285, p. 31, lines 16-23.

⁸⁷¹⁸ D29-5013: T-286, p. 31, line 20 – p. 32, line 7.

⁸⁷¹⁹ D29-5013: T-286, p. 51, line 23 – p. 52, line 3.

in one of the Mbaïki checkpoints.⁸⁷²⁰ According to P-1666, Cœur de Lion questioned them and he did not believe one of the men who told him that he was not a Muslim; Cœur de Lion asked the man about the thing on his forehead and told the man that it was ‘something to do with praying’ that meant that he was a Muslim.⁸⁷²¹ P-2041 and P-1666 indicated that eventually Cœur de Lion accepted to release them [REDACTED].⁸⁷²²

3540. In relation to this incident, P-1666 indicated that Muslims could not move freely around and within Mbaïki because they were confined in a perimeter and were afraid of the Anti-Balaka.⁸⁷²³ Likewise, P-2041 stated that the Anti-Balaka set up additional checkpoints in Mbaïki to prevent Muslims from entering or leaving the town.⁸⁷²⁴

3541. Further, the Chamber notes that other witnesses pointed out that elements of Mr Yekatom’s group, as well as local youngsters, threatened local Muslims.

3542. Specifically, P-1839 described the threats made by an Anti-Balaka element belonging to Mr Yekatom’s group, in Mr Yekatom’s presence, on the day of their arrival in Mbaïki. P-1839 explained that after the meeting at the *St Jeanne d’Arc* Church, while Mr Yekatom, [REDACTED], ‘Cube Maggi’, were driving around Mbaïki, [REDACTED] Cube Maggi threatened the Muslims who were on the roadside and sitting on their terraces.⁸⁷²⁵ ‘Cube Maggi’ threatened them with a hand gesture, waving his finger back and forth, while saying

⁸⁷²⁰ P-1666: T-231, p. 13, line 24 – p. 14, line 10; P-2041 Statement, CAR-OTP-2104-0003-R02, at 0013-14, para. 58; P-2041: T-229, p. 93, lines 8-15. The Chamber notes in this regard that the location of the additional ‘Anti-Balaka barriers’ marked by P-2041 (see P-2041 Statement, CAR-OTP-2104-0003-R02, at 0013, para. 58; Map (annotated by P-2041), CAR-OTP-2104-0020-R01) appears to be the same as the location marked by P-1577 to indicate where he met an Anti-Balaka group at the entrance to Mbaïki [REDACTED] (see Satellite image (annotated by P-1577), CAR-OTP-2088-0734; footnote 8726 below).

⁸⁷²¹ P-1666: T-231, p. 17, line 17 – p. 18, line 4.

⁸⁷²² P-1666: T-231, p. 14, line 1 – p. 15, line 10; P-2041 Statement, CAR-OTP-2104-0003-R02, at 0013-14, para. 58; P-2041: T-229, p. 93, lines 8-15. As for the timing of the incident, the Chamber notes that P-1666 indicated that it happened after Michel Djotodia resigned, ‘somewhere between the 15th and the end of January’ (see P-1666: T-231, p. 16, lines 16-20).

⁸⁷²³ P-1666: T-231, p. 27, line 11 – p. 28, line 8.

⁸⁷²⁴ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0013-14, para. 58; P-2041: T-229, p. 93, lines 3-7. See also Map (annotated by P-2041), CAR-OTP-2104-0020-R01.

⁸⁷²⁵ P-1839: T-171, p. 54, lines 13-22.

something along the lines of ‘[w]e’ll finish with you’ with his window open.⁸⁷²⁶
[REDACTED].⁸⁷²⁷

3543. The threat described by P-1839 is similar to those mentioned by P-2389. P-2389 indicated that as the Anti-Balaka vehicles entered Mbaïki that day and drove by the town, the elements inside them pointed to the Muslims, including to him, and threatened them by making gestures with their fingers across their throats ‘suggesting that they [were] going to cut [their] throats’.⁸⁷²⁸ P-2389 stated that in that moment, he feared for his life and that of his family.⁸⁷²⁹ The elements continued to threaten Muslims when they went out of their vehicles, saying that they would do ‘bad things’ to them when the night fell.⁸⁷³⁰ [REDACTED].⁸⁷³¹

3544. P-2389 also indicated that when the Anti-Balaka arrived, some local Christians changed their attitude, supported the Anti-Balaka and joined them.⁸⁷³² P-2041 similarly stated that immediately after the Anti-Balaka’s arrival, the behaviour of the local Christian youth towards Muslims became threatening.⁸⁷³³ In particular, and according to P-2041, these local youngsters armed themselves with machetes, mixed with the Anti-Balaka and moved around the neighborhoods on foot together with the Anti-Balaka elements.⁸⁷³⁴

3545. Moreover, P-2389 stated that the local population provoked Muslims in an attempt to get the Anti-Balaka to attack them, which would have given them an opportunity to pillage.⁸⁷³⁵ P-2389 explained that those who provoked them most were the local youths who loaded the

⁸⁷²⁶ P-1839: T-171, p. 55, line 22 – p. 56, line 23, p. 57, lines 16-21. *See also* HRW Report, CAR-OTP-2001-2308, at 2343-44, which indicates that ‘[i]n Mbaïki on February 4, despite the deployment of French forces, Human Rights Watch found anti-balaka fighters threatening elderly Muslim men in the main market, running their fingers across their throats in front of the old men’. The Chamber notes in this regard also the evidence of P-1577, who travelled to Mbaïki, [REDACTED], and encountered a group on the entrance to Mbaïki who identified themselves as Anti-Balaka; they were ‘very aggressive, very regimented and extremely heavily armed’, and warned him not to [REDACTED], after which he spent the night with the French peacekeepers in Mbaïki before continuing to Bangui the following day (see P-1577 First Statement, CAR-OTP-2081-0769-R01, at 0812; P-1577 Second Statement, CAR-OTP-2088-0717-R01, at 0722; P-1577: T-027, p. 83, line 3 – p. 84, line 4; T-028, p. 73, lines 11-25; Satellite image (annotated by P-1577), CAR-OTP-2088-0734).

⁸⁷²⁷ P-1839: T-171, p. 54, lines 21-22.

⁸⁷²⁸ P-2389 Statement, CAR-OTP-2104-0033-R03, at 0043, para. 57; P-2389: T-238, p. 8, lines 8-23.

⁸⁷²⁹ P-2389 Statement, CAR-OTP-2104-0033-R03, at 0043, para. 57.

⁸⁷³⁰ P-2389: T-238, p. 9, line 19 – p. 10, line 16.

⁸⁷³¹ P-2389 Statement, CAR-OTP-2104-0033-R03, at 0044, para. 59.

⁸⁷³² P-2389 Statement, CAR-OTP-2104-0033-R03, at 0044, para. 62; P-2389: T-238, p. 32, line 23 – p. 33, line 7.

⁸⁷³³ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0011, para. 51.

⁸⁷³⁴ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0011, para. 51, at 0013-14, para. 58.

⁸⁷³⁵ P-2389 Statement, CAR-OTP-2104-0033-R03, at 0044, para. 62.

vehicles at the bus station.⁸⁷³⁶ Specifically, he referred to an incident in which they fired a gunshot and shouted that the Arabs were attacking them, and to the fact that they stopped, searched and harassed Muslims walking from the market to the Baguirmi neighbourhood.⁸⁷³⁷

3546. P-2389 also stated that at the time, he felt that Mr Yekatom and the Anti-Balaka could not attack them ‘only because of the presence of the S[angaris]’, and believed that without their presence, the Anti-Balaka would have attacked and killed the Muslims in Mbaïki.⁸⁷³⁸

3547. Diakité Aboubakar testified that after the Mbaïki meeting and the speeches given by Mr Yekatom, there was peace and calm in the town, except for ‘a few incidents’ that were not serious.⁸⁷³⁹ He testified that during the week that elapsed between the departure of the Muslims of Chadian origin and that of ‘the Central African Muslims and West Africans’, they cohabited with the Anti-Balaka and while there were no attacks, there were threats.⁸⁷⁴⁰ At the same time, Diakité Aboubakar also stated that the Anti-Balaka circulated around the town making threats, and that he heard them insulting and threatening Muslims, using the term ‘*boubtiala*’ (meaning ‘stupid’ in Sango) and saying that ‘[i]f you continue to stay, we are going to kill you’.⁸⁷⁴¹

3548. Similarly to P-2389’s and Diakité Aboubakar’s evidence, P-1666 testified that the Anti-Balaka threatened the Muslim population in Mbaïki walking around the town armed with machetes and telling Muslims that they would kill them.⁸⁷⁴² According to the witness, they would take the Muslims’ possessions forcibly, and sometimes demand 10,000 CFA.⁸⁷⁴³ P-1666 also indicated that Muslims stayed in their compounds and could not move around freely because there were ‘uncontrolled elements everywhere who attacked Muslims’.⁸⁷⁴⁴

⁸⁷³⁶ P-2389 Statement, CAR-OTP-2104-0033-R03, at 0044, para. 62. *See also* P-2389: T-238, p. 33, lines 3-7 (when specifically asked whether some locals were mixed up with the Anti-Balaka from the moment they arrived, P-2389 responded that people joined the Anti-Balaka, after which Muslims started to be afraid and things became ‘much more tense’).

⁸⁷³⁷ P-2389 Statement, CAR-OTP-2104-0033-R03, at 0044, para. 62.

⁸⁷³⁸ P-2389 Statement, CAR-OTP-2104-0033-R03, at 0044, para. 63.

⁸⁷³⁹ P-1595: T-106, p. 7, line 10 – p. 8, line 14.

⁸⁷⁴⁰ P-1595: T-106, p. 8, lines 15-24.

⁸⁷⁴¹ P-1595 Statement, CAR-OTP-2104-0274-R02, at 0289-90, para. 85; P-1595: T-106, p. 6, lines 15-16.

⁸⁷⁴² P-1666: T-230, p. 32, line 17 – p. 33, line 1.

⁸⁷⁴³ P-1666: T-230, p. 33, lines 12-19.

⁸⁷⁴⁴ P-1666: T-230, p. 62, line 19 – p. 63, line 12. *See also* T-231, p. 3, line 2-11 (clarifying, when asked, that it was the ‘*chef*’ of the ‘rebels’ who used the expression ‘uncontrollable elements’, saying there were some of ‘their’ elements who were doing bad acts and they decided those acts were uncontrollable).

Further, he testified that Muslims in Mbaïki were not afraid of the local people but of the Anti-Balaka who had arrived ‘from everywhere’ to Mbaïki and had started to loot and steal.⁸⁷⁴⁵

3549. P-2353 indicated that the Anti-Balaka seemed to completely disregard the instructions not to harm Muslims given by Mr Yekatom, whose words, according to the witness, ‘were like throwing petrol on a fire’.⁸⁷⁴⁶ In particular, he indicated that the Anti-Balaka elements, who amounted to hundreds, threatened their children and harassed Muslims in the market.⁸⁷⁴⁷ P-2353 mentioned that the ‘youth delinquents’ who joined the Anti-Balaka *also* threatened and insulted them, telling them ‘[w]e don’t want to see you here. We will kill you’.⁸⁷⁴⁸ Further, P-2353 indicated that the Anti-Balaka threatened and insulted him on several occasions, including in his house, and that he gave them money to calm them down and get rid of them.⁸⁷⁴⁹ He also indicated that when Mr Yekatom was in Mbaïki, the Anti-Balaka did not cause problems, but when he was away, they worried about what the elements would do.⁸⁷⁵⁰

3550. P-2354 stated that he saw the Anti-Balaka elements that had arrived with Mr Yekatom in the town walking around with AK47s and machetes and while he was passing, they would say ‘You Muslims, wait, you will see’.⁸⁷⁵¹ P-2354 took this to mean that they were prepared to kill them, a verbal life threat, and was very scared because he had his wife and children with him [REDACTED].⁸⁷⁵² Towards the end of January 2014, the Anti-Balaka that had accompanied Mr Yekatom said such things as, ‘We will kill you Muslims, we will cut your

⁸⁷⁴⁵ P-1666: T-231, p. 27, lines 20-25.

⁸⁷⁴⁶ P-2353 Statement, CAR-OTP-2100-0226-R03, at 0235, para. 53. The Chamber notes that the witness referred to ‘Rambo’ throughout his written statement, but that it is clear from context and the witness’s testimony that these are references to Mr Yekatom (*see e.g.* P-2353: T-161, p. 16, line 9).

⁸⁷⁴⁷ P-2353 Statement, CAR-OTP-2100-0226-R03, at 0235-36, paras 53-55; P-2353: T-161, p. 25, line 21 – p. 26, line 14.

⁸⁷⁴⁸ P-2353: T-161, p. 59, lines 10-20.

⁸⁷⁴⁹ P-2353: T-161, p. 26, lines 15-19, p. 27, lines 6-11.

⁸⁷⁵⁰ P-2353: T-162, p. 6, lines 7-15. The Chamber notes that at the same time, P-2353 stated that the Anti-Balaka made threats and menacing gestures when Mr Yekatom was in Mbaïki as well as when he was away (*see* P-2353 Statement, CAR-OTP-2100-0226-R03, at 0236, para. 55).

⁸⁷⁵¹ P-2354 Statement, CAR-OTP-2105-0991-R03, at 1001, para. 53; P-2354: T-210, p. 14, line 24 – p. 15, line 20.

⁸⁷⁵² P-2354 Statement, CAR-OTP-2105-0991-R03, at 1001, para. 53.

throats, and we will eat you’.⁸⁷⁵³ While Mr Yekatom was in Bangui when that happened, he did not do anything about those that issued the threats.⁸⁷⁵⁴

3551. The aforementioned evidence shows that while members of the non-Muslim local population may have threatened members of the Muslim population, elements of Mr Yekatom’s group also threatened the Muslim population.

3552. Further, the Chamber heard evidence related to Mr Yekatom’s and Cœur de Lion’s interactions with the Muslim population⁸⁷⁵⁵ as well as with the authorities in Mbaïki to maintain order in the town and prevent the commission of atrocities. In this regard, the Yekatom Defence argues that the efforts of the ‘RFACPP’ to restore order and security along the axis continued in the form of ‘frequent collaboration’ with international and local authorities.⁸⁷⁵⁶

3553. Alexandre Kouroupe-Awo indicated that Mr Yekatom would meet with MISCA/MINUSCA in Mbaïki to discuss reported incidents of ‘misbehaviour of the Anti-Balaka’, both before and some time after the death of Djido Saleh.⁸⁷⁵⁷ Alexandre Kouroupe-Awo testified that some of the elements who committed abuses such as threats, ‘verbal attacks’, ‘acts of violence’ and pillaging were ‘among the accused’s group in different places’, but that there were also young people ‘who were passing themselves off as elements of the accused, while they were not’.⁸⁷⁵⁸ The witness recalled that at least on one occasion, Mr Yekatom brought to the MISCA compound individuals who had reportedly conducted acts of violence in a given locality and who, according to the witness, were acting on their own and not on behalf of Mr Yekatom.⁸⁷⁵⁹ He also confirmed recalling an incident described in a document, stating

⁸⁷⁵³ P-2354 Statement, CAR-OTP-2105-0991-R03, at 1002, para. 57; P-2354: T-210, p. 15, line 21 – p. 16, line 10.

⁸⁷⁵⁴ P-2354 Statement, CAR-OTP-2105-0991-R03, at 1002, para. 57.

⁸⁷⁵⁵ In this regard, the Chamber recalls P-1666’s evidence about the encounters with Cœur de Lion first and with Mr Yekatom later in which money was handed over to them; and in which, respectively, Cœur de Lion said to call him if ‘any uncontrolled element’ threatened or abused civilians so that he could intervene, and Mr Yekatom gave ‘reassurances’ and said to cooperate with his deputy in the field if there were any problems (see P-1666: T-230, p. 51, lines 11-22; p. 53, line 13 – p. 54, line 12, p. 55, line 7 – p. 56, line 8; see also P-2389 Statement, CAR-OTP-2104-0033-R03, at 0043, para. 55 (stating that ‘Rombhot’ gave his phone number [REDACTED] to call him in case anything happened)). See further the evidence of P-2354 and P-2353 outlined in paragraphs 3525-3526 above.

⁸⁷⁵⁶ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 484.

⁸⁷⁵⁷ P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0046, para. 71; P-1813: T-180, p. 31, line 15 – p. 32, line 11, p. 33, lines 18-23.

⁸⁷⁵⁸ P-1813: T-180, p. 31, line 15 – p. 33, line 23.

⁸⁷⁵⁹ P-1813: T-180, p. 37, line 17 – p. 39, line 21.

that Mr Yekatom brought a number of people and weapons back from a mission and to the residency of the prefect.⁸⁷⁶⁰ The document suggests that, ‘according to Alfred Rombo’, the aim of this mission was to disarm ‘these fake militia that disturb the rural population’, and assist MISCA to ensure free circulation of people and goods in the Lobaye and Ombella-M’Poko prefectures.⁸⁷⁶¹ The Chamber notes in this regard that Alexandre Kouroupe-Awo stated that the population that was being disturbed was not Muslim as in the peripheral locations, only members of the ‘indigenous population’ were present.⁸⁷⁶²

3554. Alexandre Kouroupe-Awo testified that he participated in several meetings, together with the MINUSCA, the municipality, the security forces and Mr Yekatom to draw the latter’s attention on ‘some of his elements who had conducted acts of violence at a number of locations in the locality, whether it be Mbaïki centre or in some of the communes’.⁸⁷⁶³

3555. Raymond Mongbandi categorically denied the question of whether Mr Yekatom worked with MISCA to ensure safety in Lobaye.⁸⁷⁶⁴ He acknowledged, however, that Mr Yekatom attended meetings which MISCA also attended.⁸⁷⁶⁵ When asked, Raymond Mongbandi also denied hearing that MISCA asked Mr Yekatom to patrol the regions to re-establish public order, indicating that they only saw each other once in *St Jeanne d’Arc* to talk about restoring peace.⁸⁷⁶⁶ When asked about a handwritten note, the witness indicated that the authorities ‘wanted the Anti-Balaka to stop their hostilities and contribute to the restoration of peace in the country and in the town’, which is why the Anti-Balaka laid down their weapons.⁸⁷⁶⁷ However, the witness did not recall the incident described in the note nor having participated

⁸⁷⁶⁰ P-1813: T-182, p. 51, line 19 – p. 53, line 15 referring to Note, CAR-D29-0002-0086. The Chamber notes that this one-page handwritten document indicating at the bottom ‘Mbaïki, Michel-Martial B[o]boya, Radio Ndeke-Luka’, as well as what appears to be the date 15 April 2014 (see also T-182, p. 51, line 25 – p. 52, line 5). P-1813 confirmed that a correspondent of Radio Ndeke Luka who he went to Bangui-Bouchia with on another occasion is Martial Boboya (see P-1813: T-182, p. 15, lines 10-12). From the metadata, the Chamber is unable to discern who this document initially originated from, under which circumstances it was prepared, or which specific sources it is based on.

⁸⁷⁶¹ Note, CAR-D29-0002-0086. This mission appears also in a handwritten document with subject ‘report on missions’, dated 21 April 2014, addressed to the minister of defence, and undersigned ‘c.c. Rombhot-Alfrèd-Yekatom’ (see Letter, CAR-D29-0013-0028).

⁸⁷⁶² P-1813: T-180, p. 39, lines 14-21.

⁸⁷⁶³ P-1813: T-180, p. 35, line 21 – p. 37, line 16.

⁸⁷⁶⁴ P-1838: T-216, p. 27, lines 4-8.

⁸⁷⁶⁵ P-1838: T-216, p. 27, lines 4-8.

⁸⁷⁶⁶ P-1838: T-216, p. 27, lines 9-12.

⁸⁷⁶⁷ P-1838: T-216, p. 27, line 19 – p. 28, line 16 referring to Note, CAR-D29-0002-0086.

in a ceremony of handing over weapons.⁸⁷⁶⁸ When shown a document related to the discharge of the weapons by MISCA to the gendarmerie as mentioned in the note, Raymond Mongbandi indicated that while it certainly showed ‘a certain degree of collaboration’, what he saw happening in the field was different.⁸⁷⁶⁹

3556. Moreover, Stéphane Chrisostome Dawili explained that in his role as deputy ComZone of Mbaïki, which he became after their return from Boda, he had to identify ‘fake A[nti-Balaka] who infiltrated the group and conducted offences’, and ‘protect the people against them’.⁸⁷⁷⁰ In oral testimony, Stéphane Chrisostome Dawili confirmed, when asked, that part of his duty in Mr Yekatom’s group was to assist the gendarmerie and ‘act as kind of *force d’ordre*’.⁸⁷⁷¹ He also indicated, when asked, that he recalled the incident described in the Ndeke Luka report.⁸⁷⁷²

3557. Lastly, Diakit  Aboubakar indicated that after some Anti-Balaka elements threatened him at the mosque while he was praying and broke the mosque’s signpost, other elements chased them away, telling them that they had not listened to Mr Yekatom’s statement.⁸⁷⁷³ From that day, the witness gave these other Anti-Balaka elements money for coffee, and one of them told the imam that he was not there to harm him.⁸⁷⁷⁴

3558. The Chamber notes that it transpires from the evidence given by P-1666, P-2353 and P-2354 that Mr Yekatom, as well as C  ur de Lion, knew that elements of the group committed acts of violence in Mbaïki. Indeed, Mr Yekatom and C  ur de Lion gave [REDACTED] their phone numbers so that [REDACTED] could inform them of such acts and [REDACTED] contacted C  ur de Lion. The aforementioned evidence also shows Mr Yekatom’s efforts to control these elements, not only by providing his phone number but also by meeting the MISCA/MINUSCA when it reported incidents of ‘misbehaviour by the Anti-Balaka’, and by asking the ComZone and deputy ComZone of Mbaïki to identify ‘fake Anti-Balaka’.

⁸⁷⁶⁸ P-1838: T-216, p. 28, line 18 – p. 30, line 9.

⁸⁷⁶⁹ P-1838: T-216, p. 31, lines 8-19 *referring to* Note, CAR-D29-0013-0030.

⁸⁷⁷⁰ P-1647 Statement, CAR-OTP-2050-0654-R02, at 0662, para. 52, at 0663, para. 61.

⁸⁷⁷¹ P-1647: T-195, p. 50, lines 22-24.

⁸⁷⁷² P-1647: T-195, p. 49, line 13 – p. 50, line 17.

⁸⁷⁷³ P-1595 Statement, CAR-OTP-2104-0274-R02, at 0286, para. 68; P-1595: T-106, p. 8, line 25 – p. 9, line 10.

⁸⁷⁷⁴ P-1595 Statement, CAR-OTP-2104-0274-R02, at 0286, para. 69.

3559. At the same time, however, the Chamber is mindful that the efforts and measures described above took place *after* the removal of the Muslim civilian population from Mbaïki had been decided and/or carried out. The evidence outlined above can only be assessed considering this context. This is the case of the identification and disarming of ‘fake Anti-Balaka’. Indeed, the Chamber observes that the event in which Mr Yekatom disarmed ‘fake Anti-Balaka’ took place in April 2014, that is, more than one month after the Muslims were removed from Mbaïki. Also the other evidence discussed above suggests that events such as the handing over of weapons, or Stéphane Chrisostome Dawili being tasked with identifying ‘fake Anti-Balaka’ in Mbaïki, took place after the Muslim civilian population was removed from Mbaïki.⁸⁷⁷⁵ In relation to Stéphane Chrisostome Dawili’s task, the Chamber in any event notes that it did not hear any concrete evidence on specific measures taken by the witness in Mbaïki to fulfill his duty to identify ‘fake Anti-Balaka’.

3560. Moreover, the Chamber notes that despite the meetings Mr Yekatom attended, Raymond Mongbandi indicated that Mr Yekatom did not cooperate with MISCA/MINUSCA to ensure security in Mbaïki. In this regard, the Chamber recalls Raymond Mongbandi’s unique and relevant position at the time as mayor of Mbaïki.

3561. Further, the Chamber notes that Mr Yekatom and Cœur de Lion [REDACTED] who, according to P-2354, asked to be treated favourably in return.

3562. In this context, the Chamber also notes P-0974’s evidence, according to which [REDACTED] a French captain asked to meet with the Anti-Balaka leader to ensure nothing would happen to the Muslims and to allow the Chadians to ‘evacuate’ them.⁸⁷⁷⁶ [REDACTED] Cœur de Lion where they were told by the French captain that he did not want weapons in town and not to harm the Muslims, which, according to P-0974, was a warning [REDACTED].⁸⁷⁷⁷

⁸⁷⁷⁵ The Chamber notes that also other documentation suggesting interaction of Mr Yekatom’s group with authorities in Lobaye or being involved in missions to ensure security date from March or later (see Notes, CAR-D29-0002-0081; CAR-D29-0002-0082; CAR-D29-0002-0084).

⁸⁷⁷⁶ P-0974 Statement, CAR-OTP-2058-0165-R01, at 0178, para. 88.

⁸⁷⁷⁷ P-0974 Statement, CAR-OTP-2058-0165-R01, at 0178, para. 88.

3563. In any event, the Chamber considers that the alleged efforts or measures displayed by Mr Yekatom were clearly insufficient because members of his group continued to threaten and harass the Muslim civilian population, irrespective of whether members of the local population also issued threats. The violence the Anti-Balaka exerted on Muslim civilians did not end as a consequence of the measures Mr Yekatom implemented but because the Muslims were removed from Mbaïki and transported elsewhere.

3564. In addition to the above, Alexandre Kouroupe-Awo stated that he gave the gendarmerie in Mbaïki his own ‘service car’ so that they could patrol the area at night to protect the local population, and that one night a group of Anti-Balaka attacked them while patrolling, taking their weapons and the ‘service car’.⁸⁷⁷⁸ Similarly, P-2041 stated that approximately four days after the Anti-Balaka arrived in Mbaïki, they took the vehicle of the gendarmerie company commander and drove towards Bangui.⁸⁷⁷⁹

6. *Dislocation of Muslims from Mbaïki*

On 6 February 2014, Chadian forces transported a first group of Muslim civilians from Mbaïki to Chad and other locations in the CAR. These Muslim civilians had to leave their belongings behind. They left Mbaïki in fear of the Anti-Balaka and, in particular, due to the arrival of Mr Yekatom’s group to Mbaïki. The total number of Muslims removed from Mbaïki at the time amounted to at least 3,000. As a result of this dislocation, very few Muslim civilians remained in Mbaïki. The living conditions in the refugee camps in Chad were extremely difficult.

3565. On 6 February 2014, Chadian forces arrived in Mbaïki to transport the Muslim population out of Mbaïki.⁸⁷⁸⁰ Their dislocation was caused by the arrival of Mr Yekatom’s group to Mbaïki after advancing along the axis and had been decided at the meeting of 30 January 2014.⁸⁷⁸¹ The affected individuals included inhabitants of Mbaïki as well as inhabitants of

⁸⁷⁷⁸ P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0044, para. 58. *See also* P-2354: T-210, p. 18, lines 3-22 (mentioning an incident in which elements of ‘Rambo’ took the vehicle belonging to the prefect and drove it around Bangui until ‘Rino’ and Sangaris intervened by calling ‘Rambo’ and asking him to return this and other vehicles, after which the vehicles were returned).

⁸⁷⁷⁹ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0014, para. 59.

⁸⁷⁸⁰ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0267, para. 82, at 0271, para. 102; P-1666: T-230, p. 31, lines 16-22; T-231, p. 28, lines 9-15; P-1647 Statement, CAR-OTP-2050-0654, at 0661, para. 48; P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0044, para. 59; P-2389 Statement, CAR-OTP-2104-0033-R03, at 0045, paras 67-68; P-2084 Statement, CAR-OTP-2094-0968-R02, at 0982, para. 69; P-2084: T-233, p. 11, line 22 – p. 12, line 2; P-2041 Statement, CAR-OTP-2104-0003-R02, at 0015, para. 63; P-2354 Statement, CAR-OTP-2105-0991-R03, at 1002-03, para. 63; P-2354: T-210, p. 27, line 24 – p. 28, line 6. *See also* Notes, CAR-OTP-2104-0021-R01, at 0022.

⁸⁷⁸¹ *See* section IV.E.5 above.

surrounding towns and villages in Lobaye who had sought refuge in Mbaïki town in the previous weeks.⁸⁷⁸² This included Muslims who fled from localities along the PK9-Mbaïki axis, as well as from other locations in Lobaye.

3566. The trucks arrived in Mbaïki early in the morning and left the town once Muslims had boarded the trucks, that same morning.⁸⁷⁸³ The dislocation was therefore completed within the day.

3567. P-2389 stated that he saw 20 big military green trucks arriving to Mbaïki that morning, and that he estimated that each truck could take around 80 people.⁸⁷⁸⁴ Roger Okoa-Penguia stated that 61 trucks were needed to get out ‘thousands of Muslims’ from Mbaïki.⁸⁷⁸⁵ Diakité Aboubakar stated that there must have been about 30 big trucks to ‘evacuate’ ‘the Chadians’.⁸⁷⁸⁶ P-2041 mentioned ten wheeled military trucks, and estimated that more than a hundred people were loaded on each truck.⁸⁷⁸⁷ He also testified that 2,000 Muslims left the town of Mbaïki that day.⁸⁷⁸⁸ P-2354 referred in his statement to a ‘convoy of 8 trucks’ that went from Mbaïki to Bangui, while he indicated later that a total of 16 trucks were used to ‘evacuate’ everyone.⁸⁷⁸⁹ D29-5013 indicated that there were 17 large trucks and more than 3,000 people who wanted to leave Mbaïki.⁸⁷⁹⁰

3568. The Chamber recalls that at that time, the Muslim inhabitants of the town of Mbaïki amounted to at least 2,000.⁸⁷⁹¹ It further recalls its conclusion that at least 1,000 Muslims had fled to Mbaïki from surrounding towns and villages.⁸⁷⁹² Accordingly, the Chamber

⁸⁷⁸² P-1595 Statement, CAR-OTP-2104-0274-R02, at 0282, para. 41, at 0290, para. 87; D29-5015: T-255, p. 70, line 5 – p. 71, line 13.

⁸⁷⁸³ P-2389 Statement, CAR-OTP-2104-0033-R03, at 0045, para. 68, at 0046, para. 71; P-1838 Statement, CAR-OTP-2100-0252-R05, at 0267, para. 85; P-1595 Statement, CAR-OTP-2104-0274-R02, at 0290-91, para. 88; D29-5015: T-255, p. 70, lines 19-25; D29-5013: T-285, p. 50, line 20 – 51, line 2.

⁸⁷⁸⁴ P-2389 Statement, CAR-OTP-2104-0033-R03, at 0045, para. 68; P-2389: T-238, p. 11, line 21 – p. 12, line 1, p. 12, line 25 – p. 13, line 12.

⁸⁷⁸⁵ P-2084 Statement, CAR-OTP-2094-0968-R02, at 0982, para. 69; P-2084: T-233, p. 11, line 22 – p. 12, line 2. The Chamber notes that in his testimony, P-2084 referred to these individuals as ‘the Chadians’.

⁸⁷⁸⁶ P-1595 Statement, CAR-OTP-2104-0274-R02, at 0290, para. 87.

⁸⁷⁸⁷ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0015, para. 64.

⁸⁷⁸⁸ P-2041: T-229, p. 97, lines 1-5.

⁸⁷⁸⁹ P-2354 Statement, CAR-OTP-2105-0991-R03, at 1003, para. 66; P-2354: T-210, p. 21, lines 9-16.

⁸⁷⁹⁰ D29-5013: T-285, p. 51, lines 5-14. The Chamber notes that it seems from D29-5013’s answer that this information was provided to her by the officer [REDACTED] who was based in Mbaïki.

⁸⁷⁹¹ See paragraph 3448 above.

⁸⁷⁹² See paragraph 3448 above.

concludes that at least 3,000 Muslims were removed from Mbaïki that day. The Chamber considers that this number is coherent with and supported by most of the evidence provided in this respect, set out above. It is also consistent with the evidence indicating that as a result of the removal of Muslim civilians from Mbaïki, very few Muslims remained in Mbaïki.⁸⁷⁹³

3569. P-2389 and P-2041 indicated that women and children in these trucks were more numerous than men.⁸⁷⁹⁴

3570. According to P-2041, the Congolese MISCA forces as well as Anti-Balaka elements were present when the vehicles from Chad arrived to ‘evacuate’ them, but not Mr Yekatom, who the witness heard had left for Bangui the night before.⁸⁷⁹⁵ When asked, P-2041 specified that he identified the Anti-Balaka as such because they were armed with arrows, bows and machetes.⁸⁷⁹⁶ P-2354 indicated that the Anti-Balaka fled into the bush when the trucks arrived.⁸⁷⁹⁷ Both P-2041 and P-2389 indicated that the Sangaris were not present at the time because they were in Boda.⁸⁷⁹⁸

3571. Some of the individuals who were removed from Mbaïki that day, as well as others who watched the scene, described the departure of Muslims from Mbaïki as a difficult and emotional situation.

3572. P-2041 and P-2353 stated that the Chadian soldiers forced people onto the trucks.⁸⁷⁹⁹ P-2353 claimed that they beat some of them with batons, including an imam.⁸⁸⁰⁰ P-2353 and P-2354

⁸⁷⁹³ See paragraph 3628 below.

⁸⁷⁹⁴ P-2389: T-238, p. 12, lines 3-10; P-2041: T-229, p. 97, lines 1-5.

⁸⁷⁹⁵ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0015, para. 63.

⁸⁷⁹⁶ P-2041: T-229, p. 94, lines 1-6.

⁸⁷⁹⁷ P-2354 Statement, CAR-OTP-2105-0991-R03, at 1003, para. 64.

⁸⁷⁹⁸ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0015, para. 63; P-2389 Statement, CAR-OTP-2104-0033-R03, at 0045, para. 69.

⁸⁷⁹⁹ P-2041: T-229, p. 96, lines 17-25; P-2353 Statement, CAR-OTP-2100-0226-R03, at 0237-38, para. 63. *See also* P-1813: T-182, p. 37, line 23 – p. 38, line 13 (stating that the Chadian soldiers accompanying the trucks were ‘heavy-handed’, either because some wanted to take too many possessions or because some were not able, physically, to quickly climb into the lorries).

⁸⁸⁰⁰ P-2353 Statement, CAR-OTP-2100-0226-R03, at 0237-38, para. 63. P-2354 stated that he heard that the Chadian soldiers beat their imam but that he did not witness it (*see* P-2354 Statement, CAR-OTP-2105-0991-R03, at 1003, para. 64).

claimed that the Chadian soldiers treated them harshly as they tried to leave the town as quickly as possible.⁸⁸⁰¹

3573. According to P-2389 and P-2353, some families were separated in different trucks.⁸⁸⁰²

Several witnesses indicated that people were upset and cried as they climbed into the trucks.⁸⁸⁰³ Diakité Aboubakar stated that Christians gathered around the trucks and some of them cried.⁸⁸⁰⁴ Diakité Aboubakar indicated that other people said bad things to the Muslims as they boarded and left, celebrating their departure, saying things like ‘now go back to your country. We don’t need you’ and ‘*boubatiala*’ (meaning ‘stupid’ in Sango), but that the people who were sad about the departure told them to stop saying such things.⁸⁸⁰⁵

3574. Various witnesses indicated that people were not allowed to get into the trucks with their possessions, which they had to leave behind.⁸⁸⁰⁶ P-2353 and P-2041 indicated that the Chadian soldiers threw people’s belongings on the ground.⁸⁸⁰⁷ P-2353 claimed that the fact that they were not allowed to bring their luggage with them added to their distress.⁸⁸⁰⁸ P-1823 stated that those who wanted to leave Mbaïki had to leave all their possessions, but ‘the most essential thing was to save yourself, save your skin’.⁸⁸⁰⁹ P-2041 said that while some

⁸⁸⁰¹ P-2353 Statement, CAR-OTP-2100-0226-R03, at 0237-38, para. 63; P-2354 Statement, CAR-OTP-2105-0991-R03, at 1003, para. 64.

⁸⁸⁰² P-2353 Statement, CAR-OTP-2100-0226-R03, at 0237-38, para. 63; P-2389: T-238, p. 11, lines 1-16, p. 18, lines 1-5 (testifying that he travelled together with some of his children on one truck, while his wives and the rest of the family travelled separately, and that they all met up again at the airport).

⁸⁸⁰³ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0266, para. 77, at 0267, para. 83; P-1838: T-215, p. 29, line 19 – p. 30, line 5; P-2041 Statement, CAR-OTP-2104-0003-R02, at 0015, para. 64; P-2354 Statement, CAR-OTP-2105-0991-R03, at 1003, para. 64; P-2354: T-210, p. 21, line 17 – p. 22, line 3.

⁸⁸⁰⁴ P-1595 Statement, CAR-OTP-2104-0274-R02, at 0291, para. 89.

⁸⁸⁰⁵ P-1595 Statement, CAR-OTP-2104-0274-R02, at 0291, para. 89.

⁸⁸⁰⁶ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0267, para. 85; P-2389 Statement, CAR-OTP-2104-0033-R03, at 0045, para. 70; P-1666: T-231, p. 29, lines 7-23; P-2041 Statement, CAR-OTP-2104-0003-R02, at 0015, para. 64; P-2041: T-229, p. 95, lines 7-22; D29-5015: T-255, p. 73, lines 18-22; D29-5013: T-285, p. 51, line 5 – p. 52, line 10; P-2353 Statement, CAR-OTP-2100-0226-R03, at 0238, para. 64; P-2353: T-162, p. 6, line 17 – p. 7, line 5; P-2354 Statement, CAR-OTP-2105-0991-R03, at 1002-03, para. 63. *See also* P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0044, para. 59. The Chamber does not consider this conclusion to be discredited by the evidence of Antareze-De-Neve Madongagba, who stated that before leaving, some Muslims sold their possessions (*see* D29-5012: T-294, p. 51, line 24 – p. 52, line 12). Even if this was the case, the Muslims in question were not able to leave with their belongings.

⁸⁸⁰⁷ P-2353 Statement, CAR-OTP-2100-0226-R03, at 0237-38, para. 63; P-2041: T-229, p. 95, lines 1-6.

⁸⁸⁰⁸ P-2353 Statement, CAR-OTP-2100-0226-R03, at 0238, para. 64.

⁸⁸⁰⁹ P-1823: T-183, p. 29, lines 6-10, p. 33, lines 6-14.

people managed to take a bag with them, most could only take what they were wearing at the time.⁸⁸¹⁰

3575. P-1666 described how he felt that day:

When I left Mbaïki it was extremely difficult. I had tears in my eyes. The Christians came, they took our hands. They cried, we cried. It was very moving. We didn't expect this departure. We didn't think that one day we would leave from this town. You must remember, we invested a lot. We built a lot up and all of a sudden we had to abandon everything and leave. It was really with great sadness because we were forced to abandon everything which we had shared as we grew up, so there was a lot of sadness. It was difficult. It was very hard to bear.⁸⁸¹¹

3576. The evidence indicates that in addition to the trucks of the Chadian forces, the convoy that left Mbaïki that day also included private vehicles. Diakit  Aboubakar and D29-5013 indicated that some Muslims of Chadian origin provided their vehicles to transport people.⁸⁸¹² P-2353 stated that he carried people, as well as the family luggage and possessions, in his [REDACTED] vehicles and followed the Chadian truck on which his family had left for Bangui.⁸⁸¹³ According to P-2353, he used [REDACTED] to transport 40 people, as well as his family luggage and possessions.⁸⁸¹⁴ He also stated that he followed the Chadian convoy with [REDACTED] while his family travelled in one of the Chadian trucks.⁸⁸¹⁵ Similarly, P-1666 testified that he and his 'brothers and sisters' used their own vehicles to drive to Kilometre 5 with the Chadian convoy.⁸⁸¹⁶ P-2354 also indicated that he joined the convoy [REDACTED].⁸⁸¹⁷

3577. Regarding the possessions that people could not load on the trucks and take with them, P-2389 indicated that they were mostly taken by those who stayed behind.⁸⁸¹⁸ Other witnesses,

⁸⁸¹⁰ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0015, para. 64.

⁸⁸¹¹ P-1666: T-231, p. 54, line 21 – p. 55, line 4.

⁸⁸¹² P-1595 Statement, CAR-OTP-2104-0274-R02, at 0290, para. 87; D29-5013: T-286, p. 49, lines 1-6.

⁸⁸¹³ P-2353 Statement, CAR-OTP-2100-0226-R03, at 0237, para. 62.

⁸⁸¹⁴ P-2353 Statement, CAR-OTP-2100-0226-R03, at 0237, para. 62.

⁸⁸¹⁵ P-2353 Statement, CAR-OTP-2100-0226-R03, at 0237, para. 62.

⁸⁸¹⁶ P-1666: T-231, p. 30, line 17 – p. 31, line 7.

⁸⁸¹⁷ P-2354 Statement, CAR-OTP-2105-0991-R03, at 1003, para. 64.

⁸⁸¹⁸ P-2389 Statement, CAR-OTP-2104-0033-R03, at 0045, para. 70 (specifically indicating that [REDACTED] told him that the luggage left behind was taken by the local Christian population, and that when the Anti-Balaka returned to Mbaïki, they took it from the population).

including Raymond Mongbandi, Roger Okoa-Penguia, P-2354 and D29-5013, similarly testified to this.⁸⁸¹⁹

3578. With respect to the houses and shops owned by those who left, including from localities along the PK9-Mbaïki axis, some witnesses indicated that they were occupied, with or without the owners' consent, while other witnesses claimed that they were destroyed. Guerrino Perin testified that some Muslim houses were occupied by people who no longer had their own house.⁸⁸²⁰ Raymond Mongbandi specified that he saw Mr Yekatom accompany his elements around Mbaïki and install them in the abandoned houses of the Muslims.⁸⁸²¹ Roger Okoa-Penguia stated that the local population and the Anti-Balaka elements entered the houses abandoned by the Muslims and 'helped themselves to what they found'.⁸⁸²² P-1666 confirmed his previous statement that Christians from certain neighbourhoods of Bangui settled in the houses and shops of the Muslims in Mbaïki and did not want the Muslims to return to Mbaïki.⁸⁸²³

3579. Raymond Mongbandi also indicated that he knew that arrangements were made so that those who stayed could take care of some of the houses.⁸⁸²⁴ The witness indicated that these houses were protected and 'stayed intact', and denied that any houses were destroyed.⁸⁸²⁵ Alexandre Kouroupe-Awo similarly stated that some Muslims left their properties under the care of their neighbours or designated locals.⁸⁸²⁶ Alexandre Kouroupe-Awo indicated that they tried to ensure that the population did not destroy the Muslim houses and that he believed that no house was destroyed.⁸⁸²⁷

⁸⁸¹⁹ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0267, para. 85; P-1838: T-215, p. 43, line 24 – p. 44, line 13; P-2084 Statement, CAR-OTP-2094-0968-R02, at 0982, para. 69 (stating that the small items left behind were taken by the population or vandalised); P-2354 Statement, CAR-OTP-2105-0991-R03, at 1003, para. 66 (stating that all the belongings that remained in Mbaïki were taken by the Anti-Balaka, who also emptied [REDACTED], and that he learnt this from his neighbours as well as seeing it himself as they left Mbaïki); D29-5013: T-285, p. 51, line 5 – p. 52, line 10 (indicating that her colleague, who witnessed the 'evacuation', told her that the young people who stayed 'threw themselves upon the possessions' and argued, and that when she got to the location, she saw a lot of personal items along the road that were left there).

⁸⁸²⁰ D29-5015: T-254, p. 84, lines 6-15.

⁸⁸²¹ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0268, para. 91.

⁸⁸²² P-2084 Statement, CAR-OTP-2094-0968-R02, at 0982, para. 69.

⁸⁸²³ P-1666: T-232, p. 6, lines 8-13.

⁸⁸²⁴ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0267, para. 85.

⁸⁸²⁵ P-1838: T-215, p. 43, line 24 – p. 44, line 13.

⁸⁸²⁶ P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0044, para. 59; P-1838: T-215, p. 45, lines 9-16.

⁸⁸²⁷ P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0044, para. 60.

3580.P-2389 stated that the person he had asked to look after his house in Pissa told him that he was chased away by the Anti-Balaka, who moved into the house, and that they wanted to destroy his second house but were prevented from doing so by the local population.⁸⁸²⁸ [REDACTED] after arriving to Mbaïki, P-2389 also heard from a friend that the Anti-Balaka destroyed the mosque in the Arab neighbourhood in Pissa.⁸⁸²⁹

3581.Contrary to the above evidence, Diakité Aboubakar stated that once the Muslims of Chadian origin were ‘evacuated’ from Mbaïki, their homes were destroyed by the Anti-Balaka.⁸⁸³⁰ P-2353 testified that his properties in Mbaïki, including [REDACTED], were pillaged and destroyed after he fled the town.⁸⁸³¹ When asked, he indicated that he heard that it was the Anti-Balaka, and argued that it could not have been any other group because the Anti-Balaka were the only ones who ruled and operated in Mbaïki at the time.⁸⁸³² He also indicated that his [REDACTED] were being used by other people.⁸⁸³³

3582.The Chamber also notes that some witnesses mentioned that mosques in Mbaïki were attacked and/or damaged after the Muslims’ departure from Mbaïki. Alexandre Kouroupe-Awo specifically stated that one mosque was attacked by thieves from Bangui and surrounding areas, and that the metal sheets of the roof of another mosque had been stripped off, and that he did not think it was done by the Anti-Balaka.⁸⁸³⁴ P-0475 testified that all mosques were destroyed.⁸⁸³⁵ Diakité Aboubakar stated that following the ‘evacuation’ of the Muslims of Chadian origin from Mbaïki, the Anti-Balaka destroyed all the mosques.⁸⁸³⁶ He further indicated that one month before giving his statement in March 2019, he had been in Mbaïki with Guerrino Perin and had taken pictures of the destroyed mosque.⁸⁸³⁷ Antareze-De-Neve Madongagba testified that after the Muslims left Mbaïki, the two mosques ‘were not destroyed’ but windows and doors were removed and the mosques ‘were not in very

⁸⁸²⁸ P-2389 Statement, CAR-OTP-2104-0033-R03, at 0042, para. 50.

⁸⁸²⁹ P-2389 Statement, CAR-OTP-2104-0033-R03, at 0042, para. 51.

⁸⁸³⁰ P-1595 Statement, CAR-OTP-2104-0274-R02, at 0292, para. 94. *See also* P-0475: T-090, p. 41, line 22 – p. 42, line 9.

⁸⁸³¹ P-2353 Statement, CAR-OTP-2100-0226, at 0239, para. 70; P-2353: T-161, p. 38, lines 3-16.

⁸⁸³² P-2353: T-161, p. 38, line 17 – p. 39, line 11.

⁸⁸³³ P-2353: T-161, p. 39, lines 12-19.

⁸⁸³⁴ P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0044, para. 60.

⁸⁸³⁵ P-0475: T-090, p. 41, line 22 – p. 42, line 9.

⁸⁸³⁶ P-1595 Statement, CAR-OTP-2104-0274-R02, at 0292, para. 94.

⁸⁸³⁷ P-1595 Statement, CAR-OTP-2104-0274-R02, at 0292, para. 94.

good condition'.⁸⁸³⁸ D29-5013 asserted that no mosque in Mbaïki was destroyed, but did not explain how she knew this.⁸⁸³⁹ On the basis of the above, the Chamber considers that the mosques in Mbaïki were in the least damaged, but it is unable to conclude by whom.

3583. Once the boarding of the people into the trucks was completed, the convoy initiated its journey towards Bangui. Several witnesses mentioned that on their way to Bangui, the trucks passed through Anti-Balaka barriers.⁸⁸⁴⁰

3584. P-2353 described an encounter with Mr Yekatom [REDACTED]. In particular, P-2353 indicated that Mr Yekatom, [REDACTED] told him that he should not go into exile, that he should stay in Bangui until he could return to Mbaïki in a few days when the situation went back to normal.⁸⁸⁴¹ Mr Yekatom also told him that he knew what it was like to be in exile and that this is why he did not want them to go into exile.⁸⁸⁴²

3585. P-2353 further explained that at the PK9 barrier, a 'mix' of Anti-Balaka elements and 'street bandits' threatened them verbally in the presence of gendarmes who did not intervene, but that they were allowed to pass through thanks to the Burundian MISCA, who escorted [REDACTED].⁸⁸⁴³ P-2353 stated that he was certain they would have been killed in front of the gendarmes if the Burundian MISCA had not been there.⁸⁸⁴⁴

3586. P-2041, P-2389 and P-2354 provided detailed accounts of their journey to Chad. They explained that once the trucks reached Bangui, they stopped at the airport.⁸⁸⁴⁵ According to

⁸⁸³⁸ D29-5012: T-294, p. 61, line 8 – p. 62, line 4. The Chamber notes that Antareze-De-Neve Madongagba also indicated, when asked, that he did not have information about Mr Yekatom's elements taking part in looting or destroying mosques or Muslims' homes (see D29-5012: T-294, p. 62, lines 5-15).

⁸⁸³⁹ D29-5013: T-285, p. 62, lines 3-6.

⁸⁸⁴⁰ P-2353 Statement, CAR-OTP-2100-0226-R03, at 0237, para. 62, at 0238, paras 65-67 (stating that as he drove to Bangui following the Chadian convoy [REDACTED], they drove through the barriers of Pissa, Samba and PK9); P-2041 Statement, CAR-OTP-2104-0003-R02, at 0015, para. 65 (also mentioning that they passed through the Pissa barrier); P-1595 Statement, CAR-OTP-2104-0274-R02, at 0291, para. 92 (stating that they encountered at least twenty Anti-Balaka roadblocks along the way); P-2354 Statement, CAR-OTP-2105-0991-R03, at 1003, para. 65 (stating that once they were 'evacuated', they passed through the barriers where the Anti-Balaka were collecting tolls from the travellers).

⁸⁸⁴¹ P-2353 Statement, CAR-OTP-2100-0226-R03, at 0238, para. 66.

⁸⁸⁴² P-2353 Statement, CAR-OTP-2100-0226-R03, at 0238, para. 66.

⁸⁸⁴³ P-2353 Statement, CAR-OTP-2100-0226-R03, at 0238, para. 67; P-2353: T-162, p. 11, line 18 – p. 12, line 16.

⁸⁸⁴⁴ P-2353 Statement, CAR-OTP-2100-0226-R03, at 0238, para. 67.

⁸⁸⁴⁵ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0015, para. 65; P-2041: T-230, p. 4, lines 3-6; P-2389 Statement, CAR-OTP-2104-0033-R03, at 0046, para. 71; P-2354 Statement, CAR-OTP-2105-0991-R03, at 1003, para. 66.

P-2354, some people took a flight from the airport to Chad while others continued travelling with the convoy towards Chad.⁸⁸⁴⁶ P-2354 also indicated that he joined the convoy [REDACTED] because he feared an attack by the Anti-Balaka.⁸⁸⁴⁷

3587. P-2041 and P-2389 stated that on their way to Chad, the Anti-Balaka attacked the convoy.⁸⁸⁴⁸

P-2041 believed it was the Anti-Balaka because there were many of them and they had automatic firearms.⁸⁸⁴⁹ P-2389 stated that the driver told them that it was the Anti-Balaka who were shooting at them with automatic gunfire from the trees.⁸⁸⁵⁰ Both witnesses indicated that the Chadian soldiers shot back and that the convoy was able to continue without anyone injured.⁸⁸⁵¹

3588. According to P-2041 and P-2389, the travel conditions were very difficult and they were not given any food or water during the journey.⁸⁸⁵²

3589. P-2389 explained that once they reached Chad, they were first placed in a military camp.⁸⁸⁵³

The next day, he registered his family with UNHCR and they stayed in a refugee site, but the conditions were bad and he decided to register them with ‘the Chadian central government table where returnees were registered’ although he had no family links to Chad.⁸⁸⁵⁴ The returnee site was better as ‘they received aid from the Arab countries’.⁸⁸⁵⁵

3590. P-2041 explained that upon arriving to Chad, he continued directly to [REDACTED] and rented a house for his family because he did not want to stay at one of the refugee sites as he feared for the safety of his family and especially for his [REDACTED].⁸⁸⁵⁶ In Chad, he met people from other areas such as Bouca, Nola and Carnot who were fleeing after being

⁸⁸⁴⁶ P-2354 Statement, CAR-OTP-2105-0991-R03, at 1003, para. 66.

⁸⁸⁴⁷ P-2354 Statement, CAR-OTP-2105-0991-R03, at 1003, para. 66.

⁸⁸⁴⁸ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0015, para. 66 (stating that the attack took place ‘somewhere between D[amara] and S[ibut]’); P-2389 Statement, CAR-OTP-2104-0033-R03, at 0046, para. 72 (stating that the attack took place after they passed Damara).

⁸⁸⁴⁹ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0015, para. 66.

⁸⁸⁵⁰ P-2389 Statement, CAR-OTP-2104-0033-R03, at 0046, para. 72.

⁸⁸⁵¹ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0015, para. 66; P-2389 Statement, CAR-OTP-2104-0033-R03, at 0046, para. 72.

⁸⁸⁵² P-2041 Statement, CAR-OTP-2104-0003-R02, at 0015, para. 66; P-2389 Statement, CAR-OTP-2104-0033-R03, at 0046, paras 71, 73 (stating that several people fainted on the way).

⁸⁸⁵³ P-2389 Statement, CAR-OTP-2104-0033-R03, at 0046, para. 74; P-2389: T-238, p. 13, lines 13-20.

⁸⁸⁵⁴ P-2389 Statement, CAR-OTP-2104-0033-R03, at 0046, para. 74.

⁸⁸⁵⁵ P-2389 Statement, CAR-OTP-2104-0033-R03, at 0046, para. 74.

⁸⁸⁵⁶ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0015-16, para. 67; P-2041: T-230, p. 4, lines 7-14.

attacked by the Anti-Balaka or because they feared an attack by the Anti-Balaka in which they would be killed.⁸⁸⁵⁷

3591. The Chamber notes that the Muslim civilians who were forced to leave Mbaïki and were dislocated to Chad had to go to refugee camps in Chad, like P-2389 and his family, unless they had relatives in the country and could live with them, or had the means to rent a house, like P-2041.

3592. As for the refugee camps in which these individuals stayed in Chad, several witnesses described their living conditions as poor and extremely difficult.

3593. P-2389 explained that one refugee camp had no toilets and they had to build latrines.⁸⁸⁵⁸ There was a school in one of the camps, but the conditions for the children to learn were not ‘viable’.⁸⁸⁵⁹

3594. P-2389 described the impact of leaving the CAR for him and his family as ‘very negative’ because they lost everything, they slept in difficult conditions and his children had problems accessing health care.⁸⁸⁶⁰ They spent several years in these refugee camps and at the time of P-2389’s testimony in June 2023, some of his children were still living in a refugee camp.⁸⁸⁶¹

3595. The vast majority of witnesses, including insider witnesses and Muslim civilians who were removed from Mbaïki, explained to the Chamber that the Muslim population fled Mbaïki because they were afraid of the Anti-Balaka and believed that they would be killed if they stayed.

3596. Stéphane Chrisostome Dawili, who was the deputy ComZone in Mbaïki at the time, testified that it was the presence of the Anti-Balaka in Mbaïki that scared Muslims and made them leave.⁸⁸⁶² According to this witness, Muslims in Mbaïki heard about the Anti-Balaka from Bossangoa killing Muslim civilians on their way from Bossangoa to Bangui and thought that

⁸⁸⁵⁷ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0015-16, para. 67.

⁸⁸⁵⁸ P-2389: T-238, p. 15, lines 1-4.

⁸⁸⁵⁹ P-2389: T-238, p. 15, lines 6-10.

⁸⁸⁶⁰ P-2389: T-238, p. 15, lines 18-24.

⁸⁸⁶¹ P-2389: T-238, p. 15, lines 11-15, p. 16, lines 17-20.

⁸⁸⁶² P-1647: T-194, p. 60, lines 1-6.

the same thing would happen in Mbaïki.⁸⁸⁶³ He also indicated that comments made by some elements, such as ‘when we [find] Muslims, we kill them’, and the name Anti-Balaka, scared people.⁸⁸⁶⁴

3597.P-1839 testified that despite Mr Yekatom’s peace speeches, Muslims in Mbaïki did not feel safe and therefore asked the people of the UN of Chadian origin to get them out of the area.⁸⁸⁶⁵

3598.P-1666 testified that once the Anti-Balaka arrived in Mbaïki, there was too much insecurity which, together with ‘false propaganda [...] circulated by politicians’, made the Muslim population in Mbaïki anxious and incited them to leave.⁸⁸⁶⁶

3599.Raymond Mongbandi stated that Muslims heard what happened in Bangui-Bouchia and in other areas and felt very vulnerable once the Seleka based in Mbaïki had left.⁸⁸⁶⁷ Therefore, they accepted the decision to leave because they had no choice ‘other than to stay and risk losing everything including their lives’.⁸⁸⁶⁸ He specifically pointed out that the threat came from the Anti-Balaka, not the non-Muslim population.⁸⁸⁶⁹

3600.P-2389 also testified that while he was not happy to leave Mbaïki and did not want to go to Chad, he feared for their lives if they stayed.⁸⁸⁷⁰

3601.Likewise, P-2041 stated that he and his family had no choice but to leave Mbaïki because they feared that they would otherwise be killed by the Anti-Balaka or their supporters, as had later on happened to Djido Saleh.⁸⁸⁷¹ P-2041 further explained that they had heard about

⁸⁸⁶³ P-1647: T-194, p. 60, lines 7-12, p. 61, lines 1-12.

⁸⁸⁶⁴ P-1647: T-194, p. 61, lines 16-20. The Chamber notes that while Stéphane Chrisostome Dawili said that these comments were made by ‘the children’, he also made reference to a video previously shown to him in which he recognised two elements talking about killing Muslims (see P-1647: T-194, p. 61, lines 16-17 *referring to* p. 46, line 4 – p. 51, line 3; Video, CAR-OTP-2065-3172).

⁸⁸⁶⁵ P-1839: T-171, p. 57, line 23 – p. 58, line 2.

⁸⁸⁶⁶ P-1666: T-230, p. 31, lines 16-22.

⁸⁸⁶⁷ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0266, para. 80.

⁸⁸⁶⁸ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0266, para. 80.

⁸⁸⁶⁹ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0258-59, para. 36.

⁸⁸⁷⁰ P-2389 Statement, CAR-OTP-2104-0033-R03, at 0045, para. 65.

⁸⁸⁷¹ P-2041 Statement, CAR-OTP-2104-0003-R02, at 0015, para. 65.

what had happened in Bangui and in different towns in the northern part of the country, and they were very frightened.⁸⁸⁷²

3602.P-2353 stated that there was no security for the Muslim community in Mbaïki and that despite Mr Yekatom's words, 'the threats and gestures of the Anti-Balaka did nothing to make them feel safe'.⁸⁸⁷³ The witness also stated that if Muslims had not left Mbaïki, he is convinced that they would have been killed by the Anti-Balaka, despite what Mr Yekatom said.⁸⁸⁷⁴ P-2353 testified that he was forced to leave Mbaïki, and that this was a choice between life and death.⁸⁸⁷⁵

3603.P-2354 stated that they were forced to flee Mbaïki because they feared that they would be killed by the Anti-Balaka if they stayed, as had happened to 'D[jido], A[ba Zakaria] and the others'.⁸⁸⁷⁶

3604.P-1823 described that even though he was a Central African, not a Chadian, he and others discussed the necessity for everybody to go to Chad because it was an opportunity to take refuge and since '[p]eople had no willingness to stay because it was going to cost you your life if you stayed'.⁸⁸⁷⁷

3605.In contrast to the above, Vivien Beina testified that Muslims were not 'chased away' from Mbaïki, but rather fled the town voluntarily because of the 'hostilities'. He also seemed to suggest that the reason they fled was because Chad, being aware of the acts perpetrated by Chadian soldiers would have repercussions, considered it necessary to 'evacuate' the Muslims and therefore sent trucks of the Chadian army from N'Djamena to Lobaye.⁸⁸⁷⁸

3606.Moreover, D29-5013 explained that the Muslims gathered in Mbaïki because they wanted to leave together, they had decided to do so and it was 'their way of seeing things'.⁸⁸⁷⁹ The witness seemed to suggest that Muslims left Mbaïki voluntarily and for reasons not directly

⁸⁸⁷² P-2041: T-229, p. 93, lines 17-24.

⁸⁸⁷³ P-2353 Statement, CAR-OTP-2100-0226-R03, at 0237, para. 60.

⁸⁸⁷⁴ P-2353 Statement, CAR-OTP-2100-0226-R03, at 0238, para. 64.

⁸⁸⁷⁵ P-2353: T-161, p. 46, lines 3-9.

⁸⁸⁷⁶ P-2354 Statement, CAR-OTP-2105-0991-R03, at 1003, para. 67.

⁸⁸⁷⁷ P-1823: T-183, p. 26, lines 18-24.

⁸⁸⁷⁸ P-0888: T-122, p. 28, lines 13 – p. 29, line 6.

⁸⁸⁷⁹ D29-5013: T-285, p. 31, lines 5-15.

connected to the Anti-Balaka. Yet, D29-5013 also indicated that ‘young people’ in Mbaïki wanted to fight the Muslims and the Christian population made comments such as ‘they have to leave’.⁸⁸⁸⁰

3607. Stéphane Chrisostome Dawili claimed that the Anti-Balaka cohabited with the Muslims in Mbaïki ‘without any problems’ but that they were scared ‘just because of [their] presence’ and asked to be ‘evacuated’.⁸⁸⁸¹

3608. The Chamber, however, considers that there is overwhelming evidence, set out above, which demonstrates that Muslims fled Mbaïki because they were afraid of the Anti-Balaka. These fears were not unfounded or based on the mere *presence* of the Anti-Balaka in the town. In this regard, the Chamber recalls its findings above that elements belonging to Mr Yekatom’s group, as well as local youngsters, threatened and harassed the Muslim civilian population of Mbaïki – the former as soon as they arrived in the town.⁸⁸⁸² From that moment onwards, Muslims in Mbaïki were not able to move around freely and their living conditions worsened by the day. As described by various witnesses, Muslims felt that they had no choice but to leave Mbaïki as they believed that the Anti-Balaka would kill them if they stayed any longer.

3609. Accordingly, the Chamber puts no weight on the claims that Muslims left Mbaïki because an ‘evacuation’ had been arranged in advance, or because Muslims ‘wanted’ to leave regardless of the Anti-Balaka. The Chamber reiterates that even if Muslims agreed or requested to be removed from Mbaïki, they did so because they felt that their lives were in danger as long as they stayed in Mbaïki. In the Chamber’s view, this reflects that there was a genuine lack of choice on their part.

Thereafter, the Congolese MISCA transported a second group of Muslims out of Mbaïki to Bangui and other locations.

3610. Several witnesses indicated that after the Chadian forces transported the first group of Muslims out of Mbaïki, the Congolese MISCA arrived in Mbaïki and transported a second group of Muslims out of the town.

⁸⁸⁸⁰ D29-5013: T-285, p. 31, lines 16-23.

⁸⁸⁸¹ P-1647 Statement, CAR-OTP-2050-0654-R02, at 0661, para. 48.

⁸⁸⁸² See paragraphs 3533-3551 above.

3611.P-2041 testified, when asked, that while the Muslims who had come to Mbaïki from the neighbouring area to seek refuge were ‘evacuated’ on the same day, a smaller number of Muslims were ‘evacuated’ by the MINUSCA.⁸⁸⁸³

3612.P-1666 confirmed, when asked, that after the ‘evacuation’ of the first group of Muslims from Mbaïki, ‘the Malian community’ remained in the town until they were ‘evacuated’, after which ‘[t]he only person who remained was the mayor and his family’.⁸⁸⁸⁴

3613.Diakit  Aboubakar provided further details. In particular, he explained that the Chadian forces left ‘the Muslim West Africans’ behind because he had not been informed on time about the ‘evacuation’ of ‘the Chadians’ and they were therefore not ready to move.⁸⁸⁸⁵ He stated that he was caught by surprise when he saw ‘a Chadian vehicle with a big gun arriving in the city’, and later confirmed with a Chadian merchant delegate that they would be ‘evacuated’ that day.⁸⁸⁸⁶ He also testified that ‘the Central African Muslims’ and ‘the West Africans’ stayed in Mbaïki town for a week more.⁸⁸⁸⁷ During this time, they cohabited with the Anti-Balaka, and while the Anti-Balaka did not attack or kill any Muslims, there were threats.⁸⁸⁸⁸ In this respect, the Chamber recalls the incident Diakit  Aboubakar mentioned, which happened during his period, in which some Anti-Balaka elements surrounded the mosque in which he was praying alone and told him to leave.⁸⁸⁸⁹

3614.When asked whether the Muslims who were to be ‘evacuated’ had lived in the CAR for a long time, Diakit  Aboubakar indicated that they had lived for a long time in the town of Mbaïki, they were born and married in Mbaïki, and had had children in the town of Mbaïki.⁸⁸⁹⁰

⁸⁸⁸³ P-2041: T-230, p. 15, lines 16-24.

⁸⁸⁸⁴ P-1666: T-231, p. 37, lines 6-10.

⁸⁸⁸⁵ P-1595 Statement, CAR-OTP-2104-0274-R02, at 0290-91, para. 88.

⁸⁸⁸⁶ P-1595 Statement, CAR-OTP-2104-0274-R02, at 0290-91, para. 88. The Chamber notes that P-1595 also explained during his testimony that he learnt that the embassy of Chad called the delegates of the Arab traders the day before the evacuation to tell them that a vehicle was on the way to fetch them (see P-1595: T-106, p. 8, lines 15-17).

⁸⁸⁸⁷ P-1595: T-106, p. 8, lines 21-24.

⁸⁸⁸⁸ P-1595: T-106, p. 8, lines 21-24, p. 9, lines 20-21.

⁸⁸⁸⁹ See paragraph 3557 above.

⁸⁸⁹⁰ P-1595: T-106, p. 13, lines 4-15. The Chamber notes that the preface to the question mentioned Muslims from surrounding villages who fled to Mbaïki and were evacuated from there, but that the ultimate question was more general in asking whether Muslims who were going to be evacuated were people who lived in the CAR for a long time. The witness clearly understood this to refer to the Mbaïki Muslim population.

3615. Diakité Aboubakar and the ‘*chef de quartier*’ initiated the arrangements of this dislocation, asking the MISCA contingent of Congo Brazzaville to help them reach Bangui ‘since all the Arabs had left and [they] were afraid that [they] would be killed’.⁸⁸⁹¹ At the request of a MISCA colonel, the witness made a list of 103 individuals who wanted to ‘get out of M[baïki]’.⁸⁸⁹² One week after the ‘evacuation’ of the Muslims of Chadian origin, the Congolese MISCA ‘evacuated’ them in two groups, first women, children and some men, and then the rest, including Diakité Aboubakar.⁸⁸⁹³ The witness indicated that the MISCA convoy was made up of three vehicles, with the trucks in the front and in the back carrying the military and the one in the middle carrying the evacuees.⁸⁸⁹⁴

3616. Diakité Aboubakar described how Christians escorted him from his house to the truck, helped them board their items in the truck, and some of them were sad and cried as they watched them leave.⁸⁸⁹⁵ The Anti-Balaka also watched them.⁸⁸⁹⁶ During his testimony, he added that other inhabitants were ‘very happy’ to see them leave.⁸⁸⁹⁷

3617. Diakité Aboubakar stated that they passed through at least twenty Anti-Balaka roadblocks on their way to Mbaïki but that they were not disturbed because the convoy was led by a heavily armed MISCA Land Cruiser.⁸⁸⁹⁸ When they arrived at PK9, about 20 MISCA Land Cruisers joined the convoy and escorted them to the Congolese MISCA camp, before being taken to the Central Mosque in Bangui.⁸⁸⁹⁹

3618. Similarly, Diakité Aboubakar indicated that ‘the Chadians’ and ‘West African Muslims’ left Mbaïki because they were afraid of being killed by the Anti-Balaka.⁸⁹⁰⁰ The witness said they really were frightened and even though one Anti-Balaka element told them to stay, he

⁸⁸⁹¹ P-1595 Statement, CAR-OTP-2104-0274-R02, at 0291, para. 91; P-1595: T-106, p. 10, lines 1-5.

⁸⁸⁹² P-1595 Statement, CAR-OTP-2104-0274-R02, at 0291, para. 91; P-1595: T-106, p. 10, lines 6-7.

⁸⁸⁹³ P-1595 Statement, CAR-OTP-2104-0274-R02, at 0291, para. 91; P-1595: T-106, p. 10, lines 7-10.

⁸⁸⁹⁴ P-1595 Statement, CAR-OTP-2104-0274-R02, at 0291, para. 91.

⁸⁸⁹⁵ P-1595 Statement, CAR-OTP-2104-0274-R02, at 0291-92, para. 93; P-1595: T-106, p. 10, lines 14-18.

⁸⁸⁹⁶ P-1595 Statement, CAR-OTP-2104-0274-R02, at 0291-92, para. 93.

⁸⁸⁹⁷ P-1595: T-106, p. 10, lines 11-18.

⁸⁸⁹⁸ P-1595 Statement, CAR-OTP-2104-0274-R02, at 0291, para. 92.

⁸⁸⁹⁹ P-1595 Statement, CAR-OTP-2104-0274-R02, at 0291, paras 91-92; P-1595: T-106, p. 10, lines 1-10, 19-21.

⁸⁹⁰⁰ P-1595 Statement, CAR-OTP-2104-0274-R02, at 0291, para. 90.

replied that they were too scared to stay in Mbaïki and that they would only return when peace returned.⁸⁹⁰¹

3619. The Chamber notes that P-1666 testified that he met some of the Muslims of Malian origin who were removed from Mbaïki and brought to Bangui and that they explained to him what had happened.⁸⁹⁰² In particular, P-1666 confirmed, when asked, that he had previously stated that 48 hours after the departure of the Muslims of Chadian origin, the Muslims of Malian origin called the Malian embassy in Bangui because they were afraid.⁸⁹⁰³ He also confirmed that the Malian embassy asked the Congolese MISCA contingent to escort these Muslims to Bangui.⁸⁹⁰⁴ According to P-1666, some of these Muslims were ‘evacuated’ to Mali, while others remained in Bangui.⁸⁹⁰⁵

3620. Further, the Chamber notes that Alexandre Kouroupe-Awo explained that at the time, ‘Muslims from Chad’ were targeted more than ‘Muslims from Mali and Nigeria’.⁸⁹⁰⁶ He believed that this was ‘a continuation of the conflict with the Chadian elements of MISCA in Bangui’, whom were deemed to protect more those from their community while neglecting Christians.⁸⁹⁰⁷ The witness further stated that for this reason, ‘the Chadian Muslim community’ in Mbaïki felt threatened and prior to the arrival of ‘the Anti-Balaka’ had spoken with the Chadian authorities about their potential ‘evacuation’.⁸⁹⁰⁸ He also stated that prior to the 30 January meeting, the representatives of the Muslim community from Mali had also told him that they would leave with the ‘Chadian Muslims’ if the latter were ‘evacuated’.⁸⁹⁰⁹

3621. Antareze-de-Neve Madongagba summarised the situation such that:

[...] those Muslims who left, indeed, they thought of Mbaïki and the surrounding villages, they thought of those places as their territory, [...] the place they were from. [...] there were Muslims who were asking some non-Muslims to keep an eye on their houses, so they entrusted their houses to some non-Muslim individuals. If someone

⁸⁹⁰¹ P-1595: T-106, p. 12, lines 6-17.

⁸⁹⁰² P-1666: T-232, p. 6, lines 2-7.

⁸⁹⁰³ P-1666: T-232, p. 5, lines 9-19.

⁸⁹⁰⁴ P-1666: T-232, p. 5, line 20 – p. 6, line 1.

⁸⁹⁰⁵ P-1666: T-232, p. 6, lines 2-7.

⁸⁹⁰⁶ P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0043, para. 53.

⁸⁹⁰⁷ P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0043, para. 53; P-1813: T-182, p. 22, line 23 – p. 23, line 11.

⁸⁹⁰⁸ P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0043, para. 53.

⁸⁹⁰⁹ P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0043, para. 53.

says ‘Could you keep an eye on my house?’ that means that there is a hope that one day they will return.⁸⁹¹⁰

3622. The Chamber received evidence on the impact that this dislocation and resultant implications had on the individuals concerned.

3623. For example, Diakité Aboubakar stated that when visiting Mbaïki in early 2019, there were very few Muslims in Mbaïki, who had left Mbaïki for a few days during the events and then returned because their Christian mothers were originally from Mbaïki.⁸⁹¹¹ He added that some Chadians returned to Mbaïki and engaged in their trading and businesses.⁸⁹¹²

3624. P-2353 said during his interview in 2019 that he wanted to return to his village in Mbaïki when the situation permitted, but did not see that happening any time soon.⁸⁹¹³ During his testimony, P-2353 expanded as follows:

I sought refuge in a foreign country and everything happened during my absence. [REDACTED], all my property was pillaged and destroyed. Even [REDACTED] was taken away. [...] ever since I got here, I’m scared to go back to Mbaïki. I’m stuck [REDACTED]. I’m scared. I was born in a city and I really strive to contribute to the city. I ran a business and everything was annihilated and it is extremely sad. And this is why I don’t even have the courage to go to Mbaïki and this is why I stayed on [REDACTED].⁸⁹¹⁴

If you have your own house and you’re driven out of your house and someone takes all your possessions, what can you do? You can only be sad. Once we got to Chad, we got there because it was war. There was a war going on in our country. Once we got there, our children lived under the trees. But those children were not born under the trees. We spent [REDACTED] there. And [REDACTED] months later, it was very difficult there, so we had to leave that place and move onward.⁸⁹¹⁵

It’s a very painful impact and on several levels. I was [REDACTED]. And today I’ve lost everything, just about everything. I’ve got nothing. All the fruit of my investment is gone. [...] [REDACTED] are just about managing to meet their needs. My children are all scattered and it’s very difficult to meet their needs. [...] But after these events, I’ve lost everything. I’ve lost everything. [REDACTED]. I don’t know how they’re going to fend for themselves tomorrow. The second problem is I do not have a home.

⁸⁹¹⁰ D29-5012: T-295, p. 45, lines 13-19.

⁸⁹¹¹ P-1595 Statement, CAR-OTP-2104-0274-R02, at 0274, at 0292, para. 94.

⁸⁹¹² P-1595: T-107, p. 6, lines 3-9.

⁸⁹¹³ P-2353 Statement, CAR-OTP-2100-0226-R03, at 0239, para. 69.

⁸⁹¹⁴ P-2353: T-161, p. 38, lines 3-16.

⁸⁹¹⁵ P-2353: T-161, p. 46, lines 10-18.

[...] Sometimes I have problems in paying my rent. [...] I've got financial problems, and I really am struggling to meet the needs of my family.⁸⁹¹⁶

3625.P-2354 testified that leaving Mbaïki had a great impact: they had been there for 20 or 30 years, had traded there, had property, had goods in their shops and cafés, and had to leave everything behind.⁸⁹¹⁷ Returning to Mbaïki was 'not on the cards' for him because while he would return to the country with his children if there is peace, this was not the case for him at the time of his testimony.⁸⁹¹⁸ P-2354 estimated the value of his belongings which he had to leave behind at approximately 45 million CFA.⁸⁹¹⁹

3626.P-1823 described that the crisis had an impact on him and his family, he had to leave everything behind, his health was affected, and 'it pushed me into a different dimension because I kept on thinking about everything I had lost'.⁸⁹²⁰ He also thought that many Muslims who used to live in Mbaïki lost their lives because they were used to life in the forest in Lobaye, and when they left for Chad, they could not resist the temperature and life was different.⁸⁹²¹

3627.P-2041 testified that leaving their homes, they had a lot of difficulties: they had to abandon their homes, abandon their jobs to go to a foreign place where it was also extremely difficult to find housing, so the situation was extremely difficult.⁸⁹²² At the time of his testimony in May 2023, his family was still in Chad, while he worked in [REDACTED] to be able to send them money.⁸⁹²³ According to P-2041, his life has deteriorated greatly, he does not have the stability he had.⁸⁹²⁴

7. *The killing of Djido Saleh*

Following the removal of Muslim civilians out of Mbaïki, Djido Saleh, the second deputy mayor of Mbaïki, and his family, were among the very few remaining Muslims in Mbaïki.

⁸⁹¹⁶ P-2353: T-161, p. 40, line 6 – p. 41, line 2.

⁸⁹¹⁷ P-2354: T-210, p. 21, line 17 – p. 22, line 3.

⁸⁹¹⁸ P-2354: T-210, p. 22, lines 8-20.

⁸⁹¹⁹ P-2354: T-210, p. 29, lines 8-24.

⁸⁹²⁰ P-1823: T-183, p. 40, line 24 – p. 41, line 13, p. 46, line 23 – p. 47, line 3.

⁸⁹²¹ P-1823: T-183, p. 41, line 15 – p. 42, line 1.

⁸⁹²² P-2041: T-229, p. 97, lines 7-12.

⁸⁹²³ P-2041: T-230, p. 4, lines 19-25.

⁸⁹²⁴ P-2041: T-230, p. 5, lines 12-16.

Prior to his killing, elements of Mr Yekatom's group threatened Djido Saleh. There is no indication that Anti-Balaka elements demanded money from Djido Saleh.

3628. Following the removal of Muslims from Mbaïki, Djido Saleh (hereinafter: 'Saleh'), the second deputy mayor of Mbaïki, and his family, were among the very few remaining Muslims in Mbaïki.⁸⁹²⁵

3629. Various witnesses indicated that despite expressing their concerns to Saleh for his and his family's safety, he refused to leave Mbaïki when the Muslim population was removed from the town.

3630. Raymond Mongbandi testified that Saleh believed that his mayor's badge would protect him against violence and that this is why he decided to stay.⁸⁹²⁶ According to the witness, members of the community, including religious authorities, asked Saleh to get into one of the vehicles transporting Muslims out of Mbaïki, but he refused.⁸⁹²⁷

3631. P-2041 similarly testified that as he was in a vehicle that had joined the convoy to leave Mbaïki, he saw Saleh and had a brief conversation with him in which Saleh told him that he was not going to 'budge' and that nothing was going to happen.⁸⁹²⁸

3632. Likewise, Diakité Aboubakar stated that he 'pleaded' with Saleh on several occasions to leave Mbaïki and warned him that he would otherwise get killed.⁸⁹²⁹

⁸⁹²⁵ P-1813 Statement, CAR-OTP-2069-0035-R02, at 0044, para. 59, at 0045, para. 63; P-1666: T-231, p. 37, lines 6-10 (the Chamber notes that when P-1666 testified that after the 'evacuation' of a first group of Muslims, 'the Malian community' remained and was then 'evacuated', after which '[t]he only person who remained [in Mbaïki] was the mayor and his family', P-1666 was referring to Djido Saleh); P-1647: T-194, p. 62, line 17 – p. 63, line 14; P-1595 Statement, CAR-OTP-2104-0274-R02, at 0292, para. 95; P-2041 Statement, CAR-OTP-2104-0003-R02, at 0015, para. 64; P-2353 Statement, CAR-OTP-2100-0226-R03, at 0237, para. 61. The Chamber notes that Raymond Mongbandi testified that some Muslims 'whose mother was Central African' remained in Mbaïki, including the one he managed to secure later for Djido Saleh's burial to ensure it complied with Muslim rites (see P-1838: T-215, p. 37, lines 10-14; T-216, p. 24, line 22 – p. 25, line 6). See also UNSG Report, CAR-OTP-2001-0409, at 0411, para. 11 (where the UN Secretary-General reported a radical change in the ethnic and religious demography of the CAR following the flight of many Muslims mostly to Cameroon and Chad, referring to towns which once had been multi-confessional as having been emptied of their Muslim communities, including Mbaïki). The Chamber refers to its considerations of this report above (see footnote 4111 above).

⁸⁹²⁶ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0266-67, para. 81; P-1838: T-215, p. 30, lines 6-13.

⁸⁹²⁷ P-1838: T-215, p. 30, lines 6-13.

⁸⁹²⁸ P-2041: T-229, p. 94, lines 7-15.

⁸⁹²⁹ P-1595 Statement, CAR-OTP-2104-0274-R02, at 0292, para. 96.

3633. Raymond Mongbandi also stated that the MISCA, the prefect, the deputy prefect and himself worried about Saleh's situation and feared for his safety at the hands of the Anti-Balaka.⁸⁹³⁰ The witness indicated that about three days before Saleh was killed, he and the first deputy mayor went to see Saleh and offered to take him to the MINUSCA site, but he refused.⁸⁹³¹ According to the witness, the Anti-Balaka occupied a house close to Saleh's house to surveil his activities, and both the witness and the MISCA colonel told Saleh that he was in danger and that he should leave his house, but Saleh refused to do so, arguing that he 'feared nothing' and that there was 'no risk weighing on him'.⁸⁹³²
3634. Alexandre Kouroupe-Awo stated that before Saleh's killing, he learnt from individuals in the community that Saleh 'was going to be targeted by the Anti-Balaka'.⁸⁹³³ The witness advised Saleh to leave Mbaïki 'as it was known that he had dealings with the Seleka and would give his vehicle for them to use'.⁸⁹³⁴
3635. D29-5013 testified that she was aware that Saleh had been threatened and that she considered that he had taken 'high risks' by staying in Mbaïki despite the departure of all the people of Muslim faith.⁸⁹³⁵ She herself had advised him to leave.⁸⁹³⁶

⁸⁹³⁰ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0268, para. 90.

⁸⁹³¹ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0268, para. 90; P-1838: T-215, p. 30, lines 14-18. The Chamber notes that witnesses often seem to refer to the acronyms of international forces operating in the CAR across the relevant period interchangeably and irrespective of which force may in fact have been active at any particular time. It appears that the '*Mission internationale de soutien à la Centrafrique sous conduite africaine*' (MISCA) started replacing the previously deployed assistance in July 2013, whereas the '*Mission multidimensionnelle intégrée de stabilisation des Nations unies en République centrafricaine*' (MINUSCA) started operating in September 2014 (see Resolution S/RES/2149 (2014), CAR-OTP-2001-1043, at 1049-50, paras 18-20; UN SG Report, CAR-OTP-2001-1057, at 1057, para. 1; Press article, CAR-D29-0002-0690, at 0692-93). Given the deployment of various international or internationalised forces in the CAR over prolonged periods, the Chamber considers this confusion of terms to be understandable and will refer to the acronyms as they were used in witnesses' testimonies, with the understanding that this may not necessarily accurately refer to the force in fact operating at the respective time.

⁸⁹³² P-1838: T-215, p. 22, line 16 – p. 23, line 15. The Chamber notes that in his statement, Raymond Mongbandi indicated that the Anti-Balaka occupied the houses abandoned by the Muslims, including houses in the small market in Saleh's neighbourhood, but not that they had 'rented' any of such houses, as indicated in his testimony. The Chamber nevertheless considers this a minor aspect (see P-1838 Statement, CAR-OTP-2100-0252-R05, at 0270, para. 100).

⁸⁹³³ P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0045, para. 64.

⁸⁹³⁴ P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0045, para. 64. The Chamber also notes that during his testimony, Alexandre Kouroupe-Awo indicated that he had insisted that Saleh leave the town because he knew that people would attack him, but that Saleh did not want to leave Mbaïki (see P-1813: T-182, p. 64, line 21 – p. 65, line 3).

⁸⁹³⁵ D29-5013: T-285, p. 54, line 23 – p. 55, line 5.

⁸⁹³⁶ D29-5013: T-285, p. 54, line 23 – p. 55, line 5.

3636. Moreover, the Chamber notes that according to an Amnesty International report, whose delegates met with Saleh in February 2014, Saleh ‘insisted that he and his family were born in the Central African Republic and had no reason to flee’.⁸⁹³⁷ The report also indicates that Saleh ‘had received assurances from international forces including the Sangaris that they would protect him, and that Mbaïki would be an example of reconciliation for the rest of the country’.⁸⁹³⁸ Likewise, an article dated 13 February 2014 quoted Saleh’s statements that he was a Muslim, that he, his mother, wife and children had been born in the CAR, that he had promised to work for his country when he had assumed his functions five years ago and that he had made a commitment before God.⁸⁹³⁹

3637. Saleh himself formulated it as follows:

[...] ça nous fait peur, ça nous fait peur... ça nous fait peur parce que mais on est dans le risqué total, dans un risque total. Bon, comme nous sommes des responsables, exemple moi, je suis le 2^e adjoint au maire, je suis en une fondation, je suis... fondation de ce pays. Que j’aïlle où ? Aller où ? Non. Je ne peux pas, je suis dans mon pays et... je suis Musulman, je suis Musulman. Et donc... j’appelle à la... aux communautés internationales, il faut protéger, protéger les Musulmans et protéger les Chrétiens sans distinguer. C’est-à-dire [...] fatigué de cette guerre que nous ne savons pas là où il [...] vient.⁸⁹⁴⁰

⁸⁹³⁷ AI Report, CAR-OTP-2001-2707, at 2728. The Chamber notes the Ngaïssona Defence’s observations specifically on the lack of probative value of this item (see Annex 1 to Defence Response to the Prosecution’s “Request for the Submission of Evidence from the Bar Table regarding the Prevalence of Sexual and Gender Based Violence”, 11 February 2022, ICC-01/14-01/18-1278-Conf-Anx1, pp. 45-46). In this regard, the Chamber considers that it evaluated this report in the context of other information on the record and did not rely on it solely for purposes of making a factual finding. Importantly, the Chamber did not rely on this report in a way which would, as suggested by the Ngaïssona Defence, ‘impugn on the chamber’s role to determine the existence, nature and scope of the crimes based on the evidenc[e] elicited by witnesses’, but rather in the context of its holistic evaluation of all evidence before it.

⁸⁹³⁸ AI Report, CAR-OTP-2001-2707, at 2728. The Chamber notes its considerations regarding this report in footnote 8937 above.

⁸⁹³⁹ Press Article, CAR-OTP-2117-0687, at 0687. The Chamber refers to its considerations in regard to this item in footnote 8472 above.

⁸⁹⁴⁰ Video, CAR-OTP-00002245, at approximately 00:01:30-00:02:20; Transcript, CAR-OTP-00002276, at 0002, lines 16-23; Translation, CAR-OTP-00002278, at 0003, lines 19-26. (Translation from French to English by the Registry) ‘[...] That made us ... afraid ... that frightens us, that frightens us ... that frightens us because, well, we’re at total risk, at total risk. You see, as we’re in positions of responsibility, for instance I’m the second deputy mayor, I’m in a foundation, I’m ... foundation of this country. Where would I go? Go where? No. I can’t, I’m in my country and... I’m a Muslim, I’m a Muslim. And so ... I call upon the... the international communities, the Muslims need protection, protection and the Christians need protection without distinction. In other words ... we’re tired of this war – we don’t know where it [...] is coming from. We’re tired.’

3638. The Chamber also notes that Alexandre Kouroupe-Awo and Raymond Mongbandi discussed Saleh's involvement with the Seleka. In particular, Alexandre Kouroupe-Awo stated that it was known that Saleh 'had dealings with the Seleka and would give his vehicle for them to use', and that he heard that he was part of a group of Seleka from Mbaïki that went to Bangui-Bouchia after the killings there 'to wreak revenge'.⁸⁹⁴¹ Raymond Mongbandi indicated that when the Seleka were in Mbaïki, they forced Saleh to use his vehicle to move possessions looted from the population from Mbaïki to Bangui.⁸⁹⁴² He also stated that Saleh took part in the reprisal against Christians in Bangui-Bouchia and that he talked to Saleh about this, telling him that he was 'a public figure[,] a member of the local administration' and should not have taken part in 'such reprisal actions'.⁸⁹⁴³ Moreover, Raymond Mongbandi mentioned an incident which took place after Saleh went to see the Seleka following their arrival in Pissa in order to mediate, and promised some elements to bring them a sheep.⁸⁹⁴⁴ These elements considered that it took Saleh too long to bring the sheep and attacked him beating him up 'very violently'.⁸⁹⁴⁵ P-2353 also mentioned an incident in which Saleh was unable to pay a tax levied by the Seleka and was detained, with his brother paying 200,000 CFA before he was released.⁸⁹⁴⁶

3639. The Chamber notes that while the above evidence could suggest that Saleh participated in the reprisal acts committed by the Seleka in Bangui-Bouchia, it also indicates that the Seleka forced him to collaborate with the group and mistreated him. Accordingly, and on the basis of the evidence before it, the Chamber cannot conclude that Saleh was a member of, or otherwise affiliated with, the Seleka at the time of his death.⁸⁹⁴⁷

3640. In addition, besides witnesses expressing concern for Saleh's and his family's safety, as set out above, Raymond Mongbandi provided a detailed account of an incident involving Mr Yekatom's elements and Saleh which occurred prior to his killing. According to Raymond Mongbandi, shortly after the Anti-Balaka arrived in Mbaïki, Cœur de Lion summoned Saleh

⁸⁹⁴¹ P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0045, para. 64; P-1813: T-182, p. 10, line 18 – p. 11, line 13, p. 13, line 22 – p. 14, line 9, p. 15, lines 13-18.

⁸⁹⁴² P-1838 Statement, CAR-OTP-2100-0252-R05, at 0255-56, para. 21; P-1838: T-215, p. 8, lines 14-22.

⁸⁹⁴³ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0261, para. 49.

⁸⁹⁴⁴ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0258, para. 32.

⁸⁹⁴⁵ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0258, para. 32; P-1838: T-215, p. 8, lines 8-13.

⁸⁹⁴⁶ P-2353: T-161, p. 52, lines 14-21, p. 53, line 21 – p. 54, line 5.

⁸⁹⁴⁷ See contra [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 537.

to a meeting, where Saleh was interrogated.⁸⁹⁴⁸ After hearing about an argument between Saleh and the Anti-Balaka, the witness rushed to his office in the town hall, which the Anti-Balaka had occupied, and introduced himself to Cœur de Lion as the mayor of Mbaïki, told him to address him instead of Saleh, and told Saleh to go home.⁸⁹⁴⁹ According to Raymond Mongbandi, the Anti-Balaka ‘were making life difficult’ for Saleh.⁸⁹⁵⁰ He described Saleh’s interrogation as ‘rather rough’ and ‘a kind of intimidation’ which he attributed to the fact that Saleh was the only Muslim left in Mbaïki.⁸⁹⁵¹ Raymond Mongbandi confirmed, when asked, that at the meeting he had the impression that the Anti-Balaka wanted to kill Saleh.⁸⁹⁵²

3641. Considering all the aforementioned evidence, in particular that of Raymond Mongbandi,⁸⁹⁵³ Alexandre Kouroupe-Awo⁸⁹⁵⁴ and D29-5013,⁸⁹⁵⁵ the Chamber concludes that the Anti-Balaka did threaten Saleh prior to his killing. Further, noting Raymond Mongbandi’s detailed account of Saleh’s interrogation by Cœur de Lion, whom according to the evidence Mr Yekatom appointed as the person in charge of the group in Mbaïki,⁸⁹⁵⁶ the Chamber concludes that at least some of these threats were made by elements of Mr Yekatom’s group. There is no indication in the evidence before the Chamber that Anti-Balaka elements demanded money from Saleh.

⁸⁹⁴⁸ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0268, para. 91.

⁸⁹⁴⁹ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0268, para. 91; P-1838: T-215, p. 18, lines 6-22.

⁸⁹⁵⁰ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0268, para. 91.

⁸⁹⁵¹ P-1838: T-215, p. 18, line 23 – p. 19, line 6, p. 20, lines 1-6. The Chamber notes that Raymond Mongbandi testified that at the time of Saleh’s interrogation, ‘there were no longer any Muslims in Mbaïki’, ‘[t]he trucks had extracted all the Muslims from Mbaïki’, ‘[t]here was only one [Muslim] left’ (see P-1838: T-215, p. 19, lines 3-4). At the same time, it notes that P-2041 and P-1666 indicated that Cœur de Lion was killed in Boda, that they saw his body when it was brought to Mbaïki and that this happened before their evacuation from Mbaïki (see P-2041 Statement, CAR-OTP-2104-0003-R02, at 0014, para. 62; P-1666: T-232, p. 6, lines 14-22). The Chamber also notes the Yekatom Defence’s argument that ‘P-1838’s uncorroborated claim that Ouandjio had previously “interrogated” Saleh in a “threatening” manner, “because at the time there were no more Muslims in Mbaïki”’ should be disregarded, *inter alia*, ‘given that Ouandjio had died prior to the evacuation of the Mbaïki Muslims, thus rendering the very basis of the supposed threat logically and chronologically incoherent’ (see [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 541, footnotes omitted). However, the Chamber notes that Raymond Mongbandi also indicated that the interrogation took place ‘[s]hortly after the Anti-Balaka arrived [to Mbaïki]’, on the first day he met Cœur de Lion (see P-1838 Statement, CAR-OTP-2100-0252-R05, at 0268, para. 91; P-1838: T-215, p. 18, lines 6-22, p. 19, lines 7-14), which occurred before Cœur de Lion left Mbaïki for Boda. Thus, considering this and his overall account, the Chamber considers that Raymond Mongbandi erred when mentioning that there were no longer Muslims in Mbaïki at the time of the interrogation, and finds his account otherwise reliable and credible.

⁸⁹⁵² P-1838: T-215, p. 19, line 15 – p. 20, line 6.

⁸⁹⁵³ See paragraph 3633 above.

⁸⁹⁵⁴ See paragraph 3634 above.

⁸⁹⁵⁵ See paragraph 3635 above.

⁸⁹⁵⁶ See paragraph 3528 above. See also paragraphs 3532, 3524 above.

3642. The Chamber further recalls that around this time, shortly after the departure of Muslims from Mbaïki, Catherine Samba-Panza visited Mbaïki together with the French minister of defence Le Drian, holding a speech in which she called on the Anti-Balaka in general to stop the violence.⁸⁹⁵⁷

On 28 February 2014, a group of individuals attacked Djido Saleh's house while he and his family were inside. Djido Saleh's family fled. As Djido Saleh tried to flee, the group of individuals pursued him and threw stones at him. Djido Saleh tried to defend himself with a bow and at least one arrow. The group of individuals, which included at least three elements of Mr Yekatom's group, one of them being Honorine Gbafalo, killed him as he tried to reach the gendarmerie. Honorine Gbafalo cut off his genitals. Other individuals beat him and cut parts of his body, including one of his ears and his neck, partly severing his head. These individuals targeted Djido Saleh on the basis that he was a Muslim. Following the death of Djido Saleh, Mr Yekatom told Raymond Mongbandi that the killing was 'an accident' and that he would pay for the burial, which he never did. As a direct consequence of the killing, MISCA ordered Mr Yekatom and his elements to leave Mbaïki, which they immediately did.

3643. The Chamber heard the account of several witnesses who described how a number of individuals attacked and killed Saleh, and thereafter mistreated his body by beating him and cutting parts of his body, including his genitals, one of his ears and his neck, partly severing his head, as he laid on the ground. The Chamber relied on these accounts, as well as on other evidence discussed during the trial, particularly a video footage showing how Saleh's body was mistreated after his killing,⁸⁹⁵⁸ for the findings set out below.

3644. On 28 February 2014, a group of individuals attacked Saleh's house while he and his family were inside.⁸⁹⁵⁹ As Saleh tried to flee and reach the gendarmerie to seek shelter, the

⁸⁹⁵⁷ See paragraph 1300 above.

⁸⁹⁵⁸ Video, CAR-OTP-2059-0384. The Chamber notes the Ngaïssona Defence's submissions in relation to CAR-REG-0001-0009, which is the same video as provided [REDACTED] (see email from the Ngaïssona Defence, 23 September 2022, at 17:02). In the Chamber's view, the suggestion that there may have been tampering or corruption of the data is, without anything further, speculative at best. Furthermore, the Chamber has assessed the video as part of its holistic evaluation of all evidence before it, also taking into account the identification of individuals in the video, as well as the fact that it is not disputed that the video does show the mistreatment of Saleh's body.

⁸⁹⁵⁹ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0270, para. 99, at 0271, para. 102 (stating that he noted down in his personal notebook that Saleh's killing took place on 28 February 2014); P-1813: T-180, p. 31, lines 6-11 (testifying that Saleh was taken from his domicile before being executed); P-1595 Statement, CAR-OTP-2104-0274-R02, at 0293, para. 98 (stating that he was told that Saleh was attacked when he was in his house with all his family); P-1595: T-106, p. 14, lines 8-21 (testifying that they attacked Saleh in his compound, in the presence of his wife, who was pregnant at the time, and his children).

individuals pursued him, threw stones at him and killed him.⁸⁹⁶⁰ Saleh tried to defend himself with a bow and at least one arrow.⁸⁹⁶¹

3645. P-1666 testified that on a Friday morning, he called Saleh who told him that he had received threats and was being attacked at that moment, saying, ‘I’m being attacked. I’m being threatened’.⁸⁹⁶² P-1666 could hear the sound of hostile people, after which someone apparently took the phone away from Saleh.⁸⁹⁶³ Subsequently, P-1666 called someone who was in the neighbourhood with Saleh, who told him that a group of people had attacked Djido and accused him of sheltering some people.⁸⁹⁶⁴ Another person confirmed this to P-1666, stating that they were about to bury him, while Saleh’s family had been taken to a safe place.⁸⁹⁶⁵

3646. As Saleh’s inert body laid on the ground, several individuals surrounded him, some of whom held axes, machetes, sticks and knives.⁸⁹⁶⁶ Two individuals dragged his body along the ground, while other individuals ran in front of them and some others followed from

⁸⁹⁶⁰ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0270-71, para. 101 (stating that Saleh tried to run to the gendarmerie or MISCA, and reached the gendarmerie compound, where he was ‘slaughtered’); P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0045, para. 67 (stating that he heard that Saleh was killed in front of the gendarmerie building, ‘[t]hey stoned him to death and cut his genitals off’); P-1813: T-180, p. 31, lines 6-11 (testifying that Saleh was executed towards the gendarmerie company); P-1595 Statement, CAR-OTP-2104-0274-R02, at 0293, para. 98 (stating that he was told that as Saleh tried to flee to the MISCA compound, he was pursued and stoned); P-1595: T-106, p. 14, line 8 – p. 15, line 3 (testifying that he was told that Saleh wanted to seek refuge amongst the MISCA troops and was going there; at that moment, they stoned him in the legs and ‘[h]e fell, and then he was killed’); P-2353: T-161, p. 32, lines 5-18 (testifying that the video of Saleh’s mutilation was filmed in front of the gendarmerie company). *See also* Video, CAR-OTP-2059-0384, at approximately 00:10:02-00:10:25; Translation, CAR-OTP-2118-5633, at 5642, line 257 (where one of the individuals surrounding Saleh’s body after his killing mentioned that Saleh fled and wanted to seek refuge at the gendarmerie); D29-5012: T-295, p. 36, line 1 – p. 37, line 9 (testifying that he heard that Saleh was killed at the roundabout of Mbaïki town, and describing the general setup of the Mbaïki town centre which included Mbaïki hospital, gendarmerie, sub-prefecture, prefecture, base of MISCA at the time, and Socatel).

⁸⁹⁶¹ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0270-71, para. 101; Video, CAR-OTP-2059-0384, at approximately 00:04:00, 00:04:28-00:05:00, 00:10:10-00:10:30; Translation, CAR-OTP-2118-5633, at 5638-39, lines 124, 133-140, at 5642, line 257.

⁸⁹⁶² P-1666: T-231, p. 40, line 2 – p. 41, line 13. While P-1666 could not recall the exact date, only that it happened on a Friday in February 2014, the Chamber notes that 28 February 2014 was a Friday (*see* Calendar, CAR-OTP-2112-0063-R01). The Chamber also notes the evidence of Alexandre Kouroupe-Awo, who confirmed that Saleh called him, telling him that he had heard there was a group of people going towards his domicile (*see* P-1813: T-182, p. 58, lines 19-24).

⁸⁹⁶³ P-1666: T-231, p. 40, line 8-21.

⁸⁹⁶⁴ P-1666: T-231, p. 40, lines 14-21, p. 41, lines 5-13, p. 41, line 24 – p. 42, line 6.

⁸⁹⁶⁵ P-1666: T-231, p. 41, lines 5-13.

⁸⁹⁶⁶ Video, CAR-OTP-2059-0384, at 00:00:20-00:01:15.

behind.⁸⁹⁶⁷ After being dragged, Saleh's body was left on the ground, partly undressed, only with shorts on.⁸⁹⁶⁸ One individual approached Saleh and appeared to make cuts on his chest with a knife.⁸⁹⁶⁹ Another individual approached Saleh, put down his shorts, and cut off his genitals with a knife, after which this individual quickly ran away from the scene while other individuals cheered.⁸⁹⁷⁰ At the same time, an individual appeared to cut Saleh's neck using a machete and a knife, partly cutting off his head with the help of other individuals.⁸⁹⁷¹ Several men surrounded the body, beating it with their weapons.⁸⁹⁷² Subsequently, an individual cut off one of Saleh's ears.⁸⁹⁷³ Some individuals also put their feet on Saleh's body parts and/or approached their weapons to the body, pretending to further harm it.⁸⁹⁷⁴

3647. While this scene took place, some individuals referred to Saleh as '*cul des mamans des musulmans*' and asked how many members of their families 'they' ('*ils*') had killed.⁸⁹⁷⁵ One of the individuals claimed that '*s'ils reviennent ici, nous allons mourir pour notre pays; comme les "m[onon]" veulent notre mort, nous sommes prêts à mourir*'.⁸⁹⁷⁶ Another individual mentioned that he wished that the other Muslims were still there to see it with their own eyes.⁸⁹⁷⁷ Another person claimed that they had told 'him' to flee and go back to his country but 'he' did not want to.⁸⁹⁷⁸ Some individuals repeatedly asked that pictures of

⁸⁹⁶⁷ Video, CAR-OTP-2059-0384, at 00:01:39-00:02:08. See also P-1838 Statement, CAR-OTP-2100-0252-R05, at 0270-71, para. 101.

⁸⁹⁶⁸ Video, CAR-OTP-2059-0384, at approximately 00:02:08.

⁸⁹⁶⁹ Video, CAR-OTP-2059-0384, at approximately 00:02:10-00:02:20.

⁸⁹⁷⁰ Video, CAR-OTP-2059-0384, at approximately 00:02:20-00:02:40. For further details, see paragraph 3655 below, which specifically discusses this part of the video footage.

⁸⁹⁷¹ Video, CAR-OTP-2059-0384, at approximately 00:02:20-00:03:18.

⁸⁹⁷² See e.g. Video, CAR-OTP-2059-0384, at approximately 00:03:38-00:03:54. See also P-2353: T-161, p. 32, lines 5-18 (detailing that the video shows 'the body being dragged along the ground from the gendarmerie company to the roundabout where there's a road that goes to the market', after which 'the body was abandoned at the roundabout and then they started to cut it up into pieces with machetes').

⁸⁹⁷³ Video, CAR-OTP-2059-0384, at approximately 00:11:27-00:11:43.

⁸⁹⁷⁴ See e.g. Video, CAR-OTP-2059-0384, at approximately 00:00:40-00:01:10, 00:05:12-00:05:24, 00:06:25-00:06:45, 00:12:24-00:12:50.

⁸⁹⁷⁵ See e.g. Video, CAR-OTP-2059-0384, at approximately 00:03:35-00:04:10; Translation, CAR-OTP-2118-5633, at 5638, lines 122-123. (Translation from French to English by the Registry) 'Arse of the mothers of Muslims'; 'How many of our family members have they killed?'.

⁸⁹⁷⁶ Video, CAR-OTP-2059-0384, at approximately 00:05:13-00:05:30; Translation, CAR-OTP-2118-5633, at 5639, lines 148-149. (Translation from French to English by the Registry) 'if they come back here, we're going to die for our country; since the "M[onon]" want us dead, we're ready to die'.

⁸⁹⁷⁷ Video, CAR-OTP-2059-0384, at approximately 00:08:00-00:08:20; Translation, CAR-OTP-2118-5633, at 5641, line 211.

⁸⁹⁷⁸ Video, CAR-OTP-2059-0384, at approximately 00:08:40-00:08:50; Translation, CAR-OTP-2118-5633, at 5641, line 225.

the body and of themselves be taken.⁸⁹⁷⁹ Individuals also discussed cooking and eating human flesh, referring to Saleh's body.⁸⁹⁸⁰ They also discussed the possibility of burning the body.⁸⁹⁸¹

3648. In the meantime, Saleh's family was able to escape. According to Diakité Aboubakar and Guerrino Perin, a man brought Saleh's wife and their children to the 'mission' right after the killing.⁸⁹⁸² Guerrino Perin explained that he gave them shelter, and asked MISCA the following day to pick them up at the 'mission' and take them to Bangui.⁸⁹⁸³ Raymond Mongbandi also indicated that Saleh's wife and 'under-age child' were put in a safe place and subsequently 'evacuated' to Bangui.⁸⁹⁸⁴

3649. The Chamber will now assess the evidence on the perpetrators of Saleh's killing and the subsequent mistreatment of Saleh's body.

3650. P-1339 testified that Honorine Mbafolo spoke to [REDACTED] about Saleh's killing and confessed her involvement. In particular, P-1339 explained that after neighbours had pointed out that a Muslim called 'Dido' was hiding in a house, and when this person went out for prayer, 'Mbafolo Honorine', on her own accord, took two elements with her, they went to the house, and beat and killed the man.⁸⁹⁸⁵ Honorine Mbafolo then cut off 'Dido's sex'.⁸⁹⁸⁶

⁸⁹⁷⁹ See e.g. Video, CAR-OTP-2059-0384, at approximately 00:00:40-00:01:00; Translation, CAR-OTP-2118-5633, at 5635-36, lines 32-40.

⁸⁹⁸⁰ See e.g. Video, CAR-OTP-2059-0384, at approximately 00:05:20-00:05:40; Translation, CAR-OTP-2118-5633, at 5639, lines 151-153.

⁸⁹⁸¹ See e.g. Video, CAR-OTP-2059-0384, at approximately 00:06:20-00:06:45; Translation, CAR-OTP-2118-5633, at 5640, lines 181-184.

⁸⁹⁸² P-1595 Statement, CAR-OTP-2104-0274-R02, at 0293, para. 98 (stating that an individual made a hole on the fence of Saleh's house and brought Saleh's family to the compound of 'Monseigneur Rhino'); P-1595: T-106, p. 14, lines 8-18; D29-5015: T-255, p. 21, lines 1-15.

⁸⁹⁸³ D29-5015: T-255, p. 21, lines 1-15. See also P-1595 Statement, CAR-OTP-2104-0274-R02, at 0293, para. 98 (stating that 'Monseigneur Rhino' protected Saleh's children and brought them to the Chadian embassy in Bangui).

⁸⁹⁸⁴ P-1838: T-215, p. 37, lines 7-21.

⁸⁹⁸⁵ P-1339: T-154-ENG, p. 5, lines 7-22, p. 12, lines 7-22; T-154-FRA, p. 5, line 19 – p. 6, line 12, p. 13, line 17 – p. 14, line 7. The Chamber notes that some details of the account are included in the French version of the transcript but not in the English version. Bearing in mind that the witness testified in Sango, and that French was therefore the initial interpretation language, the Chamber has relied on the French version of the transcript in this instance. The Chamber further notes that P-1339 seemed unclear in his evidence on the location of the killing (see in particular T-154-FRA, p. 7, lines 24-27). In light of the unclarity on the specific location he tried to describe, and considering the other evidence available on this point, the Chamber will not rely on this aspect of P-1339's evidence.

⁸⁹⁸⁶ P-1339: T-154-ENG, p. 5, lines 22-23, p. 9, lines 1-9; T-154-FRA, p. 6, lines 12-13. See also T-156, p. 31, line 23 – p. 32, line 5 (confirming that Mbafolo Honorine removed Djido Saleh's sex and indicating that she was 'very delighted to do so').

When [REDACTED] spoke with Honorine Mbafolo, who was positioned at a checkpoint to raise money for sustenance,⁸⁹⁸⁷ and who still had blood on her hands when returning, [REDACTED] asked her why she had done it and she responded that the Seleka had taken her ‘moto’, computer, and what she had put in her mind to do, what she had decided on doing, could not be erased.⁸⁹⁸⁸ P-1339 further explained that after Honorine removed Saleh’s sex, which she was ‘very delighted to do’, the MINUSCA was forced to ‘react and shoot at them’.⁸⁹⁸⁹ MINUSCA started shooting at the fleeing elements, and also those based at Socatel, including [REDACTED], were shot at, so they fled.⁸⁹⁹⁰ MINUSCA also dismantled the checkpoints, and when [REDACTED] asked an element called Ngombé and another [REDACTED] why they left without asking their opinion leading to MINUSCA shooting at them, they made clear to [REDACTED] that the only person they had to answer to was their chief.⁸⁹⁹¹ According to the explanations [REDACTED], the three of them – Honorine Mbafolo, chief Ngombé and a third element – were involved in killing Saleh.⁸⁹⁹² P-1339 confirmed that Honorine Mbafolo was a member of ‘the group’ at the time of Saleh’s killing and indicated that she was one of the women who joined ‘them’ in the bush.⁸⁹⁹³ Ngombé was a military, chief of section 4, and [REDACTED] did not ask him any questions for fear of him getting angry [REDACTED].⁸⁹⁹⁴

⁸⁹⁸⁷ P-1339: T-154-ENG, p. 5, lines 14-15, p. 6, line 25 – p. 7, line 13; T-154-FRA, p. 6, lines 3-8, p. 7, line 24 – p. 8, line 12.

⁸⁹⁸⁸ P-1339: T-154-ENG, p. 6, line 22 – p. 7, line 23, p. 9, lines 4-9; T-154-FRA, p. 7, line 21 – p. 8, line 27, p. 10, lines 10-17.

⁸⁹⁸⁹ P-1339: T-156, p. 32, lines 2-5.

⁸⁹⁹⁰ P-1339: T-154-ENG, p. 5, line 23 – p. 6, line 7; T-154-FRA, p. 6, lines 14-25. The Chamber also notes the evidence of Alexandre Kouroupe-Awo in this regard, who stated that he heard that MISCA followed the young people who were massed at the Balaka base between the town hall and Socatel, towards the ‘*maison des jeunes*’, and some fled and others dispersed into the neighbourhoods (see P-1813: T-182, p. 61, lines 8-11). Antareze-De-Neve Madongagba similarly mentioned that at the time of Saleh’s killing, elements of Mr Yekatom’s group were based ‘more towards the Socatel building’ (see D29-5012: T-295, p. 36, line 1 – p. 38, line 4).

⁸⁹⁹¹ P-1339: T-154-ENG, p. 7, lines 14-23; T-154-FRA, p. 8, lines 13-27.

⁸⁹⁹² P-1339: T-154-ENG, p. 9, line 19 – p. 10, line 2; T-154-FRA, p. 11, lines 3-12; T-156, p. 28, line 25 – p. 29, line 18, p. 31, line 23 – p. 32, line 1 *in combination with* Video, CAR-OTP-2094-7618, at 00:10:12-00:10:36 (excerpt in which the witness identified Mbafolo Honorine as the woman in military clothing and a cap), p. 32, lines 20-25 *in combination with* List, CAR-OTP-2039-0063, at 0066 (in relation to Ngombe Gauthier Cyrille), p. 32, lines 2-18.

⁸⁹⁹³ P-1339: T-154, p. 9, lines 10-18.

⁸⁹⁹⁴ P-1339: T-154-ENG, p. 10, line 3 – p. 12, line 5; T-154-FRA, p. 11, line 13 – p. 13, line 15.

3651. Stéphane Chrisostome Dawili testified that there was a ‘misunderstanding’ between Saleh and ‘one of our people’, and that after hearing noises, he went ‘there’ and saw the body.⁸⁹⁹⁵ He specified that only one Anti-Balaka element, ‘Mama Tia Godobe’ – whose name he stated to be Honorine Mbafolo –,⁸⁹⁹⁶ took part in the killing, and that those who ‘brought it about’ were ‘a crowd of civilians’, people from Mbaïki.⁸⁹⁹⁷ Stéphane Chrisostome Dawili also indicated that their leader Sete punished ‘Mama Tia Godobe’.⁸⁹⁹⁸ When asked about her punishment, the witness indicated that she was ‘handed over to the gendarmerie and they did the rest’.⁸⁹⁹⁹ The witness further explained that after Saleh’s killing, he discussed with Sete the information he received from people, and it was up to Sete to report to Mr Yekatom.⁹⁰⁰⁰

3652. P-1786 explained that he was in Mbaïki when he heard that Saleh had started attacking some people close to his house, after which the population of Mbaïki got upset and lapidated him with pebbles and stones.⁹⁰⁰¹ He indicated that Saleh was not attacked with sticks or machetes and that it was not the Anti-Balaka who killed him but ‘the youth of Mbaïki’.⁹⁰⁰² Upon hearing about it, the witness asked his soldiers not to get close to the place of the incident ‘so that the Anti-Balaka [were] not accused of being the perpetrators of this murder’.⁹⁰⁰³ P-

⁸⁹⁹⁵ P-1647: T-194, p. 63, lines 10-14. The Chamber notes that the English version of the transcript refers to ‘the bodies’ seen by the witness, while the French version, which the Chamber considers the accurate one in this instance, refers to ‘*le cadavre*’, in singular (see T-194-FRA, p. 63, line 9).

⁸⁹⁹⁶ P-1647: T-194, p. 65, lines 17-19.

⁸⁹⁹⁷ P-1647: T-194, p. 63, lines 16 – p. 64, line 2.

⁸⁹⁹⁸ P-1647: T-194, p. 64, lines 3-11.

⁸⁹⁹⁹ P-1647: T-194, p. 64, lines 6-9.

⁹⁰⁰⁰ P-1647: T-194, p. 65, lines 20-23, p. 66, lines 10-23.

⁹⁰⁰¹ P-1786: T-197, p. 87, line 23 – p. 88, line 5.

⁹⁰⁰² P-1786: T-197, p. 88, lines 6-8. The Chamber notes that a handwritten note which appears to be dated 2 March 2014 suggests that when a crowd of youth demonstrated, demanding Saleh to leave Mbaïki, the latter injured three youth, which provoked the anger of the youth that then killed him (see Note, CAR-D29-0002-0080). According to the Yekatom Defence, this item contains ‘contemporaneous notes’ from a journalist of Radio Ndeke Luka who was present in Mbaïki at the time (see Annex A to Yekatom Defence Request for the Formal Submission of Miscellaneous Items from the Bar Table, 29 August 2024, ICC-01/14-01/18-2661-Conf-AnxA, p. 2). Without further information on the provenance of this document, its author, or the sources mentioned – according to the note ‘*quelques jeunes*’ which were met –, the Chamber does not rely on this information to the detriment of the other information on the incident before it. Indeed, Alexandre Kouroupe-Awo, commenting on this note, testified that he heard that ‘when the group of Anti-Balaka, young people’ arrived at Saleh’s house, he threatened to attack them, but Alexandre Kouroupe-Awo did not receive any details as to Saleh having a weapon or wounding any of the people (see P-1813: T-182, p. 64, line 1 – p. 65, line 3). Another suggestion that Saleh would have been attacked ‘by his own neighbours’ (see Special Advisor Statement, CAR-OTP-2001-0446, at 0446) or by a ‘mob’ (see Press Article, CAR-D29-0002-0686) does not, in the Chamber’s view, in and of itself exclude the participation in the killing of individuals affiliated with Mr Yekatom’s group. See also paragraphs 3660-3669 below.

⁹⁰⁰³ P-1786: T-197, p. 88, lines 16-18.

1786 indicated that the ‘youth of Mbaïki’ told him about the killing.⁹⁰⁰⁴ He confirmed knowing Honorine Gbafolo and her nickname ‘Mama Tia Godobe’, and that she was in Mbaïki at the time, but that he did not know whether she was involved in Saleh’s killing.⁹⁰⁰⁵

3653. The Chamber notes that the three insider witnesses who provided evidence about Saleh’s killing differ in their accounts of who committed the killing. The Chamber finds P-1786’s account the least reliable one. First, according to P-1786, he heard that Saleh started attacking some people close to his house before he was attacked. Yet none of the other witnesses mentioned this. On the contrary, and as set out above, the evidence indicates that Saleh was in his house with his family when he was suddenly attacked by a number of individuals, at which point he tried to defend himself.⁹⁰⁰⁶ Second, P-1786 expressly indicated that Saleh was not attacked with sticks or machetes, which contradicts the video footage showing individuals beating Saleh with axes, machetes, sticks and knives.⁹⁰⁰⁷ Third, P-1786 was not present during this incident and heard about it from others.

3654. As for the accounts of Stéphane Chrisostome Dawili and P-1339, the Chamber notes that both witnesses involved at least one Anti-Balaka element in Saleh’s killing, Honorine Gbafolo. Stéphane Chrisostome Dawili seemed to indicate that those who initiated the attack and killed Saleh were civilians of Mbaïki, with the element ‘Mama Tia Godobe’ taking part in the killing. P-1339 indicated that an Anti-Balaka chief and two elements killed Saleh, and that Honorine Gbafolo herself explained to [REDACTED] what she had done and why. The Chamber considers that both accounts are reliable and not necessarily contradictory with each other. In light of this evidence, the Chamber disregards P-1786’s evidence stating that it was ‘the youth of Mbaïki’ and not the Anti-Balaka who killed Saleh, also bearing in mind that he subsequently stated not knowing whether ‘Mama Tia Godobe’ had been involved in the killing.⁹⁰⁰⁸

3655. Specifically with regard to Honorine Gbafolo, the Chamber notes that the video footage of the mistreatment of Saleh’s body shows, as described above, an individual approaching the

⁹⁰⁰⁴ P-1786: T-197, p. 88, lines 9-15.

⁹⁰⁰⁵ P-1786: T-197, p. 89, line 18 – p. 90, line 1, p. 90, lines 18-20.

⁹⁰⁰⁶ See paragraph 3644 above.

⁹⁰⁰⁷ See paragraph 3646 above.

⁹⁰⁰⁸ P-1786: T-197, p. 89, line 18 – p. 90, line 1, p. 90, lines 18-20.

body, cutting off Saleh's genitals with a knife and quickly running away from the scene while other individuals cheered.⁹⁰⁰⁹ This individual, whose face in that particular scene is not visible,⁹⁰¹⁰ appears again later in the video, and is clearly a woman.⁹⁰¹¹ Some individuals in the video footage itself mention that a woman cut off the genitals of the body lying on the ground.⁹⁰¹² This same individual can also be seen in the video footage as one of the persons dragging Saleh's body,⁹⁰¹³ as well as putting her foot on Saleh's head, which was partly severed.⁹⁰¹⁴

3656. Further, P-1339 identified Honorine Gbafolo in another video and confirmed, when asked, that she was the one who removed Saleh's sex and killed him together with two other Anti-Balaka members.⁹⁰¹⁵ This video is the footage filmed by Gérard Ouambou when travelling with Mr Yekatom's group along the PK9-Mbaïki axis⁹⁰¹⁶ and, in the Chamber's view, shows the same individual who can be seen in the video footage of Saleh's mistreatment as dragging and cutting off his genitals.

3657. Moreover, the Chamber notes that Raymond Mongbandi stated that after the Anti-Balaka killed Saleh and dragged his body to a roundabout, 'an Anti-Balaka woman cut off the genitals of the [d]eputy with a knife'.⁹⁰¹⁷ The witness stated that he did not witness this but that his first deputy mayor and a person from the Red Cross gave him a verbal account of

⁹⁰⁰⁹ Video, CAR-OTP-2059-0384, at approximately 00:02:20-00:02:40.

⁹⁰¹⁰ The Chamber notes that the translation of the video footage indicates that '*[u]n homme baisse le short du gisant, coupe le sexe, puis chute sur le sol en voulant s'éloigner*', referring to a man (see Translation, CAR-OTP-2118-5633, at 5637, lines 85-87). (Translation from French to English by the Registry) 'A man pulls down the lying figure's shorts, cuts off his penis, then falls to the ground while trying to move away'. The Chamber considers this to be the translator's assumption, that, in any event, has no bearing on its determination.

⁹⁰¹¹ Video, CAR-OTP-2059-0384, at approximately 00:12:24-00:13:02.

⁹⁰¹² Video, CAR-OTP-2059-0384, at approximately 00:09:40-00:10:40; Translation, CAR-OTP-2118-5633, at 5642, lines 248, 259. Further, the Chamber notes that some minutes later, an individual mentioned that '*[c]'est cette maman-ci qui a coupé le pénis*', after which someone said '*[b]onjour*', followed by another individual who ordered not to mention any person ('*[n]on, on ne cite personne*') (see Video, CAR-OTP-2059-0384, at approximately 00:11:35-00:11:55; Translation, CAR-OTP-2118-5633, at 5643, lines 300-302). (Translation from French to English by the Registry) 'This is the lady who cut off his penis'; 'Hello'; 'No, we don't mention anyone's name'. The Chamber considers this to further support the conclusion that the woman who cut Saleh's genitals was present when the video was recorded.

⁹⁰¹³ Video, CAR-OTP-2059-0384, at 00:01:45-00:02:08. See also paragraph 3646 above.

⁹⁰¹⁴ Video, CAR-OTP-2059-0384, at 00:12:24-00:12:50.

⁹⁰¹⁵ P-1339: T-156, p. 28, line 25 – p. 29, line 18, p. 31, line 23 – p. 32, line 18 referring to Video, CAR-OTP-2094-7618, at 00:10:32-00:10:34.

⁹⁰¹⁶ See paragraph 3311 above.

⁹⁰¹⁷ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0270-71, para. 101.

the killing, and that he himself later buried Saleh's body.⁹⁰¹⁸ Further, Raymond Mongbandi testified that when he buried Saleh, 'his penis and his testicles were not there', and that according to the information he received, the perpetrator was an Anti-Balaka woman who was based in Pissa and under the authority of 'Mr Rambo'.⁹⁰¹⁹ Alexandre Kouroupe-Awo similarly heard from his 'informants' that a 'military lady' – there not being many female soldiers – cut off Saleh's penis and put it in his mouth.⁹⁰²⁰ Likewise, P-1666 testified that the person [REDACTED] told him that the woman appearing on the video was an Anti-Balaka element in 'the Rambo movement' who 'cut off the genitals of the mayor'.⁹⁰²¹

3658. The Yekatom Defence argues that there is no reliable evidence to suggest that 'RFACPP' members were involved in the killing of Djido Saleh since (i) hearsay evidence that 'Anti-Balaka' were responsible does not support the Prosecution's case; (ii) P-1339's evidence on the killing is 'manifestly unsafe'; (iii) Stéphane Chrisostome Dawili's evidence on Honorine Mbafolo's participation is unclear; and (iv) she was in any event not an 'RFACPP' member under Mr Yekatom's authority.⁹⁰²² The Yekatom Defence submits that, instead, Djido Saleh was killed by a 'mob' of locals from Mbaïki who harboured hostility towards him for his collaboration with the Seleka.⁹⁰²³

3659. The Chamber considers that the evidence of P-1339 and Stéphane Chrisostome Dawili unequivocally point to Honorine Gbafolo as one of the perpetrators of Saleh's killing. Likewise, their evidence together with that of Raymond Mongbandi and the video footage demonstrate that she cut off Saleh's genitals after his killing. The Chamber further notes the evidence of Raymond Mongbandi discussed below regarding his encounter with Mr Yekatom after Saleh's killing.⁹⁰²⁴ In this regard, the Chamber notes that the evidence clearly indicates that Honorine Gbafolo was an element in Mr Yekatom's group.⁹⁰²⁵

⁹⁰¹⁸ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0270-71, paras 100-101.

⁹⁰¹⁹ P-1838: T-215, p. 38, line 23 – p. 39, line 22. *See also* T-216, p. 23, line 15 – p. 24, line 19 (testifying that it was 'impossible' to give a name, to tell who were the perpetrators of Saleh's killing, but that what he learnt is that 'it was an Anti-Balaka woman who was not in the Mbaïki town, after which she left Mbaïki to go somewhere else').

⁹⁰²⁰ P-1813: T-182, p. 61, line 24 – p. 62, line 14.

⁹⁰²¹ P-1666: T-231, p. 47, line 22 – p. 48, line 16 *referring to* Video, CAR-OTP-2059-0384, at 00:02:29.

⁹⁰²² [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 540-546.

⁹⁰²³ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 537-539.

⁹⁰²⁴ *See* paragraph 3673 below.

⁹⁰²⁵ *See* paragraphs 3042, 3650-3652 above.

3660. As regards other individuals involved in Saleh's killing and the subsequent mistreatment of his body, the Chamber notes that while Alexandre Kouroupe-Awo initially stated that he heard that Anti-Balaka elements killed Saleh,⁹⁰²⁶ he later specified that the Anti-Balaka who took Saleh from his domicile and executed him were 'the group of young people, indigenous people' helped by '[Anti-]Balaka who had come from Bangui or Pissa'.⁹⁰²⁷ He further explained that some wore military uniforms while others were dressed in civilian clothes, and that '[t]here were a low number of them compared to the group of young indigenous people who accompanied them'.⁹⁰²⁸ He testified that he had 'informants' who gave him the information as the events took place, and that one or two of these informants followed 'the group'.⁹⁰²⁹ Alexandre Kouroupe-Awo also confirmed that Saleh called him when he heard that a group of people was going towards his house, and that he told Saleh that he had warned him and advised him to leave.⁹⁰³⁰

3661. Diakité Aboubakar stated that on a Friday morning when he was in Bangui, a relative who was still living in Mbaïki called him and told him that there was a rumour that the Anti-Balaka were preparing to attack Saleh that day.⁹⁰³¹ She called him later that day and told him that Saleh had been attacked and that she had witnessed the attack 'to the end'.⁹⁰³² She told him that the Anti-Balaka attacked Saleh when he was in his house with all of his family, and that he tried to flee to the MISCA compound.⁹⁰³³ Later in his testimony, Diakité Aboubakar indicated that he was told that it was 'the residents largely of Mbaïki' who attacked Saleh's compound, that there were also 'some Anti-Balaka amongst them', and that their aim was to pillage and take Saleh's possessions.⁹⁰³⁴

⁹⁰²⁶ P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0045, para. 68. *See also* at 0046, para. 73 (stating that 'it was the Anti-Balaka group in M[baïki] that killed Djido').

⁹⁰²⁷ P-1813: T-180, p. 30, line 16 – p. 31, line 5.

⁹⁰²⁸ P-1813: T-180, p. 30, line 16 – p. 31, line 5.

⁹⁰²⁹ P-1813: T-180, p. 31, lines 6-14.

⁹⁰³⁰ P-1813: T-182, p. 58, line 19 – p. 59, line 11.

⁹⁰³¹ P-1595 Statement, CAR-OTP-2104-0274-R02, at 0292, para. 97. The Chamber notes that the witness statement refers to this individual as the witness's [REDACTED], while in the transcript, when clearly talking of the same person, reference is made to 'he' (see P-1595: T-106-ENG, p. 14, lines 4-12; T-106-FRA, p. 15, lines 10-20). The Chamber does not consider this to affect the witness's account in any way as it is clear that he spoke of the same person providing him information on events in Mbaïki.

⁹⁰³² P-1595 Statement, CAR-OTP-2104-0274-R02, at 0292, para. 97.

⁹⁰³³ P-1595 Statement, CAR-OTP-2104-0274-R02, at 0293, para. 98.

⁹⁰³⁴ P-1595: T-106, p. 14, line 18 – p. 15, line 3.

3662.P-1823 indicated that on a Friday when ‘they’ were in front of the Central Mosque, [REDACTED], called ‘them’ and told ‘them’ that Saleh had been killed by ‘Anti-Balaka led by C[obo]’, later confirming that he referred to Victor Cobo, and including Prince Mondounga.⁹⁰³⁵ According to P-1823, the individual who called ‘them’ told ‘them’ that this happened on 2 March 2014 and that he had witnessed the incident himself.⁹⁰³⁶

3663.P-2353 explained that on the day of Saleh’s killing, he was no longer in Mbaïki but learnt that the Anti-Balaka had killed him.⁹⁰³⁷ He believed that the Anti-Balaka killed Saleh because they were the ones who controlled and ruled over the town, they threatened people with death and that made Muslims flee, except for Saleh, who remained in Mbaïki and was therefore killed by the Anti-Balaka.⁹⁰³⁸

3664.Raymond Mongbandi stated that Mr Yekatom’s elements killed Saleh according to the accounts he received.⁹⁰³⁹ When specifically asked about his sources of information, Raymond Mongbandi testified that it was the Anti-Balaka who killed Saleh because there was a conflict between two groups, ‘it could only be them’, and he was the target because he was the only Muslim left in town.⁹⁰⁴⁰ Raymond Mongbandi did not witness the killing, and when he heard what happened and returned to Mbaïki, he saw ‘a lot of MISCA activity, hunting for Anti-Balaka responsible for the killing’.⁹⁰⁴¹

3665.P-2354 stated that he learned through Facebook that Saleh was killed by ‘R[ambo]’s Anti-Balaka’ in front of the company commander.⁹⁰⁴² P-2354 recognised Saleh in the images his son showed him on Facebook, as well as some of the youngsters from Mbaïki, whose names the witness did not know.⁹⁰⁴³

⁹⁰³⁵ P-1823 Statement, CAR-OTP-2063-0369-R02, at 0376, para. 37; P-1823: T-183, p. 71, line 18 – p. 73, line 10, p. 73, line 25 – p. 74, line 11. The Chamber notes that P-1823 confirmed that Prince Mondounga is ‘the grandson of Madam Mondounga, the former adviser to the Mbaïki mayor’ and recognised him in a photograph shown to him during his testimony (see P-1823: T-183, p. 72, lines 2-7 *referring to* Photograph, CAR-D29-0010-0012).

⁹⁰³⁶ P-1823 Statement, CAR-OTP-2063-0369-R02, at 0376, para. 37; P-1823: T-183, p. 74, lines 7-11.

⁹⁰³⁷ P-2353: T-161, p. 27, line 25 – p. 28, line 14.

⁹⁰³⁸ P-2353: T-161, p. 33, line 20 – p. 34, line 7.

⁹⁰³⁹ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0271, para. 104.

⁹⁰⁴⁰ P-1838: T-215, p. 22, line 16 – p. 23, line 4.

⁹⁰⁴¹ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0271, para. 102.

⁹⁰⁴² P-2354 Statement, CAR-OTP-2105-0991-R03, at 1003-04, para. 68.

⁹⁰⁴³ P-2354 Statement, CAR-OTP-2105-0991-R03, at 1003-04, para. 68.

3666. Guerrino Perin believed that Saleh was trying to alert the prefect because there were ‘Anti-Balaka louts around’.⁹⁰⁴⁴ However, he did not think Mr Yekatom organised it because ‘the Anti-Balaka officials’ had kept their word.⁹⁰⁴⁵ According to Guerrino Perin, the ‘others’ who killed Saleh were ‘people who wouldn’t listen to anyone at all, who had their plans in their head’, and who ‘wanted to wreak revenge’.⁹⁰⁴⁶ Guerrino Perin was not present when Saleh was killed.⁹⁰⁴⁷

3667. The Chamber notes that, with the exception of Raymond Mongbandi and Guerrino Perin, none of the above witnesses were present in Mbaïki on the day of Saleh’s killing. However, Raymond Mongbandi and Guerrino Perin did not witness the killing. It also notes that Raymond Mongbandi and P-2353 indicated that Anti-Balaka elements killed Saleh based on their assumption that it could not have been any other group. The Chamber, therefore, puts little weight on this part of their evidence. As for Alexandre Kouroupe-Awo’s and Diakité Aboubakar’s accounts, it notes that both witnesses were in touch with people who witnessed the killing and who informed them almost immediately. Importantly, it notes that both Alexandre Kouroupe-Awo and Diakité Aboubakar indicated that according to their informants, Saleh was attacked by a mixture of local people from Mbaïki and Anti-Balaka elements. Guerrino Perin also seemed to refer to both the Anti-Balaka and ‘others’ looking for revenge as those responsible for Saleh’s killing. The Chamber further notes that P-2354 stated that he recognised ‘some of the youngsters from Mbaïki’ in a film clip, whose names he did not know. Regarding P-1823’s account, the Chamber notes that the witness’s source told him that he had witnessed the killing of Saleh by the Anti-Balaka.

3668. In this context, the Chamber further notes that the video footage depicting the mistreatment of Saleh’s body shows individuals who appear young and are wearing civilian clothes.⁹⁰⁴⁸ At the same time, the Chamber notes that also Honorine Gbafolo – who, as outlined above, was identified by several witnesses as an element of Mr Yekatom’s group –, appears in civilian clothing in the footage.⁹⁰⁴⁹ Furthermore, it was generally known that elements of

⁹⁰⁴⁴ D29-5015: T-255, p. 20, lines 15-21.

⁹⁰⁴⁵ D29-5015: T-255, p. 20, lines 15-25.

⁹⁰⁴⁶ D29-5015: T-255, p. 20, lines 15-25.

⁹⁰⁴⁷ D29-5015: T-255, p. 21, line 24 – p. 22, line 3.

⁹⁰⁴⁸ See e.g. Video, CAR-OTP-2059-0384, at approximately 00:00:28-00:00:35, 00:06:49-00:07:15.

⁹⁰⁴⁹ Video, CAR-OTP-2059-0384, at approximately 00:12:24-00:13:02.

Mr Yekatom's group wore a mixture of civilian and military clothing; indeed Mr Yekatom himself appears in many footage in civilian clothing, rather than in his official military attire.⁹⁰⁵⁰ On this basis, and in light of the evidence outlined above, the Chamber considers that the mere fact of individuals involved in the killing of Saleh wearing civilian clothing does not mean that Saleh was killed by a 'mob' composed exclusively of Mbaïki local inhabitants.

3669. Taking into account all of the above, the Chamber concludes that Saleh was killed by a group of individuals which included at least three elements from Mr Yekatom's group, one of them being Honorine Gbafolo. The Chamber has further considered in this context the evidence indicating that Saleh had already received threats by the Anti-Balaka before his death and, in particular, Raymond Mongbandi's account according to which Mr Yekatom's elements, including his deputy Cœur de Lion, interrogated Saleh prior to his death – an interrogation which Raymond Mongbandi considered 'rather rough' and 'a kind of intimidation' which made the witness think that the Anti-Balaka wanted to kill Saleh.⁹⁰⁵¹

3670. In relation to the threats Saleh received, the Chamber is of the view that even if some of these threats were based on Saleh's alleged cooperation with the Seleka,⁹⁰⁵² which, according to the Yekatom Defence, would have fuelled the 'mob's' anger in his regard,⁹⁰⁵³ this does not distract from the conclusion that at the time he was attacked while in his house, Saleh was not engaged in any hostile activities, that he was one of the very few remaining Muslims in Mbaïki, and that the comments in the video showing the mistreatment of Saleh's body leave no doubt that he was killed because he was a Muslim. In this regard, the Chamber notes that once they killed Saleh, the perpetrators not only mistreated his body by beating it and cutting several parts of it but also by displaying a particularly cruel and humiliating behaviour towards Saleh which included partly undressing him, insulting and making fun of him, discussing ways in which to further harm him (including burning his body and eating

⁹⁰⁵⁰ See e.g. audio-visual material referenced in footnote 7560 above; see also paragraphs 2411, 3475, 3501.

⁹⁰⁵¹ See paragraph 3640 above.

⁹⁰⁵² In this regard, the Chamber notes that P-1666 testified that after Saleh told him during a call that he was being threatened and attacked, after which someone apparently took Saleh's phone from him, he called a neighbour of Saleh, who told him that a group of people had attacked him and accused him of 'sheltering some people' (see P-1666: T-231, p. 40, lines 2-21, p. 41, line 24 – p. 42, line 6).

⁹⁰⁵³ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 537-538.

his flesh), putting their feet on different parts of his body, approaching it with their weapons, pretending to further harm him and boasting about these acts.⁹⁰⁵⁴

3671. Raymond Mongbandi stated that Saleh's family – his wife and child – could not attend Saleh's burial, which he organised 'because the situation was very risky' considering the wife was Muslim and '[i]f the Anti-Balaka took note of her presence, she could have been executed'.⁹⁰⁵⁵ Raymond Mongbandi testified that after his killing, Saleh's body was put at the funeral site; he then managed to find a Muslim who could administer the funeral rites in accordance with Muslim tradition, after which Red Cross officials brought a bag and the body was buried – all this without the participation of Saleh's family.⁹⁰⁵⁶ The witness mentioned that in addition to the Red Cross, the accountant and the secretary-general of the town hall provided assistance, as well 'the Mbaïki youth', who under the supervision of the MISCA dug up a grave, and the MISCA itself, which escorted them to the cemetery, 'this really allow[ing] Djido's burial'.⁹⁰⁵⁷

3672. The Chamber further notes that when asked about the impact that Saleh's death had on him, Raymond Mongbandi indicated that '[w]hat really caused an impact on [him] was the fact that a human being was decapitated', which he described as 'a horrible act'.⁹⁰⁵⁸

3673. Furthermore, Raymond Mongbandi explained how Mr Yekatom came to see him the day after the killing and told him that it had been 'an accident'.⁹⁰⁵⁹ According to Raymond Mongbandi, Mr Yekatom did not give any explanation for the death, offered to assist with the expenses of Saleh's burial and told him after receiving a phone call that he had to go to see the MISCA colonel at the crossroads.⁹⁰⁶⁰ The witness also explained that he saw 'them' (referring to Mr Yekatom and the MISCA colonel) discussing and that the MISCA colonel

⁹⁰⁵⁴ See e.g. Video, CAR-OTP-2059-0384, at approximately 00:02:20-00:02:40, 00:00:40-00:01:10; 00:05:12-00:05:24; 00:06:25-00:06:45. See also e.g. Video, CAR-OTP-2059-0384, at approximately 00:11:30-00:11:40; Translation, CAR-OTP-2118-5633, at 5643, line 298-299.

⁹⁰⁵⁵ P-1838: T-215, p. 37, line 7 – p. 38, line 3.

⁹⁰⁵⁶ P-1838: T-215, p. 37, lines 7-14; T-216, p. 24, line 22 – p. 25, line 6.

⁹⁰⁵⁷ P-1838: T-215, p. 38, lines 9-13.

⁹⁰⁵⁸ P-1838: T-215, p. 38, lines 5-8.

⁹⁰⁵⁹ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0270, para. 99, at 0271, para. 104; P-1838: T-216, p. 21, line 22 – p. 22, line 18.

⁹⁰⁶⁰ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0270, para. 99, at 0271, para. 104. See also P-1838: T-216, p. 20, line 21 – p. 22, line 16.

ordered Mr Yekatom and all his men to leave Mbaïki, after which they all left immediately for Pissa.⁹⁰⁶¹ Raymond Mongbandi indicated that despite Mr Yekatom's promise to provide logistics for the burial, they did not complete their discussions and Mr Yekatom never paid for Saleh's burial.⁹⁰⁶²

3674. In relation to the first part of Raymond Mongbandi's evidence, the Chamber considers that while Mr Yekatom's statement, in itself, does not show that his elements were involved in the killing of Saleh, it does, combined with Mr Yekatom's offer to cover the funeral expenses, indicate that Mr Yekatom assumed a degree of responsibility for the killing.

3675. Furthermore, the Chamber recalls that Stéphane Chrisostome Dawili explained that after Saleh's killing, he discussed with his leader Sete the information he received from people, and that it was up to Sete to report to Mr Yekatom, because Sete was the superior in this situation and in turn subordinate to Mr Yekatom.⁹⁰⁶³ Stéphane Chrisostome Dawili also indicated that Sete punished Honorine Mbafolo.⁹⁰⁶⁴ When asked about her punishment, he indicated that she was 'handed over to the gendarmerie and they did the rest'.⁹⁰⁶⁵ He did not know about a meeting that Mr Yekatom attended in the beginning of March to discuss, among other things, Saleh's killing.⁹⁰⁶⁶

3676. P-1339 indicated that when Saleh was killed, Mr Yekatom was not in Mbaïki but 'a lieutenant named Setay' was.⁹⁰⁶⁷ The witness confirmed, when asked, that Mr Yekatom was

⁹⁰⁶¹ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0270, para. 99, at 0271, para. 104; P-1838: T-216, p. 20, line 21 – p. 21, line 10.

⁹⁰⁶² P-1838 Statement, CAR-OTP-2100-0252-R05, at 0270, para. 99, at 0271, para. 104; P-1838: T-216, p. 21, line 22 – p. 22, line 18.

⁹⁰⁶³ P-1647: T-194, p. 65, lines 20-23, p. 66, lines 10-23.

⁹⁰⁶⁴ P-1647: T-194, p. 64, lines 3-11.

⁹⁰⁶⁵ P-1647: T-194, p. 64, lines 6-11. *See also* Special Advisor Statement, CAR-OTP-2001-0446, at 0446 (suggesting that twelve suspects were arrested, 'some with fresh blood on their machetes', but immediately released). The Chamber notes the Yekatom Defence's objection to the submission of this document on the basis of its lacking probative value and any probative value being outweighed by the potential prejudice (*see* Annex A to the Response, ICC-01/14-01/18-1978-Conf-AnxA, p. 6), while the Ngaissona Defence argues that the document contains no footnote or reference, preventing any analysis of its sources (*see* Annex 1 to Defence Response to the "Prosecution's Ninth Application for Submission of Evidence from the Bar Table and request for reconsideration of the Decision on the submission of CAR-OTP-2053-0576" ICC-01/14-01/18-1947-Conf, 18 August 2023, ICC-01/14-01/18-2036-Conf-Anx1, p. 6). The Chamber considers that its reliance on the item is limited to consideration of the contents within the context of other evidence available, rather than as a sole source for any finding.

⁹⁰⁶⁶ P-1647: T-194, p. 66, lines 7-9.

⁹⁰⁶⁷ P-1339: T-154, p. 12, line 23 – p. 13, line 14.

still the chief of the Anti-Balaka at the time.⁹⁰⁶⁸ P-1339 did not know whether Mr Yekatom met with MINUSCA to discuss Saleh's killing.⁹⁰⁶⁹ Further, he indicated that Honorine Mbafolo was not punished, sanctioned or admonished, but 'some did tell her that she was a strong woman'.⁹⁰⁷⁰ According to P-1339, she stayed in the group after the incident and remained until the DDR process, in which she participated.⁹⁰⁷¹ P-1339 also indicated, when asked, that Mr Yekatom knew Honorine Mbafolo 'very well' and everyone in the Anti-Balaka knew her and her nickname, mother of the 'Godobé' or mother of the street children.⁹⁰⁷²

3677. Alexandre Kouroupe-Awo was shown a video of an interview with him at the relevant time in which he stated that the culprits of Saleh's killing had been identified and arrested, but released again as there was no capacity at the gendarmerie to hold them.⁹⁰⁷³ Being asked about his own statement, the witness claimed having doubts about this account and not recalling that the perpetrators of the killing were arrested and then released due to a lack of suitable premises to hold them.⁹⁰⁷⁴

3678. On the basis of the above, the Chamber is unable to conclude whether the perpetrators of Saleh's killing, including Honorine Mbafolo, were in fact sanctioned for their actions.

3679. In the aftermath of the killing and as a direct consequence of it, MISCA requested Mr Yekatom and his elements to leave Mbaïki.

3680. Specifically, when Raymond Mongbandi discussed with Mr Yekatom as outlined above,⁹⁰⁷⁵ the witness explained that the MISCA colonel instructed Mr Yekatom and his elements to leave Mbaïki immediately, which they did, with the exception of the elements who were originally from Mbaïki, who 'probably' stayed in Mbaïki.⁹⁰⁷⁶ Raymond Mongbandi

⁹⁰⁶⁸ P-1339: T-154, p. 13, lines 15-21.

⁹⁰⁶⁹ P-1339: T-154, p. 14, lines 14-17.

⁹⁰⁷⁰ P-1339: T-154, p. 14, lines 18-22.

⁹⁰⁷¹ P-1339: T-154, p. 14, line 23 – p. 15, line 7.

⁹⁰⁷² P-1339: T-154, p. 15, line 16 – p. 16, line 9.

⁹⁰⁷³ Video, CAR-OTP-2058-0573, at approximately 00:29:51-00:30:53; Transcript, CAR-OTP-2118-0420, at 0436, lines 590-608. The Chamber notes that at 00:30:41-00:30:43, a picture can be seen of what, according to the voiceover, were the identified culprits of the killing as arrested by MISCA.

⁹⁰⁷⁴ P-1813: T-182, p. 60, line 6 – p. 61, line 18.

⁹⁰⁷⁵ See paragraph 3673 above.

⁹⁰⁷⁶ P-1838 Statement, CAR-OTP-2100-0252-R05, at 0270, para. 99, at 0271, para. 104.

specified that when Mr Yekatom met the MISCA colonel, they were a bit away from him but he could see them, and that Mr Yekatom was told that there could not be ‘two captains’ in Mbaïki, that the town had to be governed by the MISCA, and they ordered him to leave.⁹⁰⁷⁷ According to the witness, Mr Yekatom left after this conversation and went back to his base in Pissa.⁹⁰⁷⁸

3681. Alexandre Kouroupe-Awo stated that after the Anti-Balaka group in Mbaïki killed Saleh, the head of MISCA in the area went to the witness’s house and told him that they had chased away the Anti-Balaka.⁹⁰⁷⁹ The witness saw Mr Yekatom again when he came to Mbaïki, but they did not speak about the killing.⁹⁰⁸⁰ He also did not recall, when asked during his interview, what he and Mr Yekatom discussed on the phone conversations that, according to CDR, they had on 28 February and 1 March 2014.⁹⁰⁸¹ He knew that MISCA and the gendarmerie were supposed to conduct an investigation on the incident, but did not know what happened to the people responsible for the killing.⁹⁰⁸² Alexandre Kouroupe-Awo believed that MISCA or Mr Yekatom’s elements contacted Mr Yekatom to inform him about the killing.⁹⁰⁸³ The witness also stated that at some point in time, MISCA was asked to arrest Mr Yekatom but instead of doing so, they contacted him and asked to speak to him.⁹⁰⁸⁴ Having been read information according to which he would have participated in a meeting with MISCA, gendarmerie and Mr Yekatom on 2 March 2014 at which Mr Yekatom would have said that he knew the person responsible for Djido Saleh’s killing and having sanctioned him,⁹⁰⁸⁵ the witness stated not recalling such occasion.⁹⁰⁸⁶ While he did not recall precisely this meeting, he testified that they met on several occasions, including MINUSCA, municipality, defence and security forces, and Mr Yekatom, ‘for him to be able to catch the

⁹⁰⁷⁷ P-1838: T-215, p. 23, line 18 – p. 24, line 4, p. 35, lines 1-16, p. 36, line 23 – p. 37, line 5.

⁹⁰⁷⁸ P-1838: T-215, p. 23, line 18 – p. 24, line 4.

⁹⁰⁷⁹ P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0046, paras 71, 73.

⁹⁰⁸⁰ P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0046, para. 73.

⁹⁰⁸¹ P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0045-46, para. 70.

⁹⁰⁸² P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0046, para. 73.

⁹⁰⁸³ P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0045, para. 69, at 0046, para. 71.

⁹⁰⁸⁴ P-1813 First Statement, CAR-OTP-2069-0035-R02, at 0046, para. 72.

⁹⁰⁸⁵ P-1813: T-180, p. 35, line 21 – p. 36, line 25. The Chamber notes that while the Prosecution was allowed to read this information over an objection of the Yekatom Defence (see T-180, p. 34, line 13 – p. 35, line 19), this document was not recognised as submitted (see email of the Chamber, 1 June 2023, at 10:28). The Chamber has considered the information as mentioned in the context of Alexandre Kouroupe-Awo’s testimony.

⁹⁰⁸⁶ P-1813: T-180, p. 46, lines 16-24.

attention of some of his elements who had conducted acts of violence at a number of locations in the locality’.⁹⁰⁸⁷

3682. The Yekatom Defence argues that Raymond Mongbandi made an ‘unfounded and conclusory link’ between MISCA taking control of the Mbaïki roundabout after Saleh’s killing, and the ‘expulsion’ of Mr Yekatom.⁹⁰⁸⁸ The Chamber does not share this reading of Raymond Mongbandi’s evidence. Rather, it is clear from the information he provided that the encounter between Mr Yekatom and MISCA took place shortly after Saleh’s killing. Further, the Chamber recalls the evidence provided by P-1339 and Alexandre Kouroupe-Awo according to which MISCA, in the immediate context of Saleh’s killing, chased away not only the individuals in the direct vicinity of the location at which Saleh was killed and his body mistreated, but also elements of Mr Yekatom’s group based at Socatel at that time.⁹⁰⁸⁹ Even if the encounter between Mr Yekatom and MISCA coincided with MISCA taking full control of the town, as suggested by the Yekatom Defence, this does not negate the Chamber’s conclusion that MISCA asked Mr Yekatom and his elements to leave Mbaïki as a direct consequence of Saleh’s killing.⁹⁰⁹⁰

F. Recruitment of children under the age of 15 into the Anti-Balaka and their use

3683. Mr Yekatom is charged with conscription and/or enlistment of children under the age of 15 in his group at various locations, including Boeing, Sekia, Pissa, and Batalimo, and the assignment of various tasks to them, such as participating in hostilities, including during the Bangui Attack, between ‘at least December 2013 and August 2014’.⁹⁰⁹¹

⁹⁰⁸⁷ P-1813: T-180, p. 37, lines 6-16.

⁹⁰⁸⁸ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 546.

⁹⁰⁸⁹ See paragraphs 3650, 3681 above.

⁹⁰⁹⁰ The Chamber notes in this regard that the Yekatom Defence seems to also imply that the fact that the ‘Anti-Balaka’ were to be re-grouped in a ‘safe place’ is contradictory with the idea that they would have been ‘expelled’ from Mbaïki (see [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 546 referring to Note, CAR-D29-0002-0080). The Chamber disagrees with this reading, as the document clearly states that regrouping the ‘*Anti-balaka dans un lieu sûr*’ was one of the factors discussed – in addition to support of MISCA and re-formation of defence and security forces – with a view to facilitating ‘*la libre circulation des personnes et leurs biens*’. Rather than contradicting the idea of an ‘expulsion’ of Mr Yekatom’s elements from Mbaïki, this makes clear that regrouping the elements in one place was considered a factor which would contribute to ensuring free circulation of people and goods. Also bearing in mind its general considerations regarding this item (see footnote 9002 above), the Chamber therefore does not find this to undermine its conclusion.

⁹⁰⁹¹ Confirmation Decision, ICC-01/14-01/18-403-Conf-Corr, para. 154, p. 105.

3684. The Prosecution submits that children under the age of 15 years were present in Mr Yekatom's group from at least December 2013 through August 2014 and were recruited 'in line with the Anti-Balaka's widespread and well documented practice'.⁹⁰⁹² It relies, *inter alia*, on P-2476's alleged experience in Mr Yekatom's group as a former 'child soldier' and on witnesses who claimed to have seen other children at Yamwara and along the PK9-Mbaïki axis during the relevant period.⁹⁰⁹³ Further, it relies, *inter alia*, on Mr Yekatom's interactions with the alleged 'child soldiers', his attendance in the ESF ceremony in August 2014, and on meetings with P-2018 to establish his intent.⁹⁰⁹⁴

3685. The Yekatom Defence submits that there were no children under the age of 15 in Mr Yekatom's group.⁹⁰⁹⁵ It submits that evidence on the potential presence of children under the age of 15 years is unreliable as to their age and membership in Mr Yekatom's group.⁹⁰⁹⁶ The Yekatom Defence makes extensive submissions concerning the fraudulent nature of the ESF programme, arguing that the persons registered in this programme were not under 15 years of age, and that therefore, the Chamber cannot rely on information related to ESF to enter conclusions under this count.⁹⁰⁹⁷

3686. As set out below, the Chamber by majority, Judge Chung dissenting, finds that the Prosecution presented no reliable evidence showing the presence of children under the age of 15 within Mr Yekatom's group during the period relevant to the charges.

3687. To recall, the Chamber heard four alleged former 'child soldiers' (P-2475, P-2476, V45-0001 and V45-0002), two ESF functionaries (P-2018 and P-1974), three government officials (P-2082, Roger Okoa-Penguia, Alexandre Kouroupe-Awo), and one expert witness on the matter (Mirjam de Bruijn). The Chamber also heard one of the members of the Anti-Balaka national coordination, Alfred Legrand Ngaya, who attended one of the ceremonies organised by ESF in August 2014. The Chamber also received documentary evidence in the

⁹⁰⁹² [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, para. 743.

⁹⁰⁹³ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Conf, paras 749-755, 758-769.

⁹⁰⁹⁴ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Conf, paras 771-787.

⁹⁰⁹⁵ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Conf-Corr, para. 547.

⁹⁰⁹⁶ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Conf-Corr, paras 548-556.

⁹⁰⁹⁷ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Conf-Corr, paras 557-580.

form of UN and NGO reports and media coverage regarding the presence of children within the Anti-Balaka generally.

3688. The Chamber notes that the Prosecution does not rely on P-2475, V45-0001, and V45-0002 in its Closing Brief for purposes of its submissions concerning Count 29, or otherwise. The Chamber further notes that the CLRV1 made detailed submissions on the credibility of V45-0001 and V45-0002, arguing that Mr Yekatom bears criminal responsibility under Count 29.⁹⁰⁹⁸

3689. The Chamber recalls its conclusions on the credibility of these three witnesses. It found P-2475, V45-0001, and V45-0002 wholly unreliable on their experiences as former ‘child soldiers’ within the Anti-Balaka.⁹⁰⁹⁹ Accordingly, the Chamber has not relied on their evidence for the purposes of entering any findings on Mr Yekatom’s alleged responsibility for conscription and/or enlistment of children under the age of 15 years.

3690. In sum, the Chamber by majority, Judge Chung dissenting, finds that it did not hear one single child under the age of 15 at the relevant time and purportedly within Mr Yekatom’s group that it found credible.

3691. In its assessment below, the Chamber first addresses the evidence concerning the presence of children under the age of 15 in Mr Yekatom’s group at the various locations mentioned in the Confirmation Decision. The Chamber then assesses the evidence concerning the ESF programme before turning to Mr Yekatom’s purported actions in relation to it.

1. Presence of children at bases in Bangui

3692. In respect of Bangui, the Chamber assessed the evidence concerning the presence of children at Yamwara⁹¹⁰⁰ and at Gbangba base,⁹¹⁰¹ both of which were under Mr Yekatom’s control in December 2013 and finds that it received no reliable evidence showing the presence of children under the age of 15 years at either of these two locations.

⁹⁰⁹⁸ CLRV1 Closing Brief, ICC-01/14-01/18-2735-Conf, paras 55-57, 80-188, 189-237.

⁹⁰⁹⁹ See paragraphs 506-521, 542-575, 576-601 above.

⁹¹⁰⁰ See footnote 3968 above. See also paragraph 3038 above.

⁹¹⁰¹ For location of Gbangba, see footnote 6207 above.

3693. As regards Gbangba, the Chamber recalls that it found P-2475, who talked about the presence of children at the Gbangba base, wholly unreliable.⁹¹⁰² The Chamber further notes that P-1339, an Anti-Balaka ComZone who was with Mr Yekatom in Gbangba, explained that there were ‘no children’ in the group and that he meant combatants when describing an incident with ‘children’ going out to get food and getting punished.⁹¹⁰³ The Prosecution did not present any other evidence on the presence of children under the age of 15 in respect of this location.

3694. As regards Yamwara, the Prosecution, relying on P-1839, P-1339, and P-1716, submits that children were present in Mr Yekatom’s group there, including one called ‘Bougie Noire’.⁹¹⁰⁴ The Yekatom Defence argues that Bougie Noire was older than 15 years at the time.⁹¹⁰⁵

3695. P-1839 knew a child called Bougie Noire at Yamwara,⁹¹⁰⁶ and recognised him in a video⁹¹⁰⁷ shot at Yamwara,⁹¹⁰⁸ in a photoboard containing the screenshots from this video,⁹¹⁰⁹ and in a photograph on his identity card.⁹¹¹⁰ P-1839 did not know Bougie Noire’s functions,⁹¹¹¹ and had heard from other elements that he had already killed someone and had already cut a young man’s head.⁹¹¹² Importantly, P-1839 did not know his true age, but he was certainly not ‘of age’, meaning that he was not yet 18 years old.⁹¹¹³ P-1839, [REDACTED], thought that [REDACTED] was a lot older than Bougie Noire.⁹¹¹⁴ P-1839 estimated that Bougie Noire was 11 or 12 years old,⁹¹¹⁵ noting that he was the ‘smallest’ of the two ‘children’ who

⁹¹⁰² See paragraphs 506-521 above.

⁹¹⁰³ P-1339: T-151, p. 46, line 17 – p. 47, line 1. See also T-152, p. 75, lines 16-25.

⁹¹⁰⁴ Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, paras 751, 760-761, 763.

⁹¹⁰⁵ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 550.

⁹¹⁰⁶ P-1839: T-170, p. 66, lines 4-9.

⁹¹⁰⁷ P-1839: T-171, p. 7, line 21 – p. 8, line 3 (indicating that Bougie Noire was wearing a white or brown t-shirt and had a knife in his hand and was just next to the chief) *referring to* Video, CAR-OTP-2065-3843, at 00:01:18.

⁹¹⁰⁸ P-1839: T-171, p. 7, lines 13-20.

⁹¹⁰⁹ P-1839: T-172, p. 49, lines 5-12; Photoboard, CAR-D29-0010-0049.

⁹¹¹⁰ P-1839: T-172, p. 51, lines 10-14, p. 52, line 22 – p. 54, line 4; Identification card, CAR-D29-0015-0029. See *further* Photograph, CAR-D29-0010-0047.

⁹¹¹¹ P-1839: T-170, p. 67, lines 5-12.

⁹¹¹² P-1839: T-170, p. 67, lines 13-17.

⁹¹¹³ P-1839: T-170, p. 66, lines 13-21.

⁹¹¹⁴ P-1839: T-170, p. 66, line 22 – p. 67, line 2.

⁹¹¹⁵ P-1839: T-170, p. 67, line 24 – p. 68, line 10; T-172, p. 55, lines 14-19 (agreed that she did not hear about his age from Bougie Noire’s mouth, nor did she have his birth certificates at the time and when she said that he was a child, this was based on her impressions of his outer appearance at the time). See also P-1839: T-172, p. 53, lines 11-14 (confirmed that at the time Bougie Noire had not yet reached the age of majority), p. 53, lines 15-18 (agreed that her

were with Rombhot.⁹¹¹⁶ P-1339 also spoke of an element called Bougie Noire but did not provide any estimates as to his age.⁹¹¹⁷ The Chamber has also received Bougie Noire's identity card, indicating that he was born in 1996,⁹¹¹⁸ and therefore, would have been over 16 years at the time.

3696. Having considered the evidence in its totality, specifically his identification card, the Chamber finds that Bougie Noire was not under 15 years old at the relevant time.

3697. P-1716 described seeing children at Yamwara,⁹¹¹⁹ recalling a boy who was with him and who 'wanted to do certain things to him, who wanted to attack him'.⁹¹²⁰ P-1716 also said generally that 'the children' had machetes in their hands, were wearing *gris-gris*, bearing weapons, and beating up the people who were there just any way they wanted, they did anything they wanted to do.⁹¹²¹ In respect of the boy that was with him, P-1716 said that he was 'about 12 years of age', estimate he based on saying that he 'saw him' and he was 'still very small'.⁹¹²² P-1716 did not have any further information on who this person was, or his age. Having regard to this, the Chamber is unable to conclude who P-1716 may be referring to and whether this person was indeed under 15 years of age. The Chamber finds P-1716's assessment of this boy's 'small' stature and his estimate about his age insufficient to conclude that there was a boy under 15 years of age at Yamwara.

3698. In addition to the above, the Prosecution relies on a documentary to show presence of children under the age of 15 in Mr Yekatom's group.⁹¹²³ It contains an exchange between a reporter and an alleged female 'child soldier' who stayed in Mr Yekatom's group 'in Bangui'

only conviction was that Bougie Noire had not yet reached the age of majority; there, they did not try to determine each other's age).

⁹¹¹⁶ P-1839: T-172, p. 53, line 19 – p. 54, line 3.

⁹¹¹⁷ See P-1339: T-155, p. 27, lines 14-25, p. 32, lines 12-22.

⁹¹¹⁸ Identification card, CAR-D29-0015-0029; Birth certificates, CAR-D29-0001-0426; CAR-D29-0013-0095. P-1839, when shown CAR-D29-0015-0029 and CAR-D29-0001-0426, was surprised to see his age in these documents but otherwise, she knew that he was a child; he had not reached the age that is shown in these documents; she also questioned what the national identity/digital identity documents that had been established in the country could prove; or that his age was not reduced in these documents (see P-1839: T-172, p. 49, line 14 – p. 53, line 5).

⁹¹¹⁹ P-1716: T-147, p. 11, line 25 – p. 12, line 6.

⁹¹²⁰ P-1716: T-147, p. 12, lines 7-14.

⁹¹²¹ P-1716: T-147, p. 12, lines 18-22.

⁹¹²² P-1716: T-147, p. 10, line 24 – p. 11, line 4; P-1716 Statement, CAR-OTP-2053-0062-R05, at 0069, para. 38.

⁹¹²³ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, nn. 1730, 1734, 1742 referring to Video, CAR-OTP-2122-9074; Transcript, CAR-OTP-2127-7077; Translation, CAR-OTP-2127-7096.

and ‘in the bush’ for about two years.⁹¹²⁴ The Chamber has received no information on how the filmmakers selected the person to be interviewed and how they assessed this person’s membership within Mr Yekatom’s group. The Chamber was unable to independently test the claims made therein by the alleged ‘child soldier’. The Prosecution has not presented any evidence to show whether an alleged ‘child soldier’ by the same name as the person in the documentary was ever present in Mr Yekatom’s group. Accordingly, the Chamber does not rely on this video for purposes of its determinations regarding Count 29.

3699. Further with a view to assessing whether children under the age of 15 may have been present in Mr Yekatom’s group in Bangui, the Chamber has also considered evidence suggesting that children under the age of 15 years may have participated in the Bangui Attack. On the evidence as further outlined below, the Chamber finds that this evidence in fact does not refer to children under the age of 15 in Mr Yekatom’s group.

3700. P-2232, who was not in Mr Yekatom’s group during the Bangui Attack,⁹¹²⁵ said that he saw children in the Anti-Balaka group that participated in this attack. Asked to estimate the ages of these children, P-2232 provided his estimates from physically observing the children, saying that some were younger than 15 years, even 12 years, further stating that the ‘OCHA’ visited the coordination to count the children and provide them with training and orientation.⁹¹²⁶ P-2232, asked if he saw them participating in battle, said that he was close to the battlefield and saw children carrying jerrycans of water for the combatants who were at the front, more involved in carrying supplies, he did not see them carrying weapons and participating in the fighting in his sector, but maybe that happened in ‘other sectors’.⁹¹²⁷ P-2232 said that he did not himself see that children who participated in the fighting were killed but said that maybe some were killed in ‘other sectors’.⁹¹²⁸

⁹¹²⁴ Video, CAR-OTP-2122-9074, at 00:02:18 *et seq*; Transcript, CAR-OTP-2127-7077; Translation, CAR-OTP-2127-7096, at 7099-7100, lines 36-43, 79-82.

⁹¹²⁵ P-2232: T-078, p. 5, line 20 – p. 6, line 4 (stating that he went along after [REDACTED] that crossed from Zongo over to Bangui). *See also* T-075, p. 35, line 14 – p. 36, line 13 (stating that he personally never had a conversation with Mr Yekatom), p. 39, line 23 – p. 40, line 17 (stating that Mr Yekatom’s group was separated after departure from Zongo to go to Mongoumba).

⁹¹²⁶ P-2232: T-077, p. 10, line 23 – p. 11, line 24.

⁹¹²⁷ P-2232: T-077, p. 12, line 17 – p. 13, line 6.

⁹¹²⁸ P-2232: T-077, p. 13, lines 8-11.

3701. The Chamber further notes the testimony of P-0884 who referred to the presence of children generally in Anti-Balaka groups engaged in fighting. P-0884 said that in certain groups coming from Bossangoa, for instance, there were young children – around 13, 15, 17 years –, and he did not know how those children joined those groups.⁹¹²⁹ P-0884 said that a lot of other people saw such children in those groups, orphans whose parents had been killed joined these groups.⁹¹³⁰

3702. Having regard to the above, the Chamber cannot conclude that there were children under the age of 15 years in Mr Yekatom's group in Bangui. Importantly, the Chamber recalls that it has found P-2475 wholly unreliable. The Chamber has not received any other evidence in respect of the allegation that children under the age of 15 were mobilised to directly participate in hostilities under Mr Yekatom's command, including in the Bangui Attack.

2. *Presence of children on the PK9-Mbaïki axis*

3703. In respect of the locations on the PK9-Mbaïki axis, the Chamber has assessed the presence of children at Pissa, Sekia, and Mbaïki. The Chamber finds that there is no reliable evidence that there were children under the age of 15 years in Mr Yekatom's group in Pissa, Batalimo, and Sekia. For the same reasons, the Chamber finds by majority, Judge Chung dissenting, that there were no children under the age of 15 years in Mbaïki. Judge Chung considers that P-2476 was a member of Mr Yekatom's group in Mbaïki and was 14 years old at the time.

3704. The Prosecution, relying on P-2476, P-1839, Alexandre Kouroupe-Awo, P-1974, P-2018, P-2082, Guerrino Perin, Alfred Legrand Ngaya and Roger Okoa-Penguia, submits that there were children under the age of 15 in Mr Yekatom's group in these locations.⁹¹³¹ The Yekatom Defence argues generally that determining age based on physical appearance is unreliable in this case and submits that these witnesses did not provide reliable estimates as to ages or memberships of children alleged to be in Mr Yekatom's group.⁹¹³²

⁹¹²⁹ P-0884: T-056, p. 87, line 1 – p. 88, line 14 *referring to* Video, CAR-OTP-2066-5310, at 00:02:07-00:02:50; Transcript, CAR-OTP-2127-4501, at 4502-03, lines 30-40; Translation, CAR-OTP-2127-4589, at 4591-92, lines 33-43.

⁹¹³⁰ P-0884: T-056, p. 88, lines 17-22.

⁹¹³¹ Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, paras 749, 752-753, 755, 758-759, 762, 766-768, 774.

⁹¹³² Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 549-556.

3705. Having regard to the witnesses who claimed to have generally seen children at checkpoints in Sekia and Pissa, the Chamber finds that their estimates as to these children's ages were based on their own observations. These witnesses did not have any other information to offer that could have assisted the Chamber in objectively assessing these observations or estimates.

3706. Based on his own assessment of their physical assessment at the time, P-1974 saw six children who may have been under 15 years old at an Anti-Balaka roadblock in Sekia and about seven children at the Pissa checkpoints whose ages he estimated to be between 9-15 years.⁹¹³³ P-2018 said that he saw children at Anti-Balaka roadblocks in Pissa,⁹¹³⁴ however, he was unable to reliably ascertain their age during this visit.⁹¹³⁵

3707. Roger Okoa-Penguia stated that, on 30 January 2014, he saw children aged '10 upwards' in the towns of Pissa and Mbaïki who were with the Anti-Balaka, basing his estimates of their age on his own assessments as a father and a grandfather.⁹¹³⁶ The witness seemed unable from his observations to distinguish between alleged 'child soldiers', or children abandoned or orphaned because of the crisis who were following the Anti-Balaka in their advance to Mbaïki.⁹¹³⁷ Roger Okoa-Penguia also had information from P-2018 about children in the Anti-Balaka in Lobaye but did not have information as to their ages.⁹¹³⁸

3708. When Alexandre Kouroupe-Awo passed by Anti-Balaka posts at Sekia and Pissa several times in around January-February 2014, he saw often fewer than 10 'young boys' which he estimated in his statement to be 'from 10 years old', while thinking in court that they were

⁹¹³³ P-1974: T-227, p. 19, line 1 – p. 22, line 22. *See also* paragraphs 602-614 above.

⁹¹³⁴ P-2018: T-222, p. 23, line 19 – p. 24, line 13; T-223, p. 45, line 18 – p. 46, line 1. The Chamber recalls its findings in respect of P-2018's credibility. *See also* paragraphs 602-614 above. The Chamber finds that his claim that there were '50' children at the Pissa roundabout does not comport with the rest of the evidence herein from other witnesses who observed the presence of children in Pissa. In any event, the Chamber has little indication of the actual ages of these children that P-2018 saw, given its views on the ESF programme. *See* paragraphs 616-621 above.

⁹¹³⁵ P-2018 thought these children might have been within the age range of 14-16 years, basing this on the fact that these were the same 'children' that later on participated in the ESF programme where they self-reported their age (*see* P-2018: T-222, p. 25, lines 4-14, p. 26, lines 9 – p. 27, line 4; T-223, p. 43, line 24 – p. 44, line 23).

⁹¹³⁶ P-2084 Statement, CAR-OTP-2094-0968-R02, at 0985, para. 87.

⁹¹³⁷ P-2084: T-233, p. 14, line 5 – p. 15, line 14.

⁹¹³⁸ P-2084 Statement, CAR-OTP-2094-0968-R02, at 0985-86, para. 89.

‘younger than 18 years’.⁹¹³⁹ The witness estimated this based on his observations, and did not speak with them.⁹¹⁴⁰ The witness did not recognise any of them in any of the photographs in the ESF Final Report.⁹¹⁴¹

3709. Guerrino Perin, the bishop of Mbaïki at the relevant time, saw children at checkpoints in Mbaïki, and said that he could not say how old they were, stating that, normally, they were ‘young people’, the ‘youth’.⁹¹⁴² Guerrino Perin said that people who were commanding checkpoints, Anti-Balaka or otherwise, would send ‘children’ to carry out the manual work of lifting up the wood of the barrier; these children who were running around were 10 or 12 years and they were there in the villages.⁹¹⁴³

3710. The Chamber notes the Prosecution arguments concerning the reading of Guerrino Perin’s evidence. In particular, it argues that the term ‘child soldier’ varied between witnesses and was not necessarily aligned with the legal criteria and Guerrino Perin was one such example because he said that there were no ‘child soldiers’ enlisted in Lobaye, and yet talked about the children being present at roadblocks carrying out various tasks.⁹¹⁴⁴

3711. In the view of the Chamber, Guerrino Perin’s evidence did not point to the existence of children under 15 years of age enlisted within Mr Yekatom’s group; while he did notice children at the roadblocks, he was clearly pointing to the children in the villages (*‘ils sont là [...] dans le village’*) who were having ‘having fun’ (*‘ils s’amusent’*).⁹¹⁴⁵ Same is true of D29-6035 who talked about three children who were related to Mr Yekatom’s girlfriend at

⁹¹³⁹ P-1813 Second Statement, CAR-OTP-2083-0279-R01, at 0283, para. 21; P-1813: T-180, p. 46, line 25 – p. 47, line 25, p. 50, lines 2-10. P-1813 was also asked about the military attire and whether that were worn by the young boys or the Anti-Balaka. He said that some of the children might have been lucky enough to get hold of clothing that looked military but he could not say if these were specifically military clothing or something that could be bought in the market; nonetheless, he saw some wearing either a top or a bottom that was of military colour. P-1813, asked if these military-like uniform fit them, said that he did not see anyone wearing an oversized outfit, these outfits fit them. See P-1813: T-180, p. 48, lines 2-7, p. 49, line 7 – p. 50, line 1.

⁹¹⁴⁰ P-1813: T-180, p. 48, lines 11-20, p. 49, lines 4-6.

⁹¹⁴¹ P-1813: T-180, p. 52, lines 12-20; ESF Mission Report, CAR-OTP-2068-0558, at 0564.

⁹¹⁴² D29-5015: T-256, p. 15, line 2 – p. 17, line 1.

⁹¹⁴³ D29-5015: T-256, p. 17, line 4 – p. 18, line 1. Guerrino Perin commented on Report, CAR-OTP-2054-1403, at 1406 in which the clergy, including Guerrino Perin, appear to be condemning the practice of child soldiers. Guerrino Perin said that he was aware that, in certain places, certain militia were recruiting children to become soldiers, but this was not the case of the checkpoints (see D29-5015: T-256, p. 18, line 9 – p. 20, line 13).

⁹¹⁴⁴ Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, paras 752, 762, 796. The Prosecution also cites to P-1974’s and D29-6035’s evidence in support.

⁹¹⁴⁵ D29-5015: T-256-ENG, p. 17, line 4 – p. 18, line 1; T-256-FRA, p. 17, line 10 – p. 18, line 5.

the time.⁹¹⁴⁶ The Chamber further notes that it received evidence concerning the younger of the two of the children that D29-6035 talked about, on the basis of which the Chamber cannot ascertain that they were indeed under 15 years of age.⁹¹⁴⁷

3712. P-1839, who was travelling between roadblocks [REDACTED]⁹¹⁴⁸ a lot more frequently than the other witnesses mentioned above, and [REDACTED], when asked whether she recalled seeing ‘child soldiers’, recalled seeing two children on the PK9-Mbaïki route.⁹¹⁴⁹ P-1839 identified them as Stephane Modeste Ozoui⁹¹⁵⁰ and ‘Tangani’, who were in Samba,⁹¹⁵¹ along the PK9-Mbaïki route.⁹¹⁵²

3713. The Chamber notes that the Prosecution has made no submissions as to the respective ages of these two individuals. The Yekatom Defence argues that Ozoui was 17 years old at the time and submits that Mr Yekatom was treating him and Tangani ‘as his own children’ and they did not have any role within his group.⁹¹⁵³

3714. As regards their ages, P-1839 said that ‘they’ had not reached the age of majority at the time, and when she was there, she was older than them, she did not think that they were 17 years old,⁹¹⁵⁴ and estimated Modeste Ozoui to be 16 years old.⁹¹⁵⁵ In relation to the ‘Tangani’, P-1839 said that other elements from the group did not talk about Tangani’s age.⁹¹⁵⁶ P-1839 said that these two children did not have ‘any function’, they were at the house, and if there were some tasks, they were sent to run errands.⁹¹⁵⁷ P-1839 did not know if these children had received military training.⁹¹⁵⁸ P-1839 said that they were ‘next to Rambo’, which was to

⁹¹⁴⁶ D29-6036 Statement, CAR-D29-0009-0444-R01, at 004, paras 22-25.

⁹¹⁴⁷ Birth certificates, CAR-D29-0013-0075; CAR-D29-0013-0076. *See also* D29-6036 Statement, CAR-D29-0009-0444-R01, at 003, para. 15.

⁹¹⁴⁸ P-1839: T-170, p. 57, lines 12-15. *See also* T-170, p. 44, lines 21-22.

⁹¹⁴⁹ P-1839: T-171, p. 5, line 25 – p. 6, line 3.

⁹¹⁵⁰ P-1839: T-170, p. 65, line 24 – p. 66, line 3; T-172, p. 45, lines 16-25. P-1839 recognised him in Photograph, CAR-D29-0010-0062. *See* P-1839: T-172, p. 46, lines 1-13.

⁹¹⁵¹ P-1839: T-172, p. 56, lines 6-22.

⁹¹⁵² P-1839: T-171, p. 5, line 25 – p. 6, line 3.

⁹¹⁵³ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 550.

⁹¹⁵⁴ P-1839: T-172, p. 46, line 16 – p. 48, line 9.

⁹¹⁵⁵ P-1839: T-172, p. 48, lines 10-17 *referring to* Birth certificate, CAR-D29-0013-0094.

⁹¹⁵⁶ P-1839: T-170, p. 67, lines 18-21. The Chamber notes that this ‘Tangani’ appears to be different from a certain ‘Tangani Bora’ who appears on the ESF List as ‘Leonel Begale’, also above 15 years of age (*see* List CAR-OTP-2071-0279-R03).

⁹¹⁵⁷ P-1839: T-171, p. 6, lines 4-9.

⁹¹⁵⁸ P-1839: T-171, p. 6, lines 10-11.

say that they had enough food and they slept well and were well looked after.⁹¹⁵⁹ P-1839 said that they were treated by the Anti-Balaka as if they were their ‘own children’.⁹¹⁶⁰

3715. Based on this evidence, the Chamber cannot conclude that the two children which P-1839 spoke about were indeed children under the age of 15 years.

3716. Having regard to the above, the Chamber concludes that there may have been children generally present at checkpoints and roadblocks along the PK9-Mbaïki axis, including some under the age of 15 years. However, based on what is before it, the Chamber cannot conclude that these were indeed children under the age of 15 that had been enlisted or conscripted as members of Mr Yekatom’s group or were otherwise directly associated with that group’s activities. All witnesses discussed above provided their own impressions about the ages of these children. These estimates were not sufficient for the Chamber to conclude beyond reasonable doubt that these children were indeed children under the ages of 15 years. In addition to this, there was further no reliable indication that these children were members of, or otherwise had a role in, Mr Yekatom’s group.

3717. The Chamber now turns to P-2476’s evidence about his experience in Mr Yekatom’s group in Mbaïki.

3718. Having regard to its conclusions concerning P-2476’s credibility, the Chamber by majority, Judge Chung dissenting, cannot conclude that P-2476 was enlisted in Mr Yekatom’s group in Mbaïki. On this basis, the Chamber by majority, Judge Chung dissenting, cannot conclude that there were any children under the age of 15 in Mr Yekatom’s group in Mbaïki.

3719. The Chamber recalls Judge Chung’s appreciation of the Yekatom Defence’s challenges to P-2476’s credibility. In particular, Judge Chung considers that P-2476’s account was credible when the latter described his recruitment into Mr Yekatom’s group at Mbaïki by Cœur de Lion, spending at least one week there.

⁹¹⁵⁹ P-1839: T-171, p. 6, lines 12-14.

⁹¹⁶⁰ P-1839: T-171, p. 6, lines 15-16.

3720. On this basis, Judge Chung considers that a combined reading of the evidence provided by P-2476, P-2018 and P-1974 satisfies the standard required to find beyond reasonable doubt that there was at least one child under the age of 15 years in Mr Yekatom's group in Mbaïki.

3721. Judge Chung, having regard to P-2476's evidence, considers that P-2476 was assigned several tasks at the Mbaïki base, including guarding the base, buying provisions, and cooking for the elements,⁹¹⁶¹ not leaving the base.⁹¹⁶² P-2476 said that they stayed behind at the base when Cœur de Lion left for combat.⁹¹⁶³ P-2476, asked who gave them the instructions to guard the base, testified that it was those that were stationed at the Mbaïki base; he did not know their names but could identify them.⁹¹⁶⁴ P-2476 said that he never took part in fighting himself, he did not have to carry anything for the elements or work at any of the barriers.⁹¹⁶⁵ P-2476 said that he was not given a firearm; he had a large kitchen knife to defend himself and the base.⁹¹⁶⁶ P-2476 said that he and the other children took the knives that were at the base after Anti-Balaka left to Sekia.⁹¹⁶⁷ P-2476 said that if they saw neighbours or inhabitants of the village come near the base to see what was happening, they would ask them to leave; there was absolutely nothing in the base to be seen; they would not hurt them.⁹¹⁶⁸

3722. Judge Chung notes that P-2018 recalled P-2476 as a 'small child' in the group.⁹¹⁶⁹ Judge Chung further notes that P-2018 was forthcoming in that he did not recall P-2476's role within Mr Yekatom's group.⁹¹⁷⁰ P-2018, reminded that he had stated in his statement that '[REDACTED]' had been allocated the role of a 'commissionaire' to run errands for the group, said that he had lost the verification sheets that contained the different roles that these children played.⁹¹⁷¹ P-2018 said that it was the children themselves who stated what role they played in the group, which enabled them to include them.⁹¹⁷²

⁹¹⁶¹ P-2476 Statement, CAR-OTP-2114-0149-R05, at 0154, para. 34.

⁹¹⁶² P-2476: T-213, p. 21, lines 1-5, p. 23, lines 15-22.

⁹¹⁶³ P-2476: T-213, p. 23, line 23 – p. 24, line 2.

⁹¹⁶⁴ P-2476: T-213, p. 24, lines 3-8.

⁹¹⁶⁵ P-2476 Statement, CAR-OTP-2114-0149-R05, at 0154-55, para. 35.

⁹¹⁶⁶ P-2476: T-213, p. 21, line 22 – p. 22, line 3; P-2476 Statement, CAR-OTP-2114-0149-R05, at 0154, para. 35.

⁹¹⁶⁷ P-2476: T-213, p. 22, line 4 – p. 23, line 5.

⁹¹⁶⁸ P-2476: T-213, p. 23, lines 10-14.

⁹¹⁶⁹ P-2018: T-222, p. 93, line 25 – p. 94, line 3.

⁹¹⁷⁰ P-2018: T-222, p. 94, lines 4-7.

⁹¹⁷¹ P-2018: T-222, p. 94, lines 8-15.

⁹¹⁷² P-2018: T-225, p. 11, lines 10-15.

3723. Judge Chung notes that P-1974, the [REDACTED] ESF, when asked about P-2476, was similarly forthcoming and said that '[REDACTED] has family linked with [REDACTED] [P-2476]'.⁹¹⁷³ P-1974 described how, according to him, P-2476 came to participate in the ESF programme. P-1974 said that '[REDACTED]' lived in Bangui with [REDACTED], joined the movement and found himself 'in Pissa'; P-2476 was then taken to Mbaïki as part of the ESF programme, and then taken to his foster family before being reunited with the 'real' family.⁹¹⁷⁴ P-1974 said that he could not explain under which conditions '[REDACTED]' separated with [REDACTED] in Bangui and found himself in Pissa; but he joined the ESF programme and was brought to Mbaïki; they could not remove him from the ESF programme whilst it was '*en route*' because the child had already entered into the programme and they did not want to breach his rights at that particular point.⁹¹⁷⁵ P-1974 did not recall which foster family '[REDACTED]' went to, but maintained that he was later reunited with his family in Bangui.⁹¹⁷⁶

3724. In Judge Chung's view, both P-1974 and P-2018 confirmed P-2476's membership within the Anti-Balaka. Judge Chung notes that P-2018 did not mention where P-2476 was based and P-1974 thought that P-2476 'ended up in Pissa'.⁹¹⁷⁷ Judge Chung recalls that P-2476 said that he met Cœur de Lion in Mbaïki and stayed at the base there,⁹¹⁷⁸ and not Pissa. Judge Chung considers this inconsistency between P-1974 and P-2476's account minor and relies on P-2476 as regards the location of the base.

3725. Judge Chung notes that P-2476 recalled there being two other children one or two years younger than him in the group with him in Mbaïki, who were called Gere Kondo and Tchoutchou.⁹¹⁷⁹ Judge Chung notes that P-1974 also provided evidence concerning a child named 'Guerekondo' that he saw at the Mbata checkpoint.⁹¹⁸⁰

⁹¹⁷³ P-1974: T-227, p. 76, line 21 – p. 78, line 1.

⁹¹⁷⁴ P-1974: T-227, p. 76, line 21 – p. 79, line 3.

⁹¹⁷⁵ P-1974: T-228, p. 62, line 21 – p. 63, line 12.

⁹¹⁷⁶ P-1974: T-228, p. 63, line 13 – p. 64, line 4.

⁹¹⁷⁷ P-1974: T-227, p. 76, line 21 – p. 78, line 1.

⁹¹⁷⁸ See paragraphs 522-541 above.

⁹¹⁷⁹ P-2476 Statement, CAR-OTP-2114-0149-R05, at 0155, para. 36; P-2476: T-213, p. 17, lines 4-12, p. 19, lines 4-21.

⁹¹⁸⁰ P-1974 Statement, CAR-OTP-2122-8673-R02, at 8677, paras 23-24.

3726. The Chamber recalls that the majority found P-2476's account wholly unreliable. Importantly, the majority considers that P-2476 was not truthful about having spent any time in Mr Yekatom's group in Mbaïki. Therefore, in the view of the majority, P-2018's and P-1974's testimony about P-2476's account do not add any weight to his already inconsistent testimony.

3727. In particular, the majority considers that P-2018's testimony about P-2476's participation in the ESF programme throws further into doubt the testimonies of all three witnesses, P-2476, P-2018 and P-1974.

3728. In particular, the majority recalls that P-2018 did not recall whether P-2476 was part of the second phase of the programme with vocational training or went back to his family after the ESF programme,⁹¹⁸¹ and did not recall which host family P-2476 was placed in.⁹¹⁸² P-2018 agreed that it was incumbent upon him to find P-2476's family and that the presence of his name on the ESF List meant that he was seen as non-accompanied because he did not have a family in that locality.⁹¹⁸³ P-2018 further agreed that if P-2476 had family in Mbaïki, he should not have been included in the non-accompanied children's group and, if he had biological relatives of the family in an area, there was no reason for him to go to a host family.⁹¹⁸⁴ P-2018 stated not being able to say anything on the information suggesting that P-2476's family lived in a big family compound next to the ESF offices in Mbaïki.⁹¹⁸⁵

3729. Additionally, in the view of the majority, P-2018's testimony further cannot be relied upon to enter any conclusions about P-2476's role in the Anti-Balaka as he neither recalled what such role may have been,⁹¹⁸⁶ nor confirmed his previous statement that he was a 'commissionaire'.⁹¹⁸⁷

⁹¹⁸¹ P-2018: T-225, p. 13, line 6 – p. 14, line 16.

⁹¹⁸² P-2018: T-225, p. 14, lines 17-23.

⁹¹⁸³ P-2018: T-225, p. 15, lines 8-18.

⁹¹⁸⁴ P-2018: T-225, p. 27, lines 16-23.

⁹¹⁸⁵ P-2018: T-225, p. 18, lines 11-18; *see also* p. 24, line 22 – p. 25, line 14 (stating that the ESF offices were closed at the time and no activity took place there; the ESF programme was not executed in the ESF offices but at the bureau of the Ministry of Social Affairs which was in a different location). *See also* p. 27, lines 6-12 (stating that it was only when the ESF programme was being carried out that UNICEF suggested that they used the social services centre and the ESF office was closed).

⁹¹⁸⁶ P-2018: T-222, p. 94, lines 4-7.

⁹¹⁸⁷ P-2018: T-222, p. 94, lines 8-15.

3730. Similarly, in the view of the majority, P-1974's testimony does not show that P-2476 was indeed a member of Mr Yekatom's group, regardless of whether it was in Pissa or Mbaïki. The majority finds that P-1974 had no information about P-2476's presence and role in Mr Yekatom's group. As regards P-2476's participation in the ESF programme, the majority considers that P-1974 and P-2476 had family relations;⁹¹⁸⁸ and P-1974 acknowledged that P-2476 should not have been included in the programme as the latter had family in Mbaïki.⁹¹⁸⁹

3731. Having regard to the above, the Chamber by majority, Judge Chung dissenting, considers that it need not assess the remaining factual allegations by the Prosecution on the alleged mistreatment of the children under the age of 15 within Mr Yekatom's group.

3732. Judge Chung finds P-2476 credible when he described the mistreatment of children at the Mbaïki base. P-2476 described a visit by Mr Yekatom to the Mbaïki base when the latter used violent words and behaviour towards the children there.⁹¹⁹⁰ P-2476 recalled one incident, when Mr Yekatom was not there,⁹¹⁹¹ in which the other children, named Gere Kondo and Tchoutchou were punished and 'badly beaten' for having stolen an item on the instructions of one of the chiefs at the Mbaïki base, whose name he did not know.⁹¹⁹² P-2476 recalled one other incident in which Gere Kondo was beaten by a chief, whose name he did not remember, for having stolen his money.⁹¹⁹³ Accordingly, Judge Chung finds that Mr Yekatom directly verbally abused the children at the Mbaïki base and his subordinates physically assaulted them.

3733. Judge Chung considers P-2476 credible when he said that 'they' would give them ('us') cigarettes and marijuana to smoke but he refused to do so; they did not force him to do it,⁹¹⁹⁴ while the other two children smoked marijuana.⁹¹⁹⁵

⁹¹⁸⁸ P-1974: T-227, p. 76, line 21 – p. 78, line 1.

⁹¹⁸⁹ P-1974: T-228, p. 62, line 21 – p. 63, line 12.

⁹¹⁹⁰ P-2476: T-213, p. 28, line 3 – p. 29, line 18; P-2476 Statement, CAR-OTP-2114-0149-R05, at 0156, para. 43.

⁹¹⁹¹ P-2476: T-213, p. 30, lines 2-9.

⁹¹⁹² P-2476: T-213, p. 30, lines 2-14; P-2476 Statement, CAR-OTP-2114-0149-R05, at 0156, para. 43.

⁹¹⁹³ P-2476: T-213, p. 27, line 15 – p. 28, line 2; P-2476 Statement, CAR-OTP-2114-0149-R05, at 0156, para. 42.

⁹¹⁹⁴ P-2476 Statement, CAR-OTP-2114-0149-R05, at 0154, para. 34; P-2476: T-213, p. 50, lines 7-13.

⁹¹⁹⁵ P-2476: T-213, p. 50, lines 7-13.

3734. Finally in the respect of presence of children within the Anti-Balaka during the relevant period, the Chamber received as evidence reports from the UN⁹¹⁹⁶ and other organisations.⁹¹⁹⁷ The Chamber notes that they observed children as being generally present in the Anti-Balaka and the Seleka within the CAR. The agreements signed at the National Forum of Bangui from 2015 contain language aimed at politico-military groups, including the Anti-Balaka, who undertook to (i) stop all forms of recruitment and use of children, meaning those below 18 years old, in their activities before, during, and after the DDR process; (ii) ensure the immediate identification and separation of children from their respective groups and their handover to competent authorities for reintegration; and (iii) sign concrete action plans to, *inter alia*, prevent and stop the recruitment and use of children.⁹¹⁹⁸

3735. The Chamber does not rely on these reports or agreements to ascertain whether all or some of the children subject of these reports were indeed under the age of 15 years or members of Mr Yekatom's group during the relevant period. First, the Chamber had no means to

⁹¹⁹⁶ The Report of the UNSG on the situation in the CAR from December 2013 noted that there was widespread recruitment of children by the Anti-Balaka in villages as this movement spread across the CAR (*see* Report, CAR-OTP-2001-0329, at 0337, para. 42). A report by the UNOCHA from May 2014 stated that UNICEF and its partners confirmed the presence of 53 children (46 boys and 7 girls) aged between 11 and 17 associated with Anti-Balaka groups in Bangui's PK10 neighbourhood and stated that between January and May 2014, 1,035 children (227 girls and 808 boys) were confirmed within ranks of armed groups in Bangui, Boali, Ngala Fondo, Sibut and Zemio (*see* Report, CAR-OTP-2001-0782, at 0784). A similar report from October 2014 speaks of 10,000 children associated with armed groups in CAR, stating that between January and September 2014, 2,040 children were demobilised from these armed groups (*see* Report, CAR-OTP-2127-4064, at 4072). An internal document from the UN-OLA dated December 2013 mentions the presence of 'armed children of young age' within an Anti-Balaka camp led by 'Konaté' present near the airport (*see* Report, CAR-OTP-2110-0935, at 0938, paras 11-12). Reports of the UNSG on the situation in CAR from 2013 and 2014 noted that children were recruited by both the Seleka and the Anti-Balaka (*see* Reports, CAR-OTP-2001-0329, at 0337-38; CAR-OTP-2001-1057, at 1060, 1067). A report of the UNSG on children and armed conflict from May 2014 stated that both the Anti-Balaka and the Seleka coalition systematically recruited and used children, also pointing out that the progressive deterioration of the security environment also led to subsequent re-recruitment of children by other armed groups (*see* Report, CAR-OTP-2001-0987, at 0995, para. 38). The Final Report of the International Commission of Inquiry on the CAR stated that the commission had reasonable grounds to believe that all parties to the conflict used child soldiers (*see* Commission of Inquiry Report, CAR-OTP-2001-7017, at 7124, para. 506). The Panel of Experts on the CAR noted being informed about the presence of children in Seleka and Anti-Balaka groups in multiple locations in the CAR (*see* Report, CAR-OTP-2001-5386, at 5438-39, paras 213-216). *See further* Accord de cessation des hostilités en RCA, CAR-OTP-2001-3405, at 3407-08, Articles 2 and 5(e), dated July 2014, that prohibited the recruitment and use of child soldiers, and parties to the agreement undertook not to recruit children as combatants, in accordance with the various international agreements.

⁹¹⁹⁷ For example, a Human Rights Watch report from January 2014 stated that children were commonly seen among the Seleka and that even more children appeared to have been mobilised to join Anti-Balaka ranks. *See* Report, CAR-OTP-2001-7145, at 7158. Child Soldiers International outlined, *inter alia*, the practices among armed groups, including the Anti-Balaka, in the CAR in respect of the recruitment and use of children in the years 2012 to 2015 that culminated in the pledges at the Bangui Forum 2015 regarding the release and non-recruitment of children within armed groups. *See* Report, CAR-OTP-2075-0602, at 0607-08, 0621, 0623-29, 0632-34.

⁹¹⁹⁸ Report, CAR-OTP-2087-9276.

meaningfully examine and compare the conclusions in these reports because it had little to no information about the criteria used by their authors in assessing the children's ages and/or purported membership within the Anti-Balaka.⁹¹⁹⁹ Second, these reports generally did not limit themselves exclusively to children who were under the age of 15 years, but considered children to be individuals under the age of 18 years.

3736. The evidence on the record also includes media reports that point to the presence of children under the age of 15 in armed groups in the CAR, including those in the Anti-Balaka.⁹²⁰⁰ However, the Chamber has similar concerns as to their methodology and notes that they did not identify any particular Anti-Balaka group and/or location relevant to the charges against Mr Yekatom.

3. *Participation in the ESF programme*

3737. The Chamber now turns to the ESF programme that was launched in 2014 for children in armed groups in various locations, including in Mbaïki, by ESF under the aegis of the CAR government Ministry of Social Affairs.

3738. The Prosecution relies on Mr Yekatom's attendance at the ESF ceremony to show that 'several of the 153' children that Mr Yekatom demobilised as part of the ESF programme were below 15 years of age and part of his group.⁹²⁰¹

3739. The Yekatom Defence argues, *inter alia*, that (i) the ESF programme and the related documents are fraudulent;⁹²⁰² (ii) no methodology was followed by ESF when selecting

⁹¹⁹⁹ In relation to the ESF List, see *further* paragraphs 622-625 above.

⁹²⁰⁰ Article, CAR-OTP-2032-0034, at 0034; Article, CAR-OTP-2072-1202, at 1202; Article, CAR-OTP-2075-0664. The Chamber notes that some reports speak of the presence of children in Mr Yekatom's Anti-Balaka group, but appear to be referring to the children that are subject of the factual allegations in this case as they both relate to Mr Yekatom agreeing to release 153 children as part of the ESF programme. The Chamber has not relied on these reports when examining the evidence before it (see Report, CAR-OTP-2075-0584, at 0591 (stating that on 4 August 2014, Mr Yekatom released '153 children' from the ranks of his armed group); Article, CAR-OTP-2074-3252, at 3252 (stating that Mr Yekatom used '153 children' as fighters in his group before handing them over to the UN in August 2014)). It is noted that the figure of '153' appears to be the same figure contained in the agreement alleged to be signed by Mr Yekatom prior to the ESF ceremony on 4 August 2014 (see Agreement, CAR-OTP-2128-1373).

⁹²⁰¹ Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, paras 764-770.

⁹²⁰² Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 557-560, 564-577 referring *inter alia* to Lists, CAR-OTP-2071-0279-R03; CAR-OTP-2115-0369-R05.

participants for this programme;⁹²⁰³ and (iii) the witnesses who participated in the ESF programme, including P-2476, lied about their experience.⁹²⁰⁴ It submits that Mr Yekatom was aware of the fraudulent nature of the ESF programme and did not know the identity of the children that participated in it.⁹²⁰⁵

3740. The Chamber recalls that it received evidence from the [REDACTED] ESF (P-1974) as well as the [REDACTED] (P-2018) on the functioning of ESF as an organisation and on the ESF programme in Pissa and Mbaiki. The Chamber also received evidence from the mayor of Pissa at the relevant time, a representative from [REDACTED], and the prefect of Mbaiki at the relevant time.

3741. The Chamber has had regard to certain operational aspects of the ESF programme to determine its relevance to its assessment concerning the presence in Mr Yekatom's group of children under 15 years of age. In this respect, the Chamber recalls that the ESF mandate, as such, was not limited to issues affecting child soldiers but extended generally to issues concerning vulnerable children.⁹²⁰⁶ Further, the ESF programme extended to all children under the age of 18 years, not making a distinction to those under 15 years.⁹²⁰⁷ It was not designed for children in the technical sense of the Article 5 crimes under the Statute. According to P-2018, the purpose of the training programme was to reach children under the age of 18 years who had been members of the Anti-Balaka in locations including Mbaiki.⁹²⁰⁸ In the view of the Chamber, this, in itself, made it problematic for the Prosecution to rely on it.

3742. The Prosecution argues that even if the programme was aimed at those below 18 years, 'multiple sources of evidence' confirm that children below the age of 15 years were among those demobilised from Mr Yekatom's group.⁹²⁰⁹

⁹²⁰³ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 561-563.

⁹²⁰⁴ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 578.

⁹²⁰⁵ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 580.

⁹²⁰⁶ P-2018: T-222, p. 7, line 18 – p. 8, line 17; Official Gazette, CAR-OTP-2004-0371, at 0411-12.

⁹²⁰⁷ P-1974: T-227, p. 59, lines 1-10, p. 80, lines 15-23; P-2018: T-222, p. 22, lines 10-15, p. 30, lines 9-18; P-2082: T-218, p. 25, lines 5-15.

⁹²⁰⁸ P-2018: T-225, p. 22, lines 5-9. *See also* p. 22, line 23 – p. 23, line 9. *See further* P-2018: T-224, p. 83, lines 9-21.

⁹²⁰⁹ Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, para. 765 *referring to* P-1974, P-2084, P-2082, and List, CAR-OTP-2071-0279-R03.

3743. This is not what is borne out by the evidence. In this regard, the Chamber recalls its conclusions on the ESF programme, the ESF List, P-2018, and P-1974.⁹²¹⁰ In particular, the Chamber found that the beneficiaries of the programme self-reported their ages and their membership and role in the Anti-Balaka.⁹²¹¹ There was no reliable witness testimony or documents presented about the ages of the children that participated in the ESF programme that could permit a conclusion by the Chamber beyond reasonable doubt.⁹²¹² Importantly, there is no reliable evidence that the ESF beneficiaries were asked questions to ascertain whether they had indeed been members of the Anti-Balaka before their participation in the programme.⁹²¹³

3744. Having regard to the above, while the inclusion of children under 18 years in the ESF programme did not preclude children under 15 years, the Chamber had no means to objectively assess if, and how many, of the beneficiaries were indeed under 15 years old at the relevant time, and then to ascertain which of them had been members in Mr Yekatom's group. The Chamber found that the issues surrounding the testimony of the ESF functionaries and the ESF List were so grave that it could not rely on any of the names on the ESF List individually or holistically with other evidence to enter any conclusions beyond reasonable doubt.

3745. In this context, the Chamber finds illustrative to point to P-2082's testimony in full. P-2082 confirmed having met the children from the ESF programme when she went to Mbaiki,⁹²¹⁴ and having some group and individual conversations with the children there,⁹²¹⁵ but she did not have the names of the children she spoke to.⁹²¹⁶ P-2082 stated that the age range of the children she spoke to was between 11 and 17, but she could not remember how many of them were under 15, and it was difficult to know their exact ages.⁹²¹⁷ P-2082 recalled there being an older child who claimed to be 17, who said that he had lied about his age because

⁹²¹⁰ See paragraphs 602-614, 615-638 above.

⁹²¹¹ See paragraphs 622-625 above.

⁹²¹² See paragraphs 602-614, 615-638 above.

⁹²¹³ See paragraphs 615-638 above.

⁹²¹⁴ P-2082: T-218, p. 46, lines 20-23.

⁹²¹⁵ P-2082 Statement, CAR-OTP-2109-0452-R02, at 0461, para. 43; P-2082: T-217, p. 40, lines 3-15, p. 41, lines 4-8, p. 41, lines 9-18, p. 41, lines 19-24.

⁹²¹⁶ P-2082 Statement, CAR-OTP-2109-0452-R02, at 0461, para. 44.

⁹²¹⁷ P-2082: T-217-ENG, p. 41, line 25 – p. 43, line 5; T-217-FRA, p. 45, lines 4-11.

he wanted to get out of the Anti-Balaka and participate in the programme to have food, accommodation, clothes, training.⁹²¹⁸ P-2082 estimated him to be about 24-25 years old and said that the ESF knew this, but let him stay in the programme.⁹²¹⁹

3746. According to P-2082, some of the children reduced their ages because the NGO had told them that they would only take children under 17.⁹²²⁰ Specifically, P-2082 testified that when she reached Mbaïki, she realised that there were about 20 children older than 17, but that she could not, and it was not her job to, identify all the 70 children and estimate their ages.⁹²²¹ While she saw the children in the evening and could not deduce whether they were 15 years old, she noticed in Mbaïki that some of the children were over 17, maybe about 20 years old.⁹²²² P-2082 confirmed that as mother and grandmother, she could tell that some of the children were under 15.⁹²²³

3747. The Chamber also had regard to P-2082's testimony concerning two children that she identified and spoke to herself who may have been under 15 years old. First, P-2082 recalled there being another child who was going to [REDACTED], but she did not ask his age.⁹²²⁴ Second, the Chamber recalls that P-2082 spoke of having talked to a child under 12 years old during the ESF ceremony.⁹²²⁵ The Prosecution submits that this 12-year-old child was called [REDACTED], who appears on the ESF List and photographs.⁹²²⁶

3748. The Chamber notes that P-2082 did observe a child under 12 years of age at the ESF ceremony with whom she spoke and asked his age,⁹²²⁷ and noted that he had the 'voice of a child'.⁹²²⁸ P-2082 seemed unclear whether this child was in fact on the ESF List under the age of 11, or maybe 12.⁹²²⁹ P-2082 seemed to insist that the child was 11 years old but noted

⁹²¹⁸ P-2082 Statement, CAR-OTP-2109-0452-R02, at 0461, para. 45; P-2082: T-218, p. 26, lines 13-16.

⁹²¹⁹ P-2082 Statement, CAR-OTP-2109-0452-R02, at 0461, para. 45.

⁹²²⁰ P-2082: T-217, p. 46, lines 19-24.

⁹²²¹ P-2082: T-217, p. 50, lines 16-25.

⁹²²² P-2082: T-217, p. 52, lines 1-9.

⁹²²³ P-2082: T-217, p. 52, lines 13-18.

⁹²²⁴ P-2082: T-217, p. 44, lines 3-13.

⁹²²⁵ P-2082: T-217, p. 46, lines 9-18.

⁹²²⁶ Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, paras 767-768 *referring to* ESF Mission Report, CAR-OTP-2068-0558, at 0562 (the photograph on the bottom right); Lists, CAR-OTP-2071-0279-R03, at 0280, entry 40; CAR-D29-0010-0027, number 2.

⁹²²⁷ P-2082: T-217, p. 46, lines 9-15.

⁹²²⁸ P-2082: T-217, p. 46, lines 16-18.

⁹²²⁹ P-2082: T-218, p. 44, lines 4-24.

that there were only children aged 12 or older on the ESF List.⁹²³⁰ P-2082 did not recognise any names in the ESF List,⁹²³¹ including that of [REDACTED].⁹²³²

3749. On this basis, the Chamber considers that P-2082's testimony is insufficient to conclude that this child was indeed part of Mr Yekatom's group. While P-2082 provided some information on her impression of the children's apparent ages based on her own observations at the ESF ceremony,⁹²³³ this, in and of itself, is insufficient to support any conclusions by the Chamber on children under the age of 15. P-2082 did not provide any reliable information about this child's membership in Mr Yekatom's group and therefore, her account was further insufficient to make any conclusions regarding this child's presence in Mr Yekatom's group in Pissa or Mbaïki. Having regard to P-2018's credibility,⁹²³⁴ the Chamber found P-2018's sole assertions about [REDACTED] unreliable to enter any conclusions in respect of his purported membership in Mr Yekatom's group.

3750. Lastly in this respect, and importantly, the Chamber is convinced that participation of children of whatever age in the ESF programme, as such, in no way showed that they were members within Mr Yekatom's group. The general claims by witnesses who observed children under the age of 15 years participating in the ESF programme or during the ESF ceremony are, in the Chamber's view, wholly insufficient to enter any conclusions as to the presence of children under 15 years in Mr Yekatom's group.

3751. The Chamber notes that P-2476's name is included in the ESF List and appears to have participated in the ESF programme.⁹²³⁵ Judge Chung shares the views of the majority concerning the ESF programme and the ESF List. He considers that P-2476's participation

⁹²³⁰ P-2082: T-217, p. 48, line 23 – p. 49, line 5.

⁹²³¹ P-2082: T-217, p. 47, line 25 – p. 48, line 22.

⁹²³² P-2082 was shown List, CAR-OTP-2071-0279-R03, at 0280 that contains [REDACTED] name (see P-2082: T-217, p. 48, line 23 – p. 49, line 5). Further, P-2082 said that the child that she spoke with was from Bangui (see P-2082: T-217, p. 49, lines 19-23). The ESF List entry in respect of [REDACTED] states that he was from Lobaye and not Bangui (see CAR-OTP-2071-0279-R03, at 0280, entry 40). The Chamber notes that P-2018 confirmed that [REDACTED] 'spoke like a child', was one of the 'small ones', and identified him in Photograph, CAR-D29-0010-0027, number 2 (see P-2018: T-222, p. 95, lines 5-7; T-223, p. 15, lines 12-25, p. 24, line 22 – p. 25, line 1).

⁹²³³ For example, P-2082 described his stature and his voice (see P-2082: T-217, p. 46, lines 9-18). P-2082 was clear in that she did not personally check to verify the ages of the children she saw (see P-2082: T-217, p. 52, line 19 – p. 53, line 16; T-218, p. 25, line 16 – p. 26, line 12, p. 45, line 16 – p. 47, line 4).

⁹²³⁴ See paragraphs 615-638 above.

⁹²³⁵ P-2476: T-214, p. 16, line 23 – p. 17, line 8; P-2476 Statement, CAR-OTP-2114-0149-R05, at 0158, para. 59. See List, CAR-OTP-2071-0279-R03, number 36.

in the programme did not render it legitimate. Similarly, P-2476's name appearing on the ESF List did not make the list credible as a whole. On the contrary, Judge Chung considers P-2476's account to be credible, regardless of the latter's participation in the ESF programme.

3752. Further, the Chamber finds Mr Yekatom's interactions and engagement with the ESF programme insufficient to draw any conclusions regarding the presence of children under the age of 15 in Mr Yekatom's group.

3753. In this regard, the Chamber notes that P-2018 testified about his meetings with Mr Yekatom and his subordinates in the period leading up to the ESF ceremony in August 2014.⁹²³⁶ Having regard to its conclusions on P-2018's credibility, the Chamber considers it unsuitable to conclude that these meetings took place. Even if P-2018 was believable in that these meetings did take place, no conclusions can be drawn as to what was discussed.

3754. The Chamber notes that Mr Yekatom participated in one of the ESF ceremonies dated 4 August 2014 at Pissa town hall, in which he signed the document releasing the children (the 'Declaration').⁹²³⁷ The Declaration stated that, as the individual responsible for the 'Anti-Balaka high command in the South zone', Mr Yekatom recognises and resolves to liberate '153 children' associated with the 'movement'; it stated that Mr Yekatom agrees not to enroll 'child soldiers' in the future.⁹²³⁸

3755. Representatives of ESF, Mr Yekatom and 60 children attended this ceremony, which was filmed.⁹²³⁹ P-2018, asked what was meant by Mr Yekatom's statement in the video about an

⁹²³⁶ See also paragraphs 629-634 above.

⁹²³⁷ Declaration, CAR-OTP-2128-1378; P-2018: T-222, p. 72, line 19 – p. 73, line 4; T-226, p. 29, line 17 – p. 30, line 5.

⁹²³⁸ Declaration, CAR-OTP-2128-1373; P-2018: T-222, p. 71, lines 11-14, p. 73, line 25 – p. 74, line 7.

⁹²³⁹ P-2018: T-222, p. 73, lines 17-20; P-2084: T-233, p. 21, line 2 – p. 22, line 20. See also ESF Mission Report, CAR-OTP-2068-0558, at 0558; P-2018: T-222, p. 74, line 20 – p. 77, line 12 (confirming that [REDACTED] is present in the two video excerpts on the right-hand side of Brice Kakpayen with a blue polo) *referring to* Video, CAR-OTP-2068-0586, at 00:00:00-00:00:34, 00:04:50-00:05:46; Translation CAR-OTP-2118-5710, at 5713-14, lines 77-97. P-2018: T-222, p. 77, lines 13-15 (when asked, P-2018 confirmed that the document signed by Mr Yekatom in the video footage is the document that was shown to the witness earlier) *referring to* Video, CAR-OTP-2068-0586; Declaration, CAR-OTP-2128-1373.

‘official handover tomorrow’, said that it related to the release of these children and agreed that that was to occur the next day in Pissa.⁹²⁴⁰

3756.P-2018 said that P-1974 interacted with Mr Yekatom prior to the ceremony on 4 August 2014; they were in Pissa and P-1974 and Mr Yekatom left to speak among the two of them about demobilisation.⁹²⁴¹ P-2018 suggested that Mr Yekatom may have been confused as to the nature of the ESF programme and whether the children would receive compensation as a result of their participation in it.⁹²⁴²

3757.P-2082 said that [REDACTED] was concerned that Mr Yekatom would not sign the Declaration and that [REDACTED] was the one who called him to sign it.⁹²⁴³ P-2082 confirmed that it was explained to Mr Yekatom that if he did not sign the document, the training programme that was planned for children would not take place and there would be no funding.⁹²⁴⁴ P-2082 said that [REDACTED] assured her that Mr Yekatom was in agreement to demobilise the children under 17 years.⁹²⁴⁵ P-2082 said that [REDACTED] the project was being funded ‘because’ Mr Yekatom had agreed to demobilise the children, she believed that before the entire process, [REDACTED] Mr Yekatom had discussed, and that reassured UNICEF and they made the money available.⁹²⁴⁶

3758.P-2018 recalled there being ‘no reluctance’ on Mr Yekatom’s behalf when attending the ceremony and signing the document.⁹²⁴⁷ P-2018 did not remember if other people intervened to convince Mr Yekatom to sign the agreement.⁹²⁴⁸ P-2018, nonetheless, agreed that the agreement needed to be signed for UNICEF to provide funds.⁹²⁴⁹

⁹²⁴⁰ P-2018: T-222, p. 79, lines 4-13.

⁹²⁴¹ P-2018: T-222, p. 70, lines 13-25; P-1974: T-227, p. 18, lines 3-13, p. 24, lines 16-24, p. 24, line 25 – p. 26, line 8 (P-1974 also speaks of a second meeting on 3 August 2014); T-229, p. 16, line 5 – p. 17, line 2.

⁹²⁴² P-2018: T-222, p. 38, lines 1-14; T-226, p. 29, lines 9-16. *See also* T-226, p. 28, lines 10-25.

⁹²⁴³ P-2082 recognised Declaration, CAR-OTP-2128-1373 as the document that Mr Yekatom signed and which appears in ESF Mission Report CAR-OTP-2068-0558, at 0560 (*see* P-2082: T-219, p. 47, line 3 – p. 48, line 23).

⁹²⁴⁴ P-2082: T-219, p. 24, lines 11-25.

⁹²⁴⁵ P-2082: T-218, p. 71, line 19 – p. 72, line 4.

⁹²⁴⁶ P-2082: T-218, p. 72, lines 5-11.

⁹²⁴⁷ P-2018: T-226, p. 32, lines 4-14.

⁹²⁴⁸ P-2018: T-226, p. 32, lines 15-22.

⁹²⁴⁹ P-2018: T-226, p. 32, line 23 – p. 33, line 5.

3759. There is no indication, apart from that of P-2018,⁹²⁵⁰ showing that Mr Yekatom was provided with the list of 153 children mentioned in the Declaration prior to signing it.

3760. The Chamber further notes that Mr Yekatom attended only part of the ceremony on 4 August 2014,⁹²⁵¹ and did not attend⁹²⁵² the launch of the demobilisation project held in Mbaïki on 5 August 2014, attended by Alfred Legrand Ngaya on behalf of the Anti-Balaka national coordination⁹²⁵³ and Alexandre Kouroupe-Awo.⁹²⁵⁴

3761. The Chamber finds that the ambit of the ESF programme extended to children under 18 years and included children that were not members of Mr Yekatom's group. This was observable by those not part of ESF and who attended the ESF ceremony on 4 August 2013. It was a public event and open to all to attend. Having regard to the above, the Chamber finds that Mr Yekatom's participation in the ESF ceremony on 4 August 2013 does not demonstrate that he knew of, or otherwise accepted, the presence of children under the age of 15 years in his group.

3762. As regards Mr Yekatom's signing of the Declaration, the Chamber notes that it does not mention the ages of the children that he was purportedly releasing. While there is reference to the UNSC resolution 1612, this was insufficient to conclude that Mr Yekatom knew that the Declaration concerned children under 15 years. Indeed, this resolution is not limited to children under 15 years old. Further, the Chamber notes that the Declaration also does not reference any list that may have been prepared as part of this programme, let alone the ESF List prepared by P-2018.

⁹²⁵⁰ P-2018: T-222, p. 78, lines 8-18. *See also* P-2018: T-222, p. 78, line 23 – p. 79, line 3; T-223, p. 4, line 25 – p. 5, line 5.

⁹²⁵¹ P-2084 Statement, CAR-OTP-2094-0968-R02, at 0986, para. 94.

⁹²⁵² P-1974: T-227, p. 33, line 1 – p. 36, line 16; P-2018: T-223, p. 10, line 20 – p. 11, line 6; P-2082: T-217, p. 33, lines 18-23; P-1813 Second Statement, CAR-OTP-2083-0279-R01, at 0282, para. 15.

⁹²⁵³ P-0808: T-069, p. 65, lines 1-21 *referring to* Reports, CAR-OTP-2071-0285, at 0288; CAR-OTP-2088-1531; P-0808 Second Statement, CAR-OTP-2093-0010-R02, at 0033-34, paras 130-136; P-2018: T-222, p. 84, line 23 – p. 85, line 16; T-223, p. 10, line 20 – p. 11, line 6; P-2082 Statement, CAR-OTP-2109-0452-R02, at 0460-61, para. 40; P-1813 Second Statement, CAR-OTP-2083-0279-R01, at 0281, paras 12-13. *See also* Notes, CAR-OTP-2071-0302, at 0306.

⁹²⁵⁴ P-1813: T-180, p. 50, line 11 – p. 52, line 10; T-181, p. 17, lines 3-8; P-1813 Second Statement, CAR-OTP-2083-0279-R01, at 0282, para. 14.

3763. On this basis, the Chamber by majority finds, Judge Chung dissenting, that there is reasonable doubt that Mr Yekatom knew or accepted the contents of the Declaration as true, specifically in respect of the children referred to therein.

3764. In Judge Chung's view, at least one of the '153 children' mentioned in the Declaration included P-2476, whom he finds credible despite the latter's participation in the ESF programme. Judge Chung further notes that P-2476 recalled Mr Yekatom having visited the Mbaiki base at least once and verbally abused the children present there. Accordingly, Judge Chung considers that Mr Yekatom knew of the presence of children within his group at the Mbaiki base.

3765. Based on the above, the Chamber, by majority, Judge Chung dissenting, finds there to be no evidence on the basis of which findings as to the presence of children under the age of 15, and Mr Yekatom's potential responsibility therefore can be entered.

V. LEGAL FINDINGS

A. Applicable law

1. *The crimes charged*

i. *Contextual elements*

a. War crimes

3766. The war crimes charged in this case exclusively concern a non-international armed conflict.⁹²⁵⁵ An armed conflict not of an international character exists when there is protracted armed violence between governmental authorities and organised armed groups or between such groups within a State.⁹²⁵⁶ Such a conflict exceeds situations of internal

⁹²⁵⁵ Articles 8(2)(c)(i) and 8(2)(e)(i), (iv), (v), (vi), (vii), (viii) and (xii) of the Statute.

⁹²⁵⁶ Article 8(2)(f) of the Statute; [Al Hassan Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1095; [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2683; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, paras 701-703; Trial Chamber VIII, *The Prosecutor v. Ahmad Al Faqui Al Mahdi*, [Judgment and Sentence](#), 27 September 2016, ICC-01/12-01/15-171 (the '[Al Mahdi Trial Judgment](#)'), para. 17; Trial Chamber II, *The Prosecutor v. Germain Katanga*, Judgment pursuant to article 74 of the Statute, 7 March 2014, ICC-01/04-01/07-3436-tENG (the '[Katanga Trial Judgment](#)'), paras 1183-1187; [Lubanga Trial Judgment](#), ICC-01/04-01/06-2842, paras 531-538.

disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of similar nature.⁹²⁵⁷

3767. When evaluating the intensity of the conflict to determine its ‘protracted’ character, chambers consider factors such as: (i) the seriousness and frequency of attacks and armed clashes; (ii) the spread of clashes over territory and the group’s ability to control territory over a period of time; (iii) whether any ceasefire orders had been issued or agreed to; (iv) the type and number of armed forces deployed, including any involvement of the government; (v) the type of weapons used; (vi) whether the situation had attracted the attention of the UN Security Council, or involvement of other international organisations; (vii) whether those fighting considered themselves bound by international humanitarian law; and (viii) the effects of the violence on the civilian population, including the extent to which civilians left the relevant area, the extent of destruction, and the number of persons killed.⁹²⁵⁸ Exercise of control over a part of the territory is not required, though the importance of this factor increases in the absence of active hostilities.⁹²⁵⁹ It is also not required that the violence be continuous and uninterrupted – the Chamber need only find that the violence goes beyond isolated or sporadic acts.⁹²⁶⁰

3768. When evaluating whether an entity qualifies as an ‘organised armed group’, chambers consider factors such as: (i) the existence of a command structure, the existence of headquarters, the issuing of political statements, and the use of official spokespersons; (ii) the military (operational) capacity of the armed group, which may be shown by, for example, the ability to define a unified military strategy, the use of military tactics, the ability to carry out (large scale or coordinated) operations, the control of territory, and having a territorial division into zones of responsibility; (iii) the logistical capacity of the armed group,

⁹²⁵⁷ Article 8(2)(d) and (f) of the Statute.

⁹²⁵⁸ See [Al Hassan Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1097; [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2684; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, paras 716-717; [Lubanga Trial Judgment](#), ICC-01/04-01/06-2842, para. 538; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, para. 1187.

⁹²⁵⁹ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2684; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 717. See also [Al Hassan Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1097.

⁹²⁶⁰ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2684; Trial Chamber III, *The Prosecutor v. Jean-Pierre Bemba Gombo*, [Judgment pursuant to Article 74 of the Statute](#), 21 March 2016, ICC-01/05-01/08-3343 (with public annexes I, II and A-F) (the ‘[Bemba Trial Judgment](#)’), para. 140. See also [Al Hassan Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1097.

indicated, among others, by the existence of a supply chain for military equipment, as well as by the group's ability to move troops around and to recruit and train personnel; (iv) the existence of an internal disciplinary system and the ability to implement international humanitarian law; and (v) the group's ability to speak with one voice, indicated, for example, by the capacity of the leadership to act on behalf of its members in political negotiations and to conclude agreements, such as cease-fire or peace agreements.⁹²⁶¹

b. Crimes against humanity

3769. The chapeau of Article 7(1) of the Statute, which sets out the contextual elements of crimes against humanity, reads: '[f]or the purpose of this Statute, "crime against humanity" means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack'. The provision is complemented by Article 7(2)(a) of the Statute which stipulates: "[a]ttack directed against any civilian population" means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack'.

3770. An 'attack' in this context means a 'course of conduct involving the multiple commission of acts referred to in [Article 7(1)]'.⁹²⁶² The requirement that the acts form part of a 'course of conduct' indicates that Article 7 is meant to cover a series or overall flow of events, as opposed to a mere aggregate of random or isolated acts.⁹²⁶³ As clarified by the Appeals Chamber, 'this does not mean that a trial chamber must have regard to the totality of the activities and military operations of a state or organisation' to establish whether there was a 'course of conduct' or that the attack 'targeted a civilian population'.⁹²⁶⁴ The 'multiple

⁹²⁶¹ [Al Hassan Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1096; [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2685; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 704; [Lubanga Trial Judgment](#), ICC-01/04-01/06-2842, para. 537; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, para. 1186.

⁹²⁶² Article 7(2)(a) of the Statute.

⁹²⁶³ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2674; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 662. See also [Ntaganda Appeals Judgment](#), ICC-01/04-02/06-2666-Red, paras 416, 430; [Al Hassan Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1104.

⁹²⁶⁴ [Ntaganda Appeals Judgment](#), ICC-01/04-02/06-2666-Red, para. 431.

commission of acts’ sets a quantitative threshold involving a certain number of acts falling within the course of conduct.⁹²⁶⁵

3771. The course of conduct must be ‘directed against any civilian population’, namely a collective, as opposed to individual civilians. The Appeals Chamber has clarified prior jurisprudence that the civilian population must be the ‘primary object’ of the attack⁹²⁶⁶ to the extent that this is not establishing a legal requirement that the *main* aim or object of the relevant acts was to attack civilians, as ‘[a]n attack directed against a civilian population may also serve other objectives or motives’.⁹²⁶⁷ Rather, this jurisprudence outlines the analysis applicable to determining whether an attack has been directed against a civilian population.⁹²⁶⁸ In essence, the Appeals Chamber found that ‘[t]he question of whether an attack was directed against a civilian population is essentially a factual issue’.⁹²⁶⁹

3772. The presence within a civilian population of individuals who do not fall under the definition of ‘civilians’ does not deprive the population of its civilian character.⁹²⁷⁰ Further, and although the attack must be directed against a civilian population, there is no requirement that the individual victims of crimes be civilians; they need only be ‘persons’ under the

⁹²⁶⁵ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2674; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 663.

⁹²⁶⁶ See [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2675; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 668; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, para. 1104.

⁹²⁶⁷ [Ntaganda Appeals Judgment](#), ICC-01/04-02/06-2666-Red, para. 424.

⁹²⁶⁸ [Ntaganda Appeals Judgment](#), ICC-01/04-02/06-2666-Red, para. 424.

⁹²⁶⁹ [Ntaganda Appeals Judgment](#), ICC-01/04-02/06-2666-Red, para. 424.

⁹²⁷⁰ [Al Hassan Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1106; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 668; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, para. 1105.

Elements of Crimes.⁹²⁷¹ In any case, the Chamber notes that there also must be a sufficient nexus to an attack against a ‘civilian’ population.⁹²⁷²

3773. The ‘course of conduct involving the multiple commission of acts’ must take place ‘pursuant to or in furtherance of a State or organizational policy to commit such attack’ within the meaning of Article 7(2)(a) of the Statute. The Elements of Crimes specify that the “‘policy to commit such attack” requires that the [...] organization actively promote[s] or encourage[s] such an attack against a civilian population’.⁹²⁷³ For purposes of this judgment, only the ‘organisational policy’ prong is relevant.

3774. As regards the ‘organisation’ pursuing the policy, the Chamber adheres to the definition established by Trial Chamber II:

In the Chamber’s view, the connection of the term “organisation” to the very existence of the attack and not to its systematic or widespread nature presupposes that the organisation has sufficient resources, means and capacity to bring about the course of conduct or the operation involving the multiple commission of acts referred to in article 7(2)(a) of the Statute. It therefore suffices that the organisation [has] a set of structures or mechanisms, whatever those may be, that are sufficiently efficient to ensure the coordination necessary to carry out an attack directed against a civilian population.⁹²⁷⁴

⁹²⁷¹ [Onqwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2675; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 669. Victims are described as ‘person’ or ‘persons’ across all Article 7(1) crimes except for forced pregnancy (refers to ‘women’) and the residual ‘other inhumane acts’ (which only speaks generally of inflicting ‘great suffering, or serious injury to body or to mental or physical health [...]’). No further status requirement is specified. In contrast, see the elements for the crimes under Article 8(2)(a) of the Statute (specifically requiring that the victim was ‘protected under one or more of the Geneva Conventions of 1949’). See also ICTY, Appeals Chamber, *Prosecutor v. Mile Mrkšić & Veselin Šljivančanin*, [Judgement](#), 5 May 2009, IT-95-13/1-A, para. 32; ICTY, Appeals Chamber, *Prosecutor v. Dragomir Milošević*, [Judgement](#), 12 November 2009, IT-98-29/1-A, paras 58, 96; United States Military Tribunal, *The High Command Case*, Trials of War Criminals Before the Nuremberg Military Tribunals, 1949, Vol. XI, pp. 675, 679 (convicting General Walter Warlimont for significantly contributing to the illegal plan to lynch Allied flyers; this plan is described as a crime against humanity). See also [Al Hassan Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1106.

⁹²⁷² [Onqwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2675.

⁹²⁷³ Elements of Crimes, Introduction to Article 7, para. 3. See also footnote 6 of the same paragraph.

⁹²⁷⁴ [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, para. 1119.

3775. As the terms ‘pursuant to or in furtherance of’ imply, the policy requirement ensures that the multiple acts forming the course of conduct are linked. It ensures that acts which are unrelated or perpetrated by individuals acting randomly on their own are excluded.⁹²⁷⁵

3776. A policy may consist of a pre-established design or plan, but it may also crystallise and develop only as actions are undertaken by the perpetrators.⁹²⁷⁶ The ‘policy’ may be inferred from a variety of factors, such as: (i) a recurrent pattern of violence; (ii) the existence of preparations or collective mobilisation orchestrated and coordinated by the organisation; (iii) the use of public or private resources to further the policy; (iv) the involvement of organisational forces in the commission of crimes; (v) statements, instructions or documentation attributable to the organisation condoning or encouraging the commission of crimes; and (vi) an underlying motivation.⁹²⁷⁷ In principle, a state or organisation committing a systematic attack against a civilian population will satisfy the policy requirement.⁹²⁷⁸

3777. The alternative qualifiers of ‘widespread’ or ‘systematic’ serve to characterise the ‘attack’ itself.

3778. The term ‘widespread’ connotes the large-scale nature of the attack and the number of targeted persons.⁹²⁷⁹ The assessment of whether the attack is widespread is neither exclusively quantitative nor geographical, but must be carried out on the basis of all the relevant facts of the case.⁹²⁸⁰

⁹²⁷⁵ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2678. Similarly [Bemba Trial Judgment](#), ICC-01/05-01/08-3343, para. 161; [Al Hassan Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1111.

⁹²⁷⁶ [Al Hassan Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1110; [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2679; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 674; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, para. 1110.

⁹²⁷⁷ [Al Hassan Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1110; [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2679. Similarly [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 674; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, paras 1108-1110.

⁹²⁷⁸ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2679; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, paras 1111-1113. See also [Al Hassan Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1110.

⁹²⁷⁹ [Al Hassan Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1113; [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2681. See [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 691; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, para. 1123.

⁹²⁸⁰ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2681; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 691. See also [Al Hassan Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1114.

3779. The term ‘systematic’ reflects the organised nature of the violent acts, referring often to the existence of ‘patterns of crimes’ and the improbability of their random or accidental occurrence.⁹²⁸¹

c. Nexus requirement and perpetrators’ awareness

3780. The war crimes charged in the present case require, as their contextual elements, that the relevant conduct took place in the context of and was associated with an armed conflict not of an international character. The perpetrator’s conduct need not take place as part of hostilities, meaning that the nexus requirement could still be satisfied for crimes temporally or geographically remote from the actual fighting.⁹²⁸² What is required is a sufficiently close link to the hostilities – the Chamber may take into account, amongst other factors, the status of the perpetrator and the victim, whether the act may be said to serve the ultimate goal of a military campaign, and whether the crime is committed as part of, or in the context of, the perpetrator’s official duties.⁹²⁸³

3781. Crimes against humanity must have been committed as part of a widespread or systematic attack directed against a civilian population.⁹²⁸⁴ When assessing such a nexus, due regard must be given to the characteristics, aims, nature and consequences of the acts concerned.⁹²⁸⁵

3782. These nexus requirements find their subjective equivalent in the requisite knowledge or awareness of the perpetrator.

3783. In the case of a war crime, the perpetrator must have been aware of factual circumstances that established the existence of an armed conflict.

⁹²⁸¹ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2682; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 692; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, para. 1123.

⁹²⁸² [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2689; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 731; [Al Mahdi Trial Judgment](#), paras 18, 49; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, para. 1176; [Lubanga Trial Judgment](#), ICC-01/04-01/06-2842, para. 571; ICTY, Appeals Chamber, *Prosecutor v. Dragoljub Kunarac et al.*, [Judgement](#), 12 June 2002, IT-96-23/1-A (the ‘Kunarac et al. Appeals Judgment’), para. 57.

⁹²⁸³ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2689; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 732; [Bemba Trial Judgment](#), ICC-01/05-01/08-3343, para. 143. See also [Al Hassan Trial Judgment](#), ICC-01/12-01/18-2594-Red, paras 1099-1100.

⁹²⁸⁴ See the chapeau of Article 7(1) of the Statute (‘as part of’).

⁹²⁸⁵ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2688; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 696; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, para. 1124.

3784. In the case of a crime against humanity, the perpetrator must know that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population. However, it is not necessary that the perpetrator be aware of the precise details of the plan or policy of the State or organisation.⁹²⁸⁶

3785. These nexus and awareness requirements must be met in order to prove any crime against humanity or war crime. All crimes set forth in the next sub-section must have been committed with the required nexus and awareness of the perpetrator.

ii. Specific elements

3786. In the following, the Chamber will set forth the relevant applicable law of the individual crimes with which Alfred Yekatom and Patrice-Edouard Ngaïssona are charged. The crimes are embedded in the context that gives them their international character and differentiates them from ordinary crimes.

3787. Unless otherwise provided in the Statute, the material elements of the crimes must have been committed with ‘intent’ and ‘knowledge’ within the meaning of Article 30 of the Statute.⁹²⁸⁷ As regards the phrase ‘will occur in the ordinary course of events’ in Article 30(2)(b) and (3) of the Statute, this requires virtual certainty that the consequence in question would occur.⁹²⁸⁸ ‘Knowledge’ means awareness that a circumstance exists or a consequence will occur in the ordinary course of events.⁹²⁸⁹ To the extent that any further discussion beyond Article 30’s terms is necessary, the Chamber will also discuss the required mental elements below.

⁹²⁸⁶ Elements of Crimes, Introduction to Article 7, para. 2.

⁹²⁸⁷ Article 30 provides: ‘1. Unless otherwise provided, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court only if the material elements are committed with intent and knowledge. 2. For the purposes of this article, a person has intent where: (a) In relation to conduct, that person means to engage in the conduct; (b) In relation to a consequence, that person means to cause that consequence or is aware that it will occur in the ordinary course of events. 3. For the purposes of this article, “knowledge” means awareness that a circumstance exists or a consequence will occur in the ordinary course of events. “Know” and “knowingly” shall be construed accordingly’. See also [Lubanga Appeals Judgment](#), ICC-01/04-01/06-3121-Red, paras 446-451.

⁹²⁸⁸ [Al Hassan Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1121; [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2695; [Lubanga Appeals Judgment](#), ICC-01/04-01/06-3121-Red, paras 447-450.

⁹²⁸⁹ Article 30(3) of the Statute.

- a. Directing attack against the civilian population as such (Article 8(2)(e)(i))

3788. This crime requires two material elements. The first of these is that the perpetrator directed an attack. An ‘attack’ constitutes any ‘acts of violence against the adversary, whether in offence or defence’.⁹²⁹⁰ To ‘direct’ an attack in this context means that the perpetrator selected the intended target and decided on the attack.⁹²⁹¹ No particular harm to civilians need be caused; the crime is directing the attack as such.⁹²⁹²

3789. The second material element of the crime is that the object of the attack was a civilian population as such or individual civilians not taking direct part in hostilities. Civilians are persons who are not members of State armed forces or organised armed groups of a party to the conflict.⁹²⁹³ The term ‘civilian population’ denotes a collective, as opposed to individual civilians.⁹²⁹⁴ The presence within a civilian population of individuals who do not fall under the definition of ‘civilians’ does not deprive the population of its civilian character.⁹²⁹⁵

3790. The civilian population or individual civilians must have been the *primary* object of the ‘attack’; directing the attack against military objects that affect civilians incidentally does not suffice.⁹²⁹⁶ Efforts to comply with international humanitarian law are relevant in this context, including the principle of distinction between legitimate targets and protected persons or objects and the duty to take precautionary measures.⁹²⁹⁷ Depending on the

⁹²⁹⁰ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2758; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 916; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, para. 798; Article 13(2) of [Additional Protocol II](#); Article 49 of [Additional Protocol I](#). See also [Al Mahdi Trial Judgment](#), paras 15-16.

⁹²⁹¹ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2758; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, paras 744, 917.

⁹²⁹² [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2758; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 904.

⁹²⁹³ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2759; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 883; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, para. 788; Common Article 3 of the four Geneva Conventions.

⁹²⁹⁴ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2759; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 921.

⁹²⁹⁵ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2759; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 921.

⁹²⁹⁶ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2760; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436 para. 802.

⁹²⁹⁷ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2760. See [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 921; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, para. 802.

circumstances, the civilian population can still qualify as the primary object of an attack in a situation where everyone is targeted at a mixed military-civilian position.⁹²⁹⁸

3791. The perpetrator must also have intended the civilian population as such or individual civilians not taking direct part in hostilities to be the object of the attack.⁹²⁹⁹

b. Murder (Article 7(1)(a) and Article 8(2)(c)(i))

3792. The crime of murder is committed in case a person is killed⁹³⁰⁰ as a result of the perpetrator's act or omission.⁹³⁰¹

3793. For the purpose of murder as a war crime, Article 8(2)(c) of the Statute prescribes that the crime must be committed 'against persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention or any other cause'.⁹³⁰² Taking an active part in the hostilities is understood as acts of war that by their nature or purpose strike at the personnel and *matériel* of enemy armed forces.⁹³⁰³ It is not considered taking an active part in the hostilities when persons otherwise protected under international humanitarian law exercise their right to individual self-defence.⁹³⁰⁴

⁹²⁹⁸ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2760. See [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, paras 921, 923; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, para. 802. Similarly ICTY, Appeals Chamber, *Prosecutor v. Stanislav Galić*, [Judgement](#), 30 November 2006, IT-98-29-A, para. 132.

⁹²⁹⁹ Para. 3 of the Elements of Crimes of Article 8(2)(e)(i) of the Statute.

⁹³⁰⁰ Footnotes 7 and 31 in the Elements of Crimes specify that '[t]he term "killed" is interchangeable with the term "caused death"'.

⁹³⁰¹ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2696; [Bemba Trial Judgment](#), ICC-01/05-01/08-3343, paras 87-88, 91-94; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, paras 767-769, 783-791.

⁹³⁰² Equally, para. 2 of the Elements of Crimes of Article 8(2)(c)(i)-1 of the Statute determines that the 'person or persons were either *hors de combat*, or were civilians, medical personnel, or religious personnel, taking no active part in the hostilities'.

⁹³⁰³ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2697; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 883; ICTY, Trial Chamber I, *Prosecutor v. Stanislav Galić*, [Judgement and Opinion](#), 5 December 2003, IT-98-29-T (the '[Galić Trial Judgment](#)'), para. 48.

⁹³⁰⁴ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2697; ICTY, Trial Chamber, *Prosecutor v. Duško Tadić*, [Judgment](#), 7 May 1997, IT-94-1-T, para. 640; Pre-Trial Chamber I, *The Prosecutor v. Callixte Mbarushimana*, Public Redacted Version of Decision on the confirmation of charges, 16 December 2011, ICC-01/04-01/10-465-Red (the '[Mbarushimana Confirmation Decision](#)'), para. 148; [ICRC Interpretive Guidance on 'Direct Participation'](#), p. 61 (citations removed: '[t]he causation of harm in individual self-defence or defence of others against violence prohibited under IHL lacks belligerent nexus. For example, although the use of force by civilians to defend themselves against unlawful attack or looting, rape, and murder by marauding soldiers may cause the required threshold of harm, its purpose clearly is not to support a party to the conflict against another. If individual self-defence against prohibited

3794. Lastly, while the Prosecutor must demonstrate, to the extent possible, the location, date and means of killing, he is not required to demonstrate for each killing the identity of the victim or that the corpse of the deceased has been found.⁹³⁰⁵

c. Forcible transfer and deportation (Article 7(1)(d))

3795. The crime of deportation or forcible transfer of the population is committed when the following material elements are fulfilled:

1. The perpetrator deported or forcibly transferred,⁹³⁰⁶ without grounds permitted under international law, one or more persons to another State or location, by expulsion or other coercive acts.
2. Such person or persons were lawfully present in the area from which they were so deported or transferred.

3796. Article 7(2)(d) of the Statute stipulates that deportation or forcible transfer of the population ‘means forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law’.

3797. The Elements of Crimes further specify that the term ‘forcibly’ ‘is not restricted to physical force, but may include threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power against such person or persons or another person, or by taking advantage of a coercive environment’.⁹³⁰⁷

3798. Different types of conduct may amount to ‘expulsion or other coercive acts’ and prompt a person or persons to leave the area where they were lawfully present.⁹³⁰⁸ The act or acts of

violence were to entail loss of protection against direct attack, this would have the absurd consequence of legitimizing a previously unlawful attack. Therefore, the use of necessary and proportionate force in such situations cannot be regarded as direct participation in hostilities.’).

⁹³⁰⁵ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2698; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 862; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, para. 768.

⁹³⁰⁶ Footnote 13 of the Elements of Crimes indicates that ‘deported or forcibly transferred’ is interchangeable with ‘forcibly displaced’.

⁹³⁰⁷ Footnote 12 of the Elements of Crimes.

⁹³⁰⁸ [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 1047; Pre-Trial Chamber II, *The Prosecutor v. William Samoei Ruto et al.*, [Decision on the Confirmation of Charges Pursuant to Article 61\(7\)\(a\) and \(b\) of the Rome Statute](#), 23 January 2012, ICC-01/09-01/11-373 (the ‘Ruto et al. Confirmation Decision’), para. 244.

the perpetrator must have had the effect of deporting or forcibly displacing the person or persons.⁹³⁰⁹

3799. It must be demonstrated that there was a genuine lack of choice on the part of the person or persons forcibly transferred.⁹³¹⁰ While a person or persons may agree, or even request, to be transferred from an area, ‘consent must be real in the sense that it is given voluntarily and as a result of the individual’s free will’.⁹³¹¹ When assessing whether the individuals transferred had a genuine choice, the prevailing situation and atmosphere, and other relevant circumstances, including in particular the victims’ vulnerability, will have to be taken into account.⁹³¹² Assistance by humanitarian agencies, including non-governmental, in facilitating the displacement does not of itself render an otherwise unlawful transfer lawful.⁹³¹³

3800. The forcible transfer must have taken place ‘without grounds permitted under international law’.

3801. The protected interests underlying the prohibition against deportation or forcible transfer include the right of individuals to remain in their homes and communities unhindered.⁹³¹⁴ The requirement of ‘lawful presence’ in an area does not mean that the individuals transferred must have had legal residence there, but also relates to persons who, for whatever

⁹³⁰⁹ [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 1047; , ICC-01/09-01/11-373, para. 245. *See also* ICTY, Trial Chamber II, *Prosecutor v. Vujadin Popović et al.*, Judgement, 10 June 2010, IT-05-88-T (the ‘*Popović et al.* Trial Judgment’), para. 893.

⁹³¹⁰ [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 1056.

⁹³¹¹ *See* ICTY, Appeals Chamber, *Prosecutor v. Milomir Stakić*, Judgement, 22 March 2006, IT-97-24-A, para. 279. *See also* [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 1056; ICTY, Appeals Chamber, *Prosecutor v. Milorad Krnojelac*, Judgement, 17 September 2003, IT-97-25-A, para. 229; ICTY, Trial Chamber II, *Prosecutor v. Vlastimir Đorđević*, Public Judgement with Confidential Annex, 23 February 2011, IT-05-87/1-T, para. 1605.

⁹³¹² [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 1056. *See also* ICTY, Trial Chamber I, Section A, *Prosecutor v. Vidoje Blagojević & Dragan Jokić*, Judgement, 17 January 2005, IT-02-60-T, para. 596; ICTY, Appeals Chamber, *Prosecutor v. Milomir Stakić*, Judgement, 22 March 2006, IT-97-24-A, para. 282.

⁹³¹³ *See* *Popović et al.* Trial Judgment, IT-05-88-T, para. 897.

⁹³¹⁴ [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 1069. *See also* *Popović et al.* Trial Judgment, IT-05-88-T, paras 890, 900; ICTY, Appeals Chamber, *Prosecutor v. Milomir Stakić*, Judgement, 22 March 2006, IT-97-24-A, para. 277; ICTY, Appeals Chamber, *Prosecutor v. Milorad Krnojelac*, Judgement, 17 September 2003, IT-97-25-A, para. 218.

reason, have come to live in an area, including internally displaced persons who have established temporary homes in that location.⁹³¹⁵

3802. Finally, the perpetrator needs to be aware of the factual circumstances which establish the lawfulness of the presence in the area of the displaced individuals. As made clear by the Elements of Crimes, the perpetrator need not make any legal evaluation as to the lawfulness of the presence in an area, but need only be aware of the factual circumstances establishing the ‘lawful presence’.⁹³¹⁶

d. Displacement (Article 8(2)(e)(viii))

3803. Article 8(2)(e)(viii) of the Statute proscribes ‘[o]rdering the displacement of the civilian population for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand’.

3804. In order for the war crime of displacement to be committed, the following material elements need to be fulfilled:

1. The perpetrator ordered a displacement of a civilian population.
2. Such order was not justified by the security of the civilians involved or by military necessity.
3. The perpetrator was in a position to effect such displacement by giving such order.

3805. In accordance with the Elements of Crimes, an order to displace is required,⁹³¹⁷ and the perpetrator must have been in a position to effect such displacement by giving such order. Such order does not necessarily have to be in writing and may be issued in a variety of means, to be determined on a case-by-case basis.⁹³¹⁸

⁹³¹⁵ [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 1069. See also *Popović et al.* Trial Judgment, IT-05-88-T, para. 900.

⁹³¹⁶ See also ‘Article 7(1)(d) – Crime Against Humanity of Deportation or Forcible Transfer of Population’, in R. S. Lee (ed.) *The International Criminal Court: Elements of Crimes and Rules of Procedure and Evidence* (2001), p. 88.

⁹³¹⁷ See also [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 1080.

⁹³¹⁸ [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 1082.

3806. The order itself does not need to be made to the civilian population for the crime to be established.⁹³¹⁹ Further, the Chamber agrees with prior jurisprudence that the order may be directed at the actual displacement of a civilian population, but also at an act or omission as a result of which such displacement would occur.⁹³²⁰

3807. In addition, the Chamber is of the view that the question of whether the or a civilian population, in accordance with Article 8(2)(e)(viii) of the Statute, is affected by the displacement will have to be determined on a case-by-case basis.⁹³²¹

3808. As clarified by the Appeals Chamber, '[n]either the article itself nor the corresponding elements of crimes establish territorial control as a requirement for the war crime of displacement to take place'.⁹³²² The civilian population does not need to be under the perpetrator's power and control in order for the accused to be 'in a position to effect such displacement' by giving an order to displace.⁹³²³ Whether a person is in a position to give effect to an order to displace the civilian population is a question of fact that depends primarily on the position occupied by the accused and [their] duties and responsibilities, including [their] ability to ensure compliance with [their] orders.⁹³²⁴

3809. Ordering the displacement of a civilian population may be justified if the security of the civilians involved or 'imperative military reasons' so demand. As regards 'imperative military reasons', it is of note that the Elements of Crimes instead refer to 'military necessity'.⁹³²⁵ In the Lieber Code, 'military necessity' has been defined as 'consist[ing] in

⁹³¹⁹ [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 1081.

⁹³²⁰ [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 1081. See also [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, paras 1088, 1094; Pre-Trial Chamber II, *The Prosecutor v. Bosco Ntaganda*, [Decision Pursuant to Article 61\(7\)\(a\) and \(b\) of the Rome Statute on the Charges of the Prosecutor Against Bosco Ntaganda](#), 9 June 2014, ICC-01/04-02/06-309 (the 'Ntaganda Confirmation Decision'), para. 64.

⁹³²¹ See [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 1083. See also [Ntaganda Appeals Judgment](#), ICC-01/04-02/06-2666-Red, para. 567.

⁹³²² [Ntaganda Appeals Judgment](#), ICC-01/04-02/06-2666-Red, paras 547, 550.

⁹³²³ [Ntaganda Appeals Judgment](#), ICC-01/04-02/06-2666-Red, para. 559.

⁹³²⁴ [Ntaganda Appeals Judgment](#), ICC-01/04-02/06-2666-Red, para. 559.

⁹³²⁵ See also [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 1098 referring to Y. Sandoz, C. Swinarski, B. Zimmermann (eds), 'Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949' (1987), mn. 4853; E. La Haye, 'Article 8(2)(e)(viii) – Displacing civilians' in R. S. Lee (ed.), *The International Criminal Court. Elements of Crimes and Rules of Procedure and Evidence* (2001), p. 216.

the necessity of those measures which are indispensable for securing the ends of the war, and which are lawful according to the modern law and usages of war'.⁹³²⁶

- e. Directing an attack against a building dedicated to religion (Article 8(2)(e)(iv))

3810. This crime requires that the following material elements be fulfilled:

1. The perpetrator directed an attack.
2. The object of the attack was one or more buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals or places where the sick and wounded are collected, which were not military objectives.
3. The perpetrator intended such building or buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals or places where the sick and wounded are collected, which were not military objectives, to be the object of the attack.

3811. Article 8(2)(e)(iv) of the Statute only requires the perpetrator to have *launched* an attack against a protected object and it need not be established that the attack caused any damage or destruction to the object in question.⁹³²⁷

3812. The jurisprudence of the Court is not settled as to *when* the 'attack' must have occurred. Trial Chamber VIII indicated that the first material element of Article 8(2)(e)(iv) of the Statute encompasses 'any acts of violence against protected objects', without making any distinction as to whether the act was carried out in the conduct of hostilities or after the object had fallen under the control of an armed group.⁹³²⁸ Other chambers – notably, Trial Chamber VI and Trial Chamber X – have considered that this war crime did require the attack to take place during the actual conduct of the hostilities.⁹³²⁹

⁹³²⁶ [Instructions for the Government of Armies of the United States in the Field \(Lieber Code\)](#). 24 April 1863, Article 14. See also [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 1098.

⁹³²⁷ [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 1136 referring to [Al Mahdi Trial Judgment](#), ICC-01/12-01/15-171, para. 16, n. 29.

⁹³²⁸ See [Al Mahdi Trial Judgment](#), ICC-01/12-01/15-171, para. 15.

⁹³²⁹ See [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, paras 1136, 1142; [Al Hassan Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1099, n. 3770.

3813. The Chamber further notes that the Appeals Chamber has not settled the law in this regard.

Although the Appeals Chamber upheld Trial Chamber VI's findings with regard to its interpretation of the term 'attack', there was no consensus as to how this term should be defined.⁹³³⁰

3814. In light of the above, and taking into account its findings of fact with regard to the Anti-Balaka attack on the Boeing Mosque, which occurred during ongoing hostilities,⁹³³¹ the Chamber does not consider it necessary to address in this case whether, in order to qualify as a crime under Article 8(2)(e)(iv) of the Statute, an 'attack' must be directed during the actual conduct of the hostilities.

f. Torture (Article 7(1)(f) and Article 8(2)(c)(i))

3815. The crime of torture, whether as a crime against humanity or war crime, is committed either by act or omission and has a common material element that '[t]he perpetrator inflicted severe physical or mental pain or suffering upon one or more persons'.⁹³³²

3816. The severity implies an important degree of pain and suffering⁹³³³ and may be met by a single act or by a combination of acts when viewed as a whole.⁹³³⁴ This can be assessed only on a

⁹³³⁰ See [Ntaganda Appeals Judgment](#), ICC-01/04-02/06-2666-Red, paras 1163-1169.

⁹³³¹ See paragraph 78 above.

⁹³³² See Article 7(2)(e) of the Statute and para. 1 of the Elements of Crimes of Articles 7(1)(f) and 8(2)(c)(i)-4 of the Statute.

⁹³³³ [Onqwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2701. Similarly [Al Hassan Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1128; Pre-Trial Chamber I, *The Prosecutor v. Al Hassan Ag Abdou Aziz Ag Mohamed Ag Mahmoud*, [Rectificatif à la Décision relative à la confirmation des charges portées contre Al Hassan Ag Abdou Aziz Ag Mohamed Ag Mahmoud](#), 13 November 2019, ICC-01/12-01/18-461-Corr-Red (the '[Al Hassan Confirmation Decision](#)'), para. 230; Pre-Trial Chamber II, *The Prosecutor v. Jean-Pierre Bemba Gombo*, [Decision Pursuant to Article 61\(7\)\(a\) and \(b\) of the Rome Statute on the Charges of the Prosecutor Against Jean-Pierre Bemba Gombo](#), 15 June 2009, ICC-01/05-01/08-424, para. 193. See also ICTY, Trial Chamber II, *Prosecutor v. Milorad Krnojelac*, [Judgment](#), 15 March 2002, IT-97-25-T (the '[Krnojelac Trial Judgment](#)'), paras 181, 219, 222, 224, 236; ECtHR, Grand Chamber, *El Masri v. The Former Yugoslav Republic of Macedonia*, [Judgment](#), 13 December 2012, Application No. 39630/09, paras 196-197; European Court of Human Rights (the 'ECtHR'), Grand Chamber, *Gäfgen v. Germany*, [Judgment](#), 1 June 2010, Application No. 22978/05, para. 90; ECtHR, Grand Chamber, *Selmouni v. France*, [Judgment](#), 28 July 1999, Application No. 25803/94, para. 100. See also ECtHR, Chamber, *Case of Ireland v. United Kingdom*, [Judgment](#), 18 January 1978, Application No. 5310/71, paras 162-163; IACtHR, *Case of Caesar v. Trinidad and Tobago*, [Judgment](#), 11 March 2005, Series C No. 123, paras 67-69; African Commission on Human and Peoples' Rights, *Shumba v. Zimbabwe*, [Decision](#), 2 May 2012, Comm. No. 288/2004, para. 138.

⁹³³⁴ [Onqwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2701. Similarly [Al Hassan Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1128; [Al Hassan Confirmation Decision](#), ICC-01/12-01/18-461-Corr-Red, para. 230; ICTY, Appeals Chamber, *Prosecutor v. Mladen Naletilić and Vinko Martinović*, [Judgement](#), 3 May 2006, IT-98-34-A, para. 299; , IT-97-25-T, para. 182; ECtHR, Grand Chamber, *Selmouni v. France*, [Judgment](#), 28 July 1999,

case-by-case basis in the light of all the circumstances of the case.⁹³³⁵ It is not necessary to prove that the pain or suffering involved specific physical injury (such as organ failure), impairment of a bodily function or death.⁹³³⁶ The pain and suffering may be either physical or mental.⁹³³⁷ The consequences of torture do not have to be visible, nor must the injury be permanent.⁹³³⁸

3817. There are some notable differences between the elements of torture as a crime against humanity versus a war crime.

3818. For torture as a crime against humanity, Article 7(2)(e) of the Statute further requires that ‘[s]uch person or persons were in the custody or under the control of the perpetrator’. Torture

Application No. 25803/94, para. 105; ECtHR, Grand Chamber, *Aydin v. Turkey*, [Judgment](#), 25 September 1997, Application No. 23178/94, para. 86.

⁹³³⁵ Similarly [Al Hassan Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1128; [Al Hassan Confirmation Decision](#), ICC-01/12-01/18-461-Corr-Red, para. 230; ICTY, Appeals Chamber, *Prosecutor v. Radoslav Brđanin*, [Judgment](#), 3 April 2007, IT-99-36-A, para. 251; ECCC, Trial Chamber, *Prosecutors v. Kaing Guek alias Duch*, [Judgment](#), 26 July 2010, 001/18-07-200/ECCC/TC (the ‘[Duch Trial Judgment](#)’), para. 355; ECtHR, Chamber, *Case of Ireland v. United Kingdom*, [Judgment](#), 18 January 1978, Application No. 5310/71, para. 162 (‘[t]he assessment of th[e] minimum [level of severity] is, in the nature of things, relative; it depends on all the circumstances of the case, such as the duration of the treatment, its physical or mental effects and, in some cases, the sex, age and state of health of the victim, etc.’). See also African Commission on Human and Peoples’ Rights, *Shumba v. Zimbabwe*, [Decision](#), 2 May 2012, Comm. No. 288/2004, para. 138 (‘The assessment of this minimum level is relative; it depends on all the circumstances of the case, such as the duration of the treatment, its physical and mental effects and, in some cases, the sex, age and state of health of the victim.’); IACtHR, *Case of Espinoza Gonzáles v. Peru*, [Judgment](#), 20 November 2014, Series C No. 289, para. 142 (the violation of the right to physical and mental integrity has different connotations of degree, and ranges from torture to other kinds of abuse or cruel, inhuman or degrading treatment, the physical and mental aftereffects of which vary in intensity in accordance with factors that are endogenous and exogenous to the individual (such as, duration of the treatment, age, sex, health, context, and vulnerability) that must be analyzed in each specific situation. [...] the personal characteristics of a presumed victim of torture or cruel, inhuman or degrading treatment must be taken into account when determining whether their personal integrity was violated, because these characteristics may change the individual’s perception of the reality and, consequently, increase the suffering and the feeling of humiliation when they are subjected to certain treatments’).

⁹³³⁶ [Onqwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2701. Similarly [Al Hassan Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1128; [Al Hassan Confirmation Decision](#), ICC-01/12-01/18-461-Corr-Red, para. 231; [Duch Trial Judgment](#), 001/18-07-2007/ECCC/TC, para. 355; ICTY, Appeals Chamber, *Prosecutor v. Radoslav Brđanin*, [Judgment](#), 3 April 2007, IT-99-36-A, paras 244-251.

⁹³³⁷ Para. 1 of the Elements of Crimes of Articles 7(1)(f) and 8(2)(c)(i)-4 of the Statute; United Nations, Human Rights Committee (Committee on Civil and Political Rights), [General comment No. 20: Article 7 \(Prohibition of torture, or other cruel, inhuman or degrading treatment or punishment\)](#), 10 March 1992, 44th Session, para. 5. See also ECtHR, Chamber, *Case of Ireland v. United Kingdom*, [Judgment](#), 18 January 1978, Application No. 5310/71, para. 167; IACtHR, *Case of Loayza Tamayo v. Peru*, [Judgment](#), 17 September 1997, Series C No. 33, para. 57; African Commission on Human and Peoples’ Rights, *Shumba v. Zimbabwe*, [Decision](#), 2 May 2012, Comm. No. 288/2004, paras 143-144.

⁹³³⁸ [Onqwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2701. Similarly [Al Hassan Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1128; [Duch Trial Judgment](#), 001/18-07-200/ECCC/TC, para. 355; [Kunarac et al. Appeals Judgment](#), IT-96-23/1-A, para. 150; ICTY, Trial Chamber, *Prosecutor v. Miroslav Kvočka et al.*, [Judgment](#), 2 November 2001, IT-98-30/1-T, para. 148.

as a crime against humanity also requires that the pain or suffering did not arise only from, and was not inherent or incidental to, lawful sanctions.⁹³³⁹

3819. In contrast, for torture as a war crime, the custody/control element is not required. Instead, for the war crime of torture there is an additional mental element specified below. The war crime must also be committed against persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat*.⁹³⁴⁰

3820. In addition to the mental elements specified in Article 30 of the Statute, the war crime of torture further requires that:

The perpetrator inflicted the pain or suffering for such purposes as: obtaining information or a confession, punishment, intimidation or coercion or for any reason based on discrimination of any kind.

3821. This specific purpose must be part of the motivation behind the conduct but it need not be the ‘predominant or sole purpose’.⁹³⁴¹ No specific purpose need be proven for torture as a crime against humanity.⁹³⁴² For torture as a war crime, the perpetrator must also have been aware of the factual circumstances that established the status of the victim.⁹³⁴³

3822. As concerns the severe pain or suffering required, the perpetrator need not have completed a value judgment as to the severity of the pain inflicted.⁹³⁴⁴

⁹³³⁹ Para. 3 of the Elements of Crimes of Article 7(1)(f) of the Statute.

⁹³⁴⁰ Article 8(2)(c) of the Statute.

⁹³⁴¹ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2706. Similarly [Duch Trial Judgment](#), 001/18-07-200/ECCC/TC, para. 356; ICTY, Trial Chamber, *Prosecutor v. Radovan Karadžić*, [Judgment](#), 24 March 2016, IT-95-5/18-T, para. 508; [Kunarac et al. Appeals Judgment](#), IT-96-23/1-A, para. 155. See similarly IACtHR, *Case of Maritza Urrutia v. Guatemala*, [Judgment](#), 27 November 2003, Series C No. 103, para. 91 (‘the elements of the concept of torture established in Article 2 of the Inter-American Convention against Torture include methods to obliterate the personality of the victim in order to attain certain objectives, such as obtaining information from a person; or intimidation or punishment, which may be inflicted through physical violence or through acts that produce severe mental or moral suffering in the victim’).

⁹³⁴² Article 30(3) of the Statute; Footnote 14 of the Elements of Crimes of Article 7(1)(f) of the Statute. See e.g. IACtHR, *Case of the Gómez-Paquiyaury Brothers v. Peru*, [Judgment](#), 8 July 2004, Series C No. 110, para. 116 (‘In general, in situations of massive human rights violations, the systematic use of torture has the aim of intimidating the population’).

⁹³⁴³ Para. 4 of the Elements of Crimes of Article 8(2)(c)(i)-4 of the Statute.

⁹³⁴⁴ Para. 4 of the General Introduction of the Elements of Crimes (‘[w]ith respect to mental elements associated with elements involving value judgement, such as those using the terms “inhumane” or “severe”, it is not necessary that the perpetrator personally completed a particular value judgement, unless otherwise indicated.’).

g. Other inhumane acts (Article 7(1)(k))

3823. Alfred Yekatom and Patrice-Edouard Ngaïssona are both charged with the crime of other inhumane acts, within the meaning of Article 7(1)(k) of the Statute. In conformity with the principle of legality, this category of crimes against humanity must be interpreted conservatively and – with due regard to Article 22(2) of the Statute – must not be used to expand uncritically the scope of crimes against humanity.⁹³⁴⁵ Judicial interpretation within Article 7(1)(k) of the Statute must be consistent with the essence of the offence and in a manner which could have been reasonably foreseen.⁹³⁴⁶

3824. The crime of other inhumane acts is committed, either by act or omission, when the following two material elements are fulfilled:

1. The perpetrator inflicted great suffering, or serious injury to body or to mental or physical health, by means of an inhumane act.
2. Such act was of a character similar to any other act referred to in article 7, paragraph 1, of the Statute.⁹³⁴⁷

3825. The category of ‘other inhumane acts’ serves as ‘residual category’ of crimes against humanity, designed to criminalise an act that does not specifically qualify as any of the other crimes under Article 7(1) of the Statute, based on the understanding that an exhaustive enumeration of inhumane acts is impossible.⁹³⁴⁸

3826. If the act is the same as one of the enumerated acts, with an identical ‘character’ in terms of its nature, harm suffered and protected interests involved, then the second material element

⁹³⁴⁵ Article 22(2) of the Statute provides: ‘[t]he definition of a crime shall be strictly construed and shall not be extended by analogy. In case of ambiguity, the definition shall be interpreted in favour of the person being investigated, prosecuted or convicted’. See also Pre-Trial Chamber II, *The Prosecutor v. Francis Kirimi Muthaura et al.*, [Public Redacted Version Decision on the Confirmation of Charges Pursuant to Article 61\(7\)\(a\) and \(b\) of the Rome Statute](#), 23 January 2012, ICC-01/09-02/11-382-Red, para. 269.

⁹³⁴⁶ Article 21(3) of the Statute; ECtHR, Grand Chamber, *Del Río Prada v. Spain*, [Judgment](#), 21 October 2013, Application No. 42750/09, para. 93; ECtHR, Grand Chamber, *Kafkaris v. Cyprus*, [Judgment](#), 12 February 2008, Application No. 21906/04, para. 141; ECtHR, Chamber, *S.W. v. United Kingdom*, [Judgment](#), 22 November 1995, Application No. 20166/92, para. 36. See also IACtHR, *Case of Gelman v. Uruguay*, [Monitoring Compliance with Judgment](#), 20 March 2013, Serie C No. 221, para. 97. In the specific context of interpreting a provision drafted through the legislative technique of categorisation (such as Article 7(1)(k) of the Statute). See also ECtHR, Grand Chamber, *Cantoni v. France*, [Judgment](#), 11 November 1996, Application No. 17862/91, paras 31-32.

⁹³⁴⁷ Elements of Crimes, Article 7(1)(k).

⁹³⁴⁸ [Ongwen Appeals Judgment](#), ICC-02/04-01/15-2022-Red, para. 1017. See [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2745.

under Article 7(1)(k) is not satisfied.⁹³⁴⁹ In this case, a conviction can be entered for a crime under Article 7(1)(a)-(j), but not for the crime of ‘other inhumane act’ under Article 7(1)(k).⁹³⁵⁰

3827. However, this does not mean that a conviction under Article 7(1)(k) of the Statute can be entered only when the conduct in question, considered in its entirety, falls completely outside any act under Article 7(1)(a)-(j).⁹³⁵¹ Rather, a conviction can be entered also under Article 7(1)(k) when the full scope of the culpable conduct is not reflected by its qualification under the enumerated crime(s) alone.⁹³⁵² The term ‘character’ under the second material element of Article 7(1)(k) refers to the nature and gravity of the act.⁹³⁵³ The Chamber can enter a conviction under Article 7(1)(k) if the perpetrator inflicts great suffering, or serious injury to body or mental or physical health, by means of a course of conduct which, despite comprising also acts falling under one or more of the enumerated crimes, is, in its entirety, not identical, but nonetheless ‘similar’ in character in terms of nature and gravity, to those enumerated crimes.⁹³⁵⁴ An act charged under Article 7(1)(k) must be of a similar nature and gravity as any other act under Article 7(1).⁹³⁵⁵

3828. As Article 7(1)(k) is an ‘open provision’, different types of conduct may amount to other inhumane acts as long as they satisfy the elements of Article 7(1)(k) of the Statute.⁹³⁵⁶ International case-law suggests that serious beatings, subjection to deplorable conditions of detention and requiring persons to witness the beatings or killings of others can constitute other inhumane acts.⁹³⁵⁷

⁹³⁴⁹ [Onqwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2746.

⁹³⁵⁰ [Onqwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2746.

⁹³⁵¹ [Onqwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2747.

⁹³⁵² [Onqwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2747.

⁹³⁵³ See Elements of Crimes, footnote 30.

⁹³⁵⁴ [Onqwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2747.

⁹³⁵⁵ [Onqwen Appeals Judgment](#), ICC-02/04-01/15-2022-Red, para. 1016.

⁹³⁵⁶ [Onqwen Appeals Judgment](#), ICC-02/04-01/15-2022-Red, para. 1021.

⁹³⁵⁷ [Onqwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2744 referring to egs ICTY, Trial Chamber, *Prosecutor v. Duško Tadić*, [Judgment](#), 7 May 1997, IT-94-1-T, paras 726, 730; [Duch Trial Judgment](#), 001/18-07-2007/ECCC/TC, paras 260-277, 372; ECCC, Trial Chamber, *Prosecutors v. Nuon Chea and Khieu Samphan*, [Judgment](#), 16 November 2018, 002/19-09-2007-ECCC/TC, paras 733-739; ICTY, Trial Chamber, *Prosecutor v. Miroslav Kvočka et al.*, [Judgement](#), 2 November 2001, IT-98-30/1-T, para. 209; ICTR, Trial Chamber I, *The Prosecutor v. Ignace Bagilishema*, [Judgement](#), 7 June 2001, ICTR-95-1A-T, paras 490-494; ICTY, Trial Chamber,

3829. The perpetrator need not make a value judgment as to the ‘inhumane’ character of the act.⁹³⁵⁸

They need only be aware of the factual circumstances that established the character of the inhumane act.⁹³⁵⁹

h. Cruel treatment (Article 8(2)(c)(i))

3830. The crime of cruel treatment requires that the following material elements are fulfilled:

1. The perpetrator inflicted severe physical or mental pain or suffering upon one or more persons.
2. Such person or persons were either *hors de combat*, or were civilians, medical personnel or religious personnel taking no active part in the hostilities.

3831. Cruel treatment as a war crime requires that the perpetrator afflicts ‘severe’ physical or mental pain or suffering on the victim or victims. The determination of whether a particular conduct amounts to cruel treatment will depend on an assessment of all particular circumstances of a case, taking into account the nature of the acts or omissions concerned, the context in which they took place, their duration or repetition, their consequence on the physical or mental state of the victim, as well as the characteristics of the victim concerned, such as their age, gender or state of health.⁹³⁶⁰ The damage caused to the victim does not need to be permanent or irreversible, but it must have more than temporary or passing effects on the victim. In addition to the above, the perpetrator also needs to be aware of the factual circumstances that established the status of the victim.

i. Imprisonment and other forms of severe deprivation of physical liberty (Article 7(1)(e))

3832. For the crime of imprisonment or other severe deprivation of physical liberty to be committed, the following material elements need to be fulfilled:

Prosecutor v. Zoran Kupreškić et al., [Judgement](#), 14 January 2000, IT-95-16-T, para. 819; Pre-Trial Chamber II, *The Prosecutor v. Francis Kirimi Muthaura et al.*, [Public Redacted Version Decision on the Confirmation of Charges Pursuant to Article 61\(7\)\(a\) and \(b\) of the Rome Statute](#), 23 January 2012, ICC-01/09-02/11-382-Red, paras 274-280. See also [Al Hassan Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1186.

⁹³⁵⁸ Elements of Crimes, General Introduction, para. 4.

⁹³⁵⁹ Elements of Crimes, Article 7(1)(k) of the Statute, para. 3.

⁹³⁶⁰ [Al Hassan Confirmation Decision](#), ICC-01/12-01/18-461-Corr-Red, para. 255. See also ICTY, Trial Chamber II, *Prosecutor v. Fatmir Limaj et al.*, [Judgement](#), 30 November 2005, IT-30-66-T, para. 232.

1. The perpetrator imprisoned one or more persons or otherwise severely deprived one or more persons of physical liberty.
2. The gravity of the conduct was such that it was in violation of fundamental rules of international law.

3833. The Chamber considers this provision to proscribe arbitrary imprisonment or other severe deprivation of physical liberty, taking place without due process of law.⁹³⁶¹

3834. For the crime of imprisonment or other severe deprivation of physical liberty to be committed, the gravity of the conduct must have been ‘such that it was in violation of fundamental rules of international law’, for example in case there is no legal basis to detain a person or the person is denied any procedural rights.⁹³⁶²

3835. As is clear from the Elements of Crimes, it is sufficient for purposes of the provision that *one* person be detained. The duration or brevity of detention does not, as such, determine whether a deprivation of physical liberty is severe.⁹³⁶³ Rather, whether a deprivation of physical liberty is severe will have to be determined on a case-by-case basis.

3836. Finally, the perpetrator must have been aware of the factual circumstances that established the gravity of the conduct.

⁹³⁶¹ See ICTY, Trial Chamber, *Prosecutor v. Dario Kordić and Mario Čerkez*, Judgement, 26 February 2001, IT-95-14/2-T, paras 302-303; [Krnojelac Trial Judgment](#), IT-97-25-T, paras 111-115; [Duch Trial Judgment](#), 001/18-07-2007/ECCC/TC, paras 347-348. See also Yearbook of the International Law Commission 1996, Volume II, Part 2, A/CN.4/SER.A/1996/Add.1 (Part 2), Draft Code of Crimes against the Peace and Security of Mankind with commentaries (1996), Article 18, para. 14; Report of the Working Group on Arbitrary Detention, 19 December 1997, E/CN.4/1998/44, pp. 23, 26, 28, 30, 32-33.

⁹³⁶² See Pre-Trial Chamber III, *Situation in the Republic of Burundi*, [Public Redacted Version of “Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation into the Situation in the Republic of Burundi”](#), ICC-01/17-X-9-US-Exp, 25 October 2017, 9 November 2017, ICC-01/17-9-Red (the ‘*Burundi Decision*’), para. 68. See also Articles 9-11 [Universal Declaration of Human Rights](#) (GA/RES/217 A(III) of 10 December 1948); articles 9-11, 14-15 [International Covenant on Civil and Political Rights](#) (UNTS, Vol. 999 (1976), p. 171); articles 6-7 [African Charter on Human and Peoples’ Rights](#) (UNTS, Vol. 1520 (1988), p. 245); articles 5-7 [European Convention on Human Rights](#); articles 7-9 [American Convention on Human Rights](#) (UNTS, Vol. 1144 (1979), p. 123); article 37 [Convention on the Rights of the Child](#) (GA Res. A/RES/44/25 (1989)); Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (GA Res. A/RES/43/173 (1988)).

⁹³⁶³ Similarly [Burundi Decision](#), ICC-01/17-9-Red, para. 68.

j. Persecution (Article 7(1)(h))

i. *Material elements (actus reus)*

3837. Article 7(1)(h) of the Statute defines persecution as conduct against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3,⁹³⁶⁴ or other grounds that are universally recognised as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court.

3838. Article 7(2)(g) of the Statute stipulates that “[p]ersecution” means the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity’.

3839. The crime is committed when the four material elements are fulfilled.

3840. The first of these elements is that the perpetrator severely deprived, contrary to international law,⁹³⁶⁵ one or more persons of fundamental rights. Not every infringement of human rights is relevant but only a ‘severe deprivation’ of a person’s ‘*fundamental* rights contrary to international law’ (emphasis added). This may include a variety of rights, such as the right to life, the right to personal liberty, the right not to be held in slavery or servitude, the right not to be subjected to torture or cruel treatment, inhuman or degrading treatment, and the right to private property.⁹³⁶⁶

3841. The second and third elements of the crime of persecution are that the perpetrator targeted such person or persons by reason of the identity of a group or collectivity or targeted the group or collectivity as such, and that such targeting was based on political, racial, national,

⁹³⁶⁴ Article 7(3) of the Statute stipulates: ‘For the purpose of this Statute, it is understood that the term “gender” refers to the two sexes, male and female, within the context of society. The term “gender” does not indicate any meaning different from the above’.

⁹³⁶⁵ The Chamber heeds to footnote 21 of the Elements of Crimes which stipulates: ‘This requirement is without prejudice to paragraph 6 of the General Introduction to the Elements of Crimes’. Para. 6 of the General Introduction reads: ‘The requirement of ‘unlawfulness’ found in the Statute or in other parts of international law, in particular international humanitarian law, is generally not specified in the elements of crimes’.

⁹³⁶⁶ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2733. See [Universal Declaration of Human Rights](#), 10 December 1948, United Nations General Assembly Resolution 217 A(III), Articles 3, 4, 5, 17. See also [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 991.

ethnic, cultural religious, gender as defined in article 7, paragraph 3, of the Statute, or other grounds that are universally recognised as impermissible under international law.⁹³⁶⁷

3842. The targeted group can be defined both in a positive or a negative manner, meaning that it may be the case that the perpetrator targeted only members of a certain group or collectivity or that the perpetrator targeted individuals for not belonging to a certain group or collectivity.⁹³⁶⁸

3843. In evaluating the alleged status as a protected group, the particular political, social, and cultural context are relevant, as are, in addition to the objective factors relevant to the discriminatory ground alleged, the subjective perception of belonging of both the perpetrator and the victim.⁹³⁶⁹ It is noted, however, that while it must be demonstrated that the perpetrator targeted certain persons, a group, or a collectivity, based on one of the prohibited grounds, it is not required that all victims of the crime of persecution be members, sympathisers, allies of, or in any other way related to, the protected group.⁹³⁷⁰

3844. Fourth, persecution requires that the conduct was committed in connection with any act referred to in article 7, paragraph 1, of the Statute or any crime within the jurisdiction of the Court.⁹³⁷¹

ii. *Mental elements (mens rea)*

3845. The act of discrimination must be carried out with the requisite intent, *i.e.* an intent to discriminate against the targeted persons on any of the grounds enumerated in Article 7(1)(h) of the Statute. The perpetrator harms the victim *because* the perpetrator perceives the victim as belonging to a particular group or collectivity.⁹³⁷² This intent may be inferred from the

⁹³⁶⁷ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2734.

⁹³⁶⁸ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2735; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 1009.

⁹³⁶⁹ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2736; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 1010.

⁹³⁷⁰ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2736; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 1011.

⁹³⁷¹ The Chamber notes footnote 22 of the Elements of Crimes, which stipulates: '[i]t is understood that no additional mental element is necessary for this element other than that inherent in element 6'.

⁹³⁷² [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2739. Similarly [Al Hassan Confirmation Decision](#), ICC-01/12-01/18-461-Corr-Red, para. 671; [Popović et al. Trial Judgment](#), IT-05-88-T, para. 968.

general behaviour of the perpetrator as well as the circumstances surrounding the commission of the crime.⁹³⁷³

3846. As to the severe deprivation of fundamental human rights required by this crime, the perpetrator need not have completed a value judgment as to the severity of the deprivation inflicted.⁹³⁷⁴

- k. Conscription, enlistment and use of children under the age of fifteen years to participate actively in hostilities (Article 8(2)(e)(vii))

3847. Article 8(2)(e)(vii) of the Statute concerns the crime of conscripting, enlisting and using children under the age of 15 years in hostilities. Conscription or enlistment alone are sufficient and it is therefore not required that a child under 15 years of age who has been conscripted or enlisted also be ‘used’ to participate actively in hostilities.⁹³⁷⁵ The crime is committed when the following two material elements are fulfilled:

1. The perpetrator conscripted or enlisted one or more persons into an armed force or group or used one or more persons to participate actively in hostilities.
2. Such person or persons were under the age of 15 years.

3848. ‘Conscripting’ has been defined as the coercive and ‘enlisting’ as the voluntary integration of children under the age of 15 years into an armed force or group.⁹³⁷⁶ The element of compulsion distinguishes both forms of integration and is established by taking into account ‘whether the force, threat of force or psychological pressure applied was of such a degree and so pervasive, that individuals can be said to have been forced to join the armed force or

⁹³⁷³ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2739. Similarly [Al Hassan Confirmation Decision](#), ICC-01/12-01/18-461-Corr-Red, para. 671; ICTY, Appeals Chamber, *Prosecutor v. Vujadin Popović et al.*, [Judgement](#), 30 January 2015, IT-05-88-A, para. 969; ICTY, Appeals Chamber, *Prosecutor v. Miroslav Kvočka et al.*, [Judgement](#), 28 February 2005, IT-98-30/1-A (the ‘Kvočka et al. Appeals Judgment’), para. 460.

⁹³⁷⁴ Para. 4 of the General Introduction of the Elements of Crimes (‘[w]ith respect to mental elements associated with elements involving value judgement, such as those using the terms “inhumane” or “severe”, it is not necessary that the perpetrator personally completed a particular value judgement, unless otherwise indicated’).

⁹³⁷⁵ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2768; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 1104.

⁹³⁷⁶ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2769; [Lubanga Appeals Judgment](#), ICC-01/04-01/06-3121-Red, paras 278, 311-312; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 1107 (noting that ‘[i]t may be difficult to distinguish between voluntary and forced recruitment in the case of children under the age of 15, particularly since such individuals may be unable to give genuine and informed consent when enlisting in an armed force or group.’).

group’.⁹³⁷⁷ This compulsion must be determined on a case-by-case basis, considering the particular circumstances of the child and the way they were recruited.

3849. As concerns the use of such children, to ‘participate actively in hostilities’ ranges from direct participation in hostilities to other supporting combat-related activities.⁹³⁷⁸ Conversely, activities unrelated to hostilities fall outside of Article 8(2)(e)(vii) of the Statute.⁹³⁷⁹ When assessing whether the role of the child is to be treated as active participation, what matters is a case-by-case assessment of the link between the activity undertaken by the child and the hostilities in which the armed force or group for which they are acting is engaged.⁹³⁸⁰

3850. Conscripting and using children under the age of 15 years is a crime of continuing nature for as long as the children remain in the armed force or group; consequently, it ceases to be committed when the children leave the force or group or reach the age of 15 years, whichever comes first.⁹³⁸¹

3851. In addition to the mental elements specified in Article 30 of the Statute, the perpetrator must know or should have known that such person or persons were under the age of 15 years.⁹³⁸²

1. Destruction of property (Article 8(2)(e)(xii))

3852. Patrice-Edouard Ngaïssona is charged with the crime of destroying property of an adversary as a war crime, within the meaning of Article 8(2)(e)(xii) of the Statute. This provision also governs ‘seizing’ such property, but only destruction of property is relevant in this case.

⁹³⁷⁷ [Onqwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2769; [Lubanga Appeals Judgment](#), ICC-01/04-01/06-3121-Red, para. 282. See also [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, paras 1106-1107.

⁹³⁷⁸ [Onqwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2770; [Lubanga Appeals Judgment](#), ICC-01/04-01/06-3121-Red, paras 333-340; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, para. 1044.

⁹³⁷⁹ [Onqwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2770; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, para. 1044.

⁹³⁸⁰ [Onqwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2770; [Lubanga Appeals Judgment](#), ICC-01/04-01/06-3121-Red, paras 333, 340 (from para. 340, with further quotation marks removed: to participate actively in hostilities ‘imports a wide interpretation to the activities and roles that are covered by the offence of using children under the age of 15 actively to participate in hostilities’); [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, paras 1108-1109.

⁹³⁸¹ [Onqwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2771; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 1104; [Lubanga Trial Judgment](#), ICC-01/04-01/06-2842, para. 618.

⁹³⁸² Para. 3 of the Elements of Crimes of Article 8(2)(e)(vii) of the Statute.

3853. The crime of destroying the adversary's property is committed if the following four material elements are fulfilled.⁹³⁸³

3854. First, it is required that the perpetrator destroyed certain property. The property, including movable or immovable, private or public items,⁹³⁸⁴ is 'destroyed', either by act or omission, if it is set ablaze, demolished, pulled down or so badly damaged it is no longer fit for purpose.⁹³⁸⁵

3855. Second, the crime of destruction of property requires that such property was property of an adversary. The property must belong to the 'adversary', namely to individuals or entities considered to be aligned to the opposing party to the conflict adverse or hostile to the perpetrator.⁹³⁸⁶ With regard to the destruction of property belonging to persons who had no stated or apparent allegiance to a party involved in the conflict, the Chamber notes that it may be established that these persons or entities were 'adverse', or considered as such by the perpetrators, for example by showing that they were not aligned to or supportive of the perpetrators' party or its objectives.⁹³⁸⁷

3856. Third, such property must have been protected from that destruction under the international law of armed conflict. The property is protected under international law when it does not constitute 'military objectives', namely 'objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage'.⁹³⁸⁸ Whether or not the action offered a 'military advantage' must be evaluated from the attacker's perspective for each targeted object and 'such advantage must be definite

⁹³⁸³ See paras 1-3, 5 of the Elements of Crimes of Article 8(2)(e)(xii) of the Statute.

⁹³⁸⁴ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2775; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, para. 892; [Mbarushimana Confirmation Decision](#), ICC-01/04-01/10-465-Red, para. 171.

⁹³⁸⁵ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2775; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, para. 891; [Mbarushimana Confirmation Decision](#), ICC-01/04-01/10-465-Red, para. 171.

⁹³⁸⁶ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2776; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, para. 892; [Mbarushimana Confirmation Decision](#), ICC-01/04-01/10-465-Red, para. 171.

⁹³⁸⁷ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2776; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 1160.

⁹³⁸⁸ Article 52(2) of [Additional Protocol I](#); [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2777; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, para. 893.

and cannot in any way be indeterminate or potential’.⁹³⁸⁹ As a result, objects of the adversary lose their protection under international law of armed conflict if and for such time as they are ‘military objects’.⁹³⁹⁰

3857. Fourth, the perpetrator must have been ‘aware of the factual circumstances that established the status of the property’.⁹³⁹¹

3858. Fifth, the crime of destruction of property requires that the destruction was not required by military necessity. This relates to situations where destruction is ‘imperatively demanded by the necessities of the conflict’. Such a compelling necessity must be assessed on a case-by-case basis.⁹³⁹²

m. Pillaging (Article 8(2)(e)(v))

3859. The first material element of pillaging is that the perpetrator appropriated certain property.

3860. Article 8(2)(e)(v) of the Statute relates to ‘pillaging a town or place’. The pillaging of a town or place comprises all forms of appropriation of property, including appropriation committed by individuals in their own interest and acts of organised or systematic appropriation.⁹³⁹³

3861. While noting that the earlier jurisprudence is not uniform on this point, the Chamber – relying on the absence of any statutory language to this effect – considers that there is no requirement that appropriations must occur on a large scale basis before constituting the crime of pillaging.⁹³⁹⁴

⁹³⁸⁹ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2777; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, para. 893.

⁹³⁹⁰ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2777; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, para. 893.

⁹³⁹¹ Para. 4 of the Elements of Crimes of Article 8(2)(e)(xii) of the Statute.

⁹³⁹² [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2779; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, para. 894.

⁹³⁹³ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2763; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 1028; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, para. 905.

⁹³⁹⁴ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2764 in accord with [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 1044. But see [Bemba Trial Judgment](#), ICC-01/05-01/08-3343, para. 117; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, para. 909.

3862. The second material element of pillaging is that the appropriation was without the consent of the owner.

3863. When the property owner has fled, such appropriations must be assumed to have been without the owner's consent absent any contrary indication.⁹³⁹⁵ This could occur, for example, when items are appropriated from an empty house whose residents have fled.⁹³⁹⁶ The concept of private property and the right to property must be understood as encompassing not only the property of individuals, but also the communal property of the communities. It must also take into consideration the customary law of the community (*i.e.* practices on possession, titles and registration).⁹³⁹⁷

3864. Appropriations justified by military necessity cannot constitute the crime of pillaging.⁹³⁹⁸ Military necessity requires that the appropriation's use be directed to further the war effort and thus be used for military purposes.⁹³⁹⁹ This is in contrast to appropriations for private or personal use.⁹⁴⁰⁰ The perpetrator must have specifically intended to deprive the owner of the property and to appropriate it for private or personal use.⁹⁴⁰¹ If combatants appropriate property essential to their survival, such as food, this alone does not make the appropriation one of military necessity.⁹⁴⁰²

⁹³⁹⁵ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2766; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 1034; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, para. 954.

⁹³⁹⁶ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2766; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, paras 1034, 1037; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, para. 954.

⁹³⁹⁷ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2766 referring to IACtHR, *Case of Mayagna (Sumo) Awas Tingni Community v. Nicaragua*, [Judgment](#), 31 August 2001, Series C No. 79, paras 149-51. See also African Commission on Human and Peoples' Rights, *African Commission on Human and Peoples' Rights v. Republic of Kenya*, [Judgment](#), 26 May 2017, Application No. 006/2012, para. 123.

⁹³⁹⁸ Footnote 62 of the Elements of Crimes of Article 8(2)(e)(v) of the Statute.

⁹³⁹⁹ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2767; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 1030.

⁹⁴⁰⁰ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2767; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, paras 1030, 1041-1042.

⁹⁴⁰¹ Para. 2 of the Elements of Crimes of Article 8(2)(e)(v) of the Statute.

⁹⁴⁰² [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2767; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, paras 951-952; ICTY, Trial Chamber, *The Prosecutor v. Enver Hadžihasanović and Amir Kubura*, [Judgement](#), 15 March 2006, IT-01-47-T, paras 1895, 1976-1977.

n. Rape (Article 7(1)(g) and Article 8(2)(e)(vi))

3865. The crime of rape, whether as a crime against humanity or war crime, is committed when the following two material elements are fulfilled:

1. The perpetrator invaded⁹⁴⁰³ the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body.
2. The invasion was committed by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or another person, or by taking advantage of a coercive environment, or the invasion was committed against a person incapable of giving genuine consent.⁹⁴⁰⁴

3866. The establishment of one of the coercive circumstances or conditions set out in the second element is sufficient for penetration to amount to rape.⁹⁴⁰⁵ It is not necessary to prove the victim's lack of consent⁹⁴⁰⁶ and there is no requirement of resistance on the part of the victim.⁹⁴⁰⁷

3867. Coercive circumstances need not be evidenced by a show of physical force – threats, intimidation, extortion, and other forms of duress which prey on fear or desperation may constitute coercion.⁹⁴⁰⁸ Coercion may be inherent in certain circumstances, such as armed

⁹⁴⁰³ Footnotes 15 and 63 of the Elements of Crimes specify: '[t]he concept of "invasion" is intended to be broad enough to be gender-neutral'.

⁹⁴⁰⁴ Footnotes 16 and 64 of the Elements of Crimes specify: '[i]t is understood that a person may be incapable of giving genuine consent if affected by natural, induced or age-related incapacity'.

⁹⁴⁰⁵ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2709; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 934; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, para. 965.

⁹⁴⁰⁶ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2709. Similarly [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 934; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, para. 965. See also Rules 70 and 71 of the Rules.

⁹⁴⁰⁷ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2709 referring to [Duch Trial Judgment](#), 001/18-07-2007/ECCC/TC, para. 363; SCSL, Trial Chamber II, *Prosecutor v. Charles Ghankay Taylor*, Judgment, 18 May 2012, SCSL-03-01-1281, para. 416; [Kunarac et al. Appeals Judgment](#), IT-96-23/1-A, para. 128. See also IACtHR, *Case of Fernández Ortega et al. v. Mexico*, Judgment, 30 August 2010, Series C No. 215, para. 115.

⁹⁴⁰⁸ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2710; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 935. See also IACtHR, *Case of Fernández Ortega et al. v. Mexico*, Judgment, 30 August 2010, Series C No. 215, para. 118, referring to the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention Belem do Pará): 'violence against women constitutes not only a violation of human rights, but is "an offense against human dignity and a manifestation of the historically unequal power relations between women and men," that "pervades every sector of society, regardless of class, race, or ethnic group, income, culture, level of education, age or religion, and strikes at its very foundation'.

conflict or the military presence of hostile forces amongst the civilian population.⁹⁴⁰⁹ Several factors may contribute to creating a coercive environment, such as the number of people involved in the commission of the crime, or whether the rape is committed during or immediately following a combat situation, or is committed together with other crimes.⁹⁴¹⁰

2. *Modes of liability*

3868. In the below, the Chamber outlines the applicable law under Articles 25(3)(a) and 25(3)(c) of the Statute, corresponding to the primary modes of liability confirmed by the Pre-Trial Chamber for the respective accused. For reasons set out below, the Chamber considers unnecessary to set out the requirements for the alternative modes of liability charged by the Prosecution and confirmed by the Pre-Trial Chamber.

i. *Commission jointly with another or through another (Article 25(3)(a))*

3869. An indirect perpetrator controls the person or persons who execute the material elements of the crime by subjugating their will.⁹⁴¹¹ This subjugation of the will is what distinguishes indirect perpetration from ordering, where a lesser degree of influence is required. The crucial element is the perpetrator's control of the action of another person or persons to such a degree that the will of that person becomes irrelevant, such that their action must be attributed to the perpetrator as if it were his or her own.⁹⁴¹² Whether the controlled person is also criminally responsible for the crime is irrelevant.⁹⁴¹³

⁹⁴⁰⁹ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2710; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 935.

⁹⁴¹⁰ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2710; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 935. *See also* IACtHR, *Case of Miguel Castro Castro Prison v. Peru*, Judgment, 25 November 2006, Series C No. 160, para. 224 ('It has been acknowledged that during domestic and international armed conflicts the confronting parties used sexual violence against women as a means of punishment and repression. The use of state power to breach the rights of women in a domestic conflict, besides affecting them directly, may have the purpose of causing an effect in society through those breaches and send a message or give a lesson').

⁹⁴¹¹ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2783. *See* [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, paras 774, 777-779 (discussed in the context of indirect co-perpetration); [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, paras 1396, 1402-1403, 1406.

⁹⁴¹² [Ongwen Appeals Judgment](#), ICC-02/04-01/15-2022-Red, paras 628-629; [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2783; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 777.

⁹⁴¹³ Article 25(3)(a) of the Statute (the person is responsible for committing a crime through another person 'regardless of whether that other person is criminally responsible'). *See also* [Ongwen Appeals Judgment](#), ICC-02/04-01/15-2022-Red, para. 628.

3870. The subjugation of the will of the person or persons who execute the material elements of the crime may occur in various ways. The use of an organisation is one such way,⁹⁴¹⁴ but this is a factual consideration and not a requirement for establishing this mode of liability.⁹⁴¹⁵ In such a case, while the potential physical perpetrators are interchangeable within the organisation,⁹⁴¹⁶ the criterion of control means that the indirect perpetrator used ‘at least part of the apparatus of power subordinate to him or her, so as to steer it intentionally towards the commission of the crime, without leaving one of the subordinates at liberty to decide whether the crime is to be executed.’⁹⁴¹⁷

3871. In addition, for an indirect perpetrator to be individually criminally responsible, they must satisfy the subjective elements as required by Article 30 of the Statute and any further specific provision.

3872. Joint commission (co-perpetration) is when the execution of the material elements of the crime results from the actions of a plurality of persons.⁹⁴¹⁸ The execution of the material elements of the crime by the co-perpetrators may take place through yet another person or persons, including, as just stated above, through the use of an organisation to control such persons. This mode of liability has been referred to, in the jurisprudence of the Court, as ‘indirect co-perpetration’.⁹⁴¹⁹

3873. Indirect co-perpetration requires the following objective elements: (i) the existence of an agreement or common plan, between the accused and one or more other persons, to commit the crimes or to engage in conduct which, in the ordinary course of events, would result in the commission of the crimes; and (ii) the control of the members of the common plan over a person or persons who execute the material elements of the crimes by subjugating the will

⁹⁴¹⁴ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2784; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 778; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, paras 1403-1406.

⁹⁴¹⁵ [Ongwen Appeals Judgment](#), ICC-02/04-01/15-2022-Red, para. 630.

⁹⁴¹⁶ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2784; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 778; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, para. 1408.

⁹⁴¹⁷ [Ongwen Appeals Judgment](#), ICC-02/04-01/15-2022-Red, para. 631; [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2784; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 778; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, para. 1411.

⁹⁴¹⁸ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2786; [Lubanga Appeals Judgment](#), ICC-01/04-01/06-3121-Red, para. 445.

⁹⁴¹⁹ See [Ongwen Appeals Judgment](#), ICC-02/04-01/15-2022-Red, paras 635-636.

of the direct perpetrators.⁹⁴²⁰ The accused, though not required to carry out the criminal conduct directly and personally, must have control over the crime ‘by virtue of his or her essential contribution to it and the resulting power to frustrate its commission’.⁹⁴²¹

3874. There is no requirement to establish the existence of a common plan on the basis of ‘the subsequent concerted action of the co-perpetrators’.⁹⁴²² While such concerted action may be a relevant consideration, it is not, in the absence of direct evidence of the agreement, the only basis on which a chamber may infer the existence of a common plan.⁹⁴²³ Indeed, ‘[t]here is no legal impediment to inferring the common plan from the wider circumstances, including the events on the ground’.⁹⁴²⁴ In case a common plan is executed through persons who function as a tool of the co-perpetrators, the conduct such persons may be a relevant consideration to determine the existence of an alleged common plan.⁹⁴²⁵

3875. In addition, for an indirect co-perpetrator to be individually criminally responsible, they must satisfy the subjective elements as required by Article 30 of the Statute and any further specific provision. In particular, the indirect co-perpetrator must have meant to engage in the conduct which constituted their essential contribution,⁹⁴²⁶ and must have intended the execution of the material elements of the crime or have been aware that the implementation of the agreement between the co-perpetrators would in the ordinary course of events result in execution of the material elements of the crimes.⁹⁴²⁷

*ii. Aiding, abetting or otherwise assisting in the commission of the crimes
(Article 25(3)(c))*

3876. The terms ‘aiding’, ‘abetting’ and ‘otherwise assisting’ under Article 25(3)(c) of the Statute can be conceptualised as one single mode of liability.⁹⁴²⁸

⁹⁴²⁰ [Ongwen Appeals Judgment](#), ICC-02/04-01/15-2022-Red, para. 637; [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2787; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 777.

⁹⁴²¹ [Ntaganda Appeals Judgment](#), ICC-01/04-02/06-2666-Red, para. 1041; [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2787; [Lubanga Appeals Judgment](#), ICC-01/04-01/06-3121-Red, para. 473.

⁹⁴²² [Ntaganda Appeals Judgment](#), ICC-01/04-02/06-2666-Red, para. 918.

⁹⁴²³ [Ntaganda Appeals Judgment](#), ICC-01/04-02/06-2666-Red, para. 918.

⁹⁴²⁴ [Ntaganda Appeals Judgment](#), ICC-01/04-02/06-2666-Red, para. 918.

⁹⁴²⁵ [Ntaganda Appeals Judgment](#), ICC-01/04-02/06-2666-Red, para. 920.

⁹⁴²⁶ Article 30(2)(a) of the Statute.

⁹⁴²⁷ Article 30(2)(b) of the Statute.

⁹⁴²⁸ [Bemba et al. Appeals Judgment](#), ICC-01/05-01/13-2275-Red, paras 1324-1325.

3877. In essence, Article 25(3)(c) of the Statute provides for liability if a person provides assistance to the commission of a crime and, in engaging in this conduct, they intend to facilitate the commission of the crime.⁹⁴²⁹

3878. Liability under Article 25(3)(c) of the Statute is dependent on the commission or attempted commission of an offence by the principal perpetrator.⁹⁴³⁰

3879. Article 25(3)(c) of the Statute requires ‘that the assistance in the commission (or attempted commission) of the crime be provided for the purposes of facilitating such commission’.⁹⁴³¹ It does so ‘without indicating whether the conduct must have also had an effect on the commission of the offence’.⁹⁴³² The *actus reus* under Article 25(3)(c) of the Statute will certainly be fulfilled ‘when the person’s assistance in the commission of the crime facilitates or furthers the commission of the crime, as the showing of such an effect indicates that the person indeed assisted in its commission’.⁹⁴³³ Whether a conduct amounts to ‘assistance in the commission of the crime’ for purposes of Article 25(3)(c) also without showing of such an effect can only be determined in light of the facts of each case.⁹⁴³⁴ The Chamber concludes that the contribution under Article 25(3)(c) of the Statute does not need to meet a specific, minimum, threshold.⁹⁴³⁵

3880. Liability under Article 25(3)(c) of the Statute is established in reference to the assistance in the commission or attempted commission of a crime; the provision does not require that an

⁹⁴²⁹ [Al Hassan Confirmation Decision](#), ICC-01/12-01/18-461-Corr-Red, para. 897; Pre-Trial Chamber II, *The Prosecutor v. Dominic Ongwen*, [Public Redacted Version of Decision on the confirmation of charges against Dominic Ongwen](#), 23 March 2016, ICC-02/04-01/15-422-Red (confidential version notified the same day) (with public annex), para. 43; Pre-Trial Chamber I, *The Prosecutor v. Ahmad Al Faqi Al Mahdi*, [Public Redacted Version of Decision on the confirmation of charges against Ahmad Al Faqi Al Mahdi](#), 24 March 2016, ICC-01/12-01/15-84-Red (confidential version notified the same day), para. 26; Pre-Trial Chamber I, *The Prosecutor v. Charles Blé Goudé*, [Decision on the confirmation of charges against Charles Blé Goudé](#), 11 December 2014, ICC-02/11-02/11-186, para. 167.

⁹⁴³⁰ [Al Hassan Confirmation Decision](#), ICC-01/12-01/18-461-Corr-Red, para. 898; [Bemba et al. Trial Judgment](#), ICC-01/05-01/13-1989-Red, para. 84.

⁹⁴³¹ [Bemba et al. Appeals Judgment](#), ICC-01/05-01/13-2275-Red, para. 1327.

⁹⁴³² [Bemba et al. Appeals Judgment](#), ICC-01/05-01/13-2275-Red, para. 1327.

⁹⁴³³ [Bemba et al. Appeals Judgment](#), ICC-01/05-01/13-2275-Red, para. 1327.

⁹⁴³⁴ [Bemba et al. Appeals Judgment](#), ICC-01/05-01/13-2275-Red, para. 1327.

⁹⁴³⁵ See also [Bemba et al. Trial Judgment](#), ICC-01/05-01/13-1989-Red, para. 93; [Al Hassan Confirmation Decision](#), ICC-01/12-01/18-461-Corr-Red, paras 897, 906; Pre-Trial Chamber II, *The Prosecutor v. Dominic Ongwen*, [Public Redacted Version of Decision on the confirmation of charges against Dominic Ongwen](#), 23 March 2016, ICC-02/04-01/15-422-Red (confidential version notified the same day) (with public annex), para. 43.

accessory aid, abet or otherwise assist a specific person, whether considered ‘principal perpetrator’, ‘intermediary perpetrator’ or otherwise.⁹⁴³⁶ Psychological assistance can also be rendered to an intermediary rather than directly to the perpetrator as long as it can be established, as a factual matter, that this assisted the commission or attempted commission of a crime or offence.⁹⁴³⁷

3881. Assistance offered after the commission of the crime or offence may also give rise to liability under Article 25(3)(c) of the Statute.⁹⁴³⁸ If there was a prior offer of assistance or an agreement between the principal perpetrator and the accessory that the latter would lend assistance after the commission of the crime or offence, that conduct can be said to have amounted to assistance in the commission of the crime or offence, because the principal perpetrator committed it, knowing that they would receive assistance in the aftermath.⁹⁴³⁹

3882. Article 25(3)(c) of the Statute provides for a higher subjective element: the aider and abettor must act ‘for the purpose of facilitating the commission of a crime’.⁹⁴⁴⁰ This higher subjective standard relates to the facilitation, not the principal offence.⁹⁴⁴¹ For the aider and abettor to act ‘[f]or the purpose of facilitating the commission [...] of a crime’, the aider and abettor does not [necessarily] have to know all the details of the crime in which they assist; a person may be said to be acting for the purpose of facilitating the commission of a crime even if they do not know all the factual circumstances in which it is committed.⁹⁴⁴²

3883. Further, the aider and abettor must also have had the intent under Article 30 of the Statute with regard to the principal offence, *i.e.* the aider or abettor must at least be aware that the principal perpetrator’s offence will occur in the ordinary course of events.⁹⁴⁴³

⁹⁴³⁶ [Bemba et al. Appeals Judgment](#), ICC-01/05-01/13-2275-Red, para. 1329.

⁹⁴³⁷ [Bemba et al. Appeals Judgment](#), ICC-01/05-01/13-2275-Red, para. 1330.

⁹⁴³⁸ [Bemba et al. Appeals Judgment](#), ICC-01/05-01/13-2275-Red, para. 1399.

⁹⁴³⁹ [Bemba et al. Appeals Judgment](#), ICC-01/05-01/13-2275-Red, para. 1399.

⁹⁴⁴⁰ [Bemba et al. Trial Judgment](#), ICC-01/05-01/13-1989-Red, paras 95, 97; [Al Hassan Confirmation Decision](#), ICC-01/12-01/18-461-Corr-Red, paras 897, 908.

⁹⁴⁴¹ [Bemba et al. Trial Judgment](#), ICC-01/05-01/13-1989-Red, para. 97; [Al Hassan Confirmation Decision](#), ICC-01/12-01/18-461-Corr-Red, para. 908.

⁹⁴⁴² [Bemba et al. Appeals Judgment](#), ICC-01/05-01/13-2275-Red, para. 1400.

⁹⁴⁴³ [Bemba et al. Trial Judgment](#), ICC-01/05-01/13-1989-Red, para. 98; [Al Hassan Confirmation Decision](#), ICC-01/12-01/18-461-Corr-Red, para. 909.

B. Legal characterisation of facts

1.Introduction

3884. After establishing, on the basis of the analysis of the relevant evidence, the facts of the case, the Chamber proceeds to the subsumption of the factual findings within the legal characterisation proposed in the corresponding charges, meaning to the application of the law, as laid out above, to the factual findings and the analysis of each element of each of the crimes charged, including the constituent elements of the accused's criminal responsibility.

3885. The Chamber addresses first the two sets of contextual elements, crimes against humanity and war crimes, of the crimes charged. Thereafter, the Chamber addresses the charges as presented the individual 'set' of facts they respectively relate to: (i) the attack in Bangui, including Boeing and Cattin, on 5 December 2013; (ii) the attack in Bossangoa on 5 December 2013; (iii) the events at Yamwara between on or around 24 December 2013 and on or around 27 December 2013; and (iv) the events along the PK9-Mbaïki axis between on or around 10 January 2014 and on or around 6 February 2014, and on or around 28 February 2014. In each of the sub-sections, the Chamber proceeds again in two steps, addressing first the specific objective elements of each charged crime, and second the individual criminal responsibility of the two accused, as applicable, including the mental elements of the crimes.

3886. The Chamber recalls that the modes of liability for both accused are presented in the alternative. As further explained below, the Chamber accepts the primary alternative stated in the charge for each of the accused, which is responsibility under Article 25(3)(a) of the Statute as indirect perpetrator, or direct or indirect co-perpetrator, as the case may be, in relation to Mr Yekatom, and under Article 25(3)(c) of the Statute for aiding, abetting or otherwise assisting in relation to Mr Ngaïssona. The primary alternative being established, the Chamber does not proceed to consider the further subsidiary modes of liability, Article 25(3)(b) and (d) of the Statute, respectively.

3887. Concurrence of crimes, also referred to as cumulative conviction, is a situation where the same facts satisfy the legal definition of multiple crimes.⁹⁴⁴⁴ In this regard, the Chamber

⁹⁴⁴⁴ [Onqwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2792.

notes that there is no provision in the Statute explicitly requiring it to exclude some legal qualifications of facts on the ground that they are in impermissible concurrence with other legal qualifications of the same facts; also, the provisions on sentencing may be considered in themselves adequate to address, in the context of the determination of the sentence to be imposed, those instances in which a person is convicted of more than one crime on the basis of the same conduct.⁹⁴⁴⁵ Nonetheless, the Chamber agrees with the consistent stance of Trial Chambers of the Court that there are certain limitations on the permissibility of concurrence of crimes and consequential cumulative convictions. In particular, it has consistently been held that convictions may be entered cumulatively if the conduct in question violates two distinct provisions of the Statute, each having a ‘materially distinct’ element not contained in the other, i.e. an element which requires proof of a fact not required by the other.⁹⁴⁴⁶

2. Contextual elements

i. Contextual elements of war crimes

3888. At the outset, the Chamber notes that none of the parties dispute the existence of an armed conflict between the Anti-Balaka and the Seleka beginning in at least September 2013. The Prosecution submits that by September 2013, the Anti-Balaka had become an organised armed group engaged in a sustained and intense armed conflict against the Seleka in western CAR.⁹⁴⁴⁷ While the Ngaïssona Defence argues that the Anti-Balaka was a ‘myriad of self-defence groups’ growing spontaneously in response to the Seleka violence,⁹⁴⁴⁸ it submits that ‘the Anti-Balaka’, as an entity, was engaged in an armed conflict with the Seleka during the events in Bossangoa on 5 December 2013 and carried out a lawful attack there, consistent with IHL.⁹⁴⁴⁹ Similarly, while the Yekatom Defence disputes that Mr Yekatom’s group was part of the Anti-Balaka, it submits, *inter alia*, that Mr Yekatom took up arms to defend the

⁹⁴⁴⁵ See Article 78(3) of the Statute, giving the Trial Chamber discretion to impose for multiple crimes a total sentence equal to the highest individual sentence.

⁹⁴⁴⁶ [Onqwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2792; [Bemba et al. Trial Judgment](#), ICC-01/05-01/13-1989-Red, para. 951; [Bemba Trial Judgment](#), ICC-01/05-01/08-3343, paras 747-748; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, para. 1695.

⁹⁴⁴⁷ [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, paras 132, 344.

⁹⁴⁴⁸ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 163. See also paras 231-233 (arguing that the Anti-Balaka is not ‘one group’).

⁹⁴⁴⁹ See e.g. [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 293-296, 355-359.

population from ‘enemy forces’ with ‘full commitment to his military training and respect for IHL principles’,⁹⁴⁵⁰ and was carrying out a legitimate military operation against the Seleka in Bangui on 5 December 2013.⁹⁴⁵¹

3889. Bearing in mind the above, the Chamber considered apposite to first address the contextual elements of war crimes, followed by those of crimes against humanity, so as to have regard to the circumstances surrounding the armed conflict which existed alongside an organisational policy, discussed below, within the entire context in which the Anti-Balaka emerged and how such policy developed, in light of the Defence’s arguments.

a. Violence between organised armed groups

3890. In its assessment, the Chamber has first noted the events leading to the emergence of both the Seleka and the Anti-Balaka and their respective positioning before the start of armed clashes between them.

3891. The Chamber considered how the Seleka came to take over Bangui in March 2013. The Chamber found that around August 2012, a coalition of armed groups opposing then-President François Bozizé emerged in the CAR under the name of the ‘Seleka’, led by CAR citizens and including elements from Chad and Sudan. Michel Djotodia became the leader of the Seleka.⁹⁴⁵² The Chamber found that starting in late 2012, the Seleka advanced towards Bangui. The Libreville agreement, concluded in January 2013, presented an attempt to end the crisis, leading to a government including representatives of various factions, with François Bozizé remaining president and Nicolas Tiangaye as prime minister, Michel Djotodia as deputy prime minister and minister of defence, and Mr Ngaïssona as minister of youth, sports, arts and culture.⁹⁴⁵³ The Chamber found that, at the same time, the widely reported advance of the Seleka, and violent acts and abuses committed in this context, including against civilians, sparked reactions within the civilian and political sphere: COCORA and COAC were two organisations which were active in mobilising support for François Bozizé in light of the Seleka advance. They erected checkpoints or roadblocks at

⁹⁴⁵⁰ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 3.

⁹⁴⁵¹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 261, 355-418.

⁹⁴⁵² See paragraph 27 above.

⁹⁴⁵³ See paragraph 28 above.

which passers-by and vehicles were checked, with the objective of identifying Seleka infiltrators and people deemed to be associated with or in support of them, including Muslims. The individuals manning these checkpoints were armed with bladed weapons and, in some cases, with AK-47s.⁹⁴⁵⁴ The Chamber found that the Seleka took control of Bangui on 24 March 2013 and Michel Djotodia proclaimed himself President of the CAR.⁹⁴⁵⁵

3892. The Chamber noted the violence attributed to the Seleka after the takeover. The Chamber found that after the Seleka took control of Bangui on 24 March 2013, they committed violence and abuses in various localities across the CAR, in particular against individuals considered to be associated with François Bozizé, his Gbaya ethnic group, his government's security forces, and non-Muslims. Mr Ngaïssona's properties in Bangui were looted. However, the Muslim civilian population was not entirely spared from this violence.⁹⁴⁵⁶

3893. The Chamber has considered the composition and strength of the Seleka over the course of the year 2013. The Chamber found that the Seleka included fighters in particular from Chad and Sudan. It was led by Central African Muslims. The Chamber found that the number of Seleka elements varied greatly in the course of 2013. While counting several thousand elements at the time of the take-over in March 2013, their numbers grew significantly until the end of that year.⁹⁴⁵⁷

3894. The Chamber considered how the Anti-Balaka emerged as an armed group following the Seleka takeover. The Chamber found that self-defence groups in various localities across the CAR formed or re-activated from previous existence very quickly following the take-over of power by the Seleka in March 2013 and individuals within those groups also obtained amulets or *gris-gris*.⁹⁴⁵⁸ The Chamber found that these self-defence groups that initially formed in the provinces aimed at defending against the abuses and violence committed by the Seleka, within which framework some considered necessary to remove Michel Djotodia and the Seleka from power.⁹⁴⁵⁹ The Chamber found that while initially having formed

⁹⁴⁵⁴ See paragraph 29 above.

⁹⁴⁵⁵ See paragraph 30 above.

⁹⁴⁵⁶ See paragraph 31 above.

⁹⁴⁵⁷ See paragraphs 32-33 above.

⁹⁴⁵⁸ See paragraph 40 above.

⁹⁴⁵⁹ See paragraph 45 above.

separately, these groups started out with a common enemy and increasingly coordinated their activities, thereby essentially forming one movement. It was this movement that came to be known as the Anti-Balaka.⁹⁴⁶⁰ The Chamber found that due to the religious and ethnic commonalities between the Muslims in the CAR and the Seleka, the Anti-Balaka perceived the former as collectively responsible for, complicit in, or supportive of the violence and abuses committed by the Seleka. On this basis, as the Anti-Balaka emerged and coalesced in pursuit of its core objective, its elements targeted the Muslim civilian population, specifically in the west of the CAR, killing and dislocating them.⁹⁴⁶¹ The Chamber found that Mr Yekatom briefly went to Zongo in 2013 and then started forming a group, over which he assumed control, with Freddy Ouandjio, also known as Cœur de Lion, and Habib Beina, with a view to planning a response to the Seleka violence and removing Michel Djotodia and the Seleka from power.⁹⁴⁶²

3895. The Chamber further noted how the Anti-Balaka began structuring further aimed towards armed action and the kinds of weapons that were usually employed by them. The Chamber found that certain individuals and local groups converged onto and joined together in Gobere, north-east of Bossangoa. In Gobere, civilians and former members of the FACA and PG gathered, and (i) organised into various sub-groups with a leader each; (ii) set up or maintained contacts with groups and individuals in other locations, including Maxime Mokom in Zongo, who was considered to be a coordinator of operations; (iii) organised trainings in weapon handling and combat by FACA members; and (iv) made further plans with a view to descending onto Bangui and removing the Seleka and Michel Djotodia from power.⁹⁴⁶³ At the same time, former members of the FACA and PG also in other localities created new or joined pre-existing self-defence groups, organising themselves into military-like structures and assuming or sharing command over them.⁹⁴⁶⁴ The Chamber found that the armed groups forming at the time were armed mainly with makeshift and bladed weapons, hunting rifles, service weapons retained by members of the FACA, and weapons

⁹⁴⁶⁰ See paragraph 43 above.

⁹⁴⁶¹ See paragraph 45 above.

⁹⁴⁶² See paragraph 36 above.

⁹⁴⁶³ See paragraph 41 above.

⁹⁴⁶⁴ See paragraph 42 above.

they seized from the members of the Seleka after engaging them in hostilities.⁹⁴⁶⁵ The Chamber found that, in the months leading up to the Bangui Attack, Mr Yekatom and his group armed and trained in the bush.⁹⁴⁶⁶

3896. The Chamber considered how the various Anti-Balaka groups began advancing to Bangui and their ability to move troops, source and pull elements to advance with a one unified military strategy. The Chamber found that Maxime Mokom liaised with individuals and groups in Cameroon, Zongo and within the CAR, including his father Bernard Mokom, Mr Yekatom, and groups forming in the provinces, with a view to coordinating the activities and eventual advance onto Bangui.⁹⁴⁶⁷ The Chamber found that the Anti-Balaka groups, which had formed in the provinces and in part gathered together at Gobere, started their advance towards Bangui, with the ultimate objective to attack the capital in order to remove Michel Djotodia from power and oust the Seleka from the CAR.⁹⁴⁶⁸

3897. Having regard to these conclusions, the Chamber finds that the Anti-Balaka were organised for purposes of its determinations under Article 8 of the Statute and had all the relevant bearings to constitute one armed group. This is also shown by the clashes in which the Anti-Balaka were involved, as discussed below, that further demonstrate the Anti-Balaka's operational capacity and the ability to carry out large scale and coordinated attacks in specific locations at specific times.

b. 'Protracted' character of the violence

3898. The Chamber noted how, where, and how often, the various Anti-Balaka groups in the provinces clashed with the Seleka during their advance to Bangui beginning in September 2013. The Chamber found that during their advance towards Bangui, various Anti-Balaka groups started engaging in attacks against the Seleka from September 2013 onwards. Such attacks were not limited to Seleka forces, but included attacking localities with Muslim civilians.⁹⁴⁶⁹ The Chamber found that Anti-Balaka attacks were launched around Bossangoa

⁹⁴⁶⁵ See paragraph 44 above.

⁹⁴⁶⁶ See paragraph 73 above.

⁹⁴⁶⁷ See paragraph 36 above.

⁹⁴⁶⁸ See paragraph 50 above.

⁹⁴⁶⁹ See paragraph 50 above.

and in Bouca (Ouham prefecture), in Ndjo, Bossembélé, Boali and Gaga (Ombella-M'Poko prefecture), as well as in Bouar (Nana-Mambéré prefecture). As part of these attacks, Anti-Balaka elements attacked Bossangoa on 17 September 2013.⁹⁴⁷⁰ The Chamber found that throughout the advance and during these attacks, Anti-Balaka groups targeted Muslim civilians.⁹⁴⁷¹

3899. The Chamber found that the advance of the Anti-Balaka groups and hostilities on the way culminated in coordinated attacks in Bangui and Bossangoa on 5 December 2013.⁹⁴⁷²

3900. Further, the Chamber considered the effects of these clashes on the civilian population. The Chamber found that the Anti-Balaka participating in the Bangui Attack shared the same goal, which was to target Seleka positions in Bangui with a view to 'getting rid of Djotodia' and 'chasing out the Seleka', which included systematic targeting of Muslim civilians.⁹⁴⁷³ Similarly, during the Bossangoa Attack, the Anti-Balaka targeted residential areas, including the Boro neighbourhood, generally known as the Muslim neighbourhood in Bossangoa, with the intention of showing that the Anti-Balaka were attacking not only Bangui but also in the provinces, and to 'free' the town from Seleka and all Muslims, thereby targeting Muslim civilians and drawing no distinction between them and the Seleka.⁹⁴⁷⁴

3901. The Chamber has considered the involvement of Mr Yekatom's group that shows that he was assigned a specific territorial target and a zone of responsibility. The Chamber found that Mr Yekatom's group coordinated with other Anti-Balaka groups to participate in the Bangui Attack.⁹⁴⁷⁵ The Chamber found that in the early morning of 5 December 2013, Mr Yekatom launched an attack on Boeing, attacking the Boeing Market, the Boeing Mosque, before proceeding to attacking Cattin.⁹⁴⁷⁶ The Chamber found that Mr Yekatom's instructions to his elements concerning the attack in Bangui on 5 December 2013 were to fight the Seleka and included targeting sectors where 'Muslims' were to be found.⁹⁴⁷⁷ The

⁹⁴⁷⁰ See paragraph 52 above.

⁹⁴⁷¹ See paragraph 53 above.

⁹⁴⁷² See paragraph 54 above.

⁹⁴⁷³ See paragraph 71 above.

⁹⁴⁷⁴ See paragraph 82 above.

⁹⁴⁷⁵ See paragraph 73 above.

⁹⁴⁷⁶ See paragraphs 76, 78, 79 above.

⁹⁴⁷⁷ See paragraph 74 above.

Chamber found that after setting up in Yamwara in Bangui for some time, Mr Yekatom's group moved down the PK9-Mbaïki axis following Michel Djotodia's resignation.⁹⁴⁷⁸

3902. The Chamber considered the aftermath of the coordinated attacks on Bangui and Bossangoa and whether the situation attracted the attention of the regional and international community in an attempt to cease hostilities. The Chamber found that on 10 January 2014, Michel Djotodia resigned, leading to the end of his government, following which the Seleka forces started to withdraw from Bangui, in particular towards the north and north-east of the CAR.⁹⁴⁷⁹ The Chamber found that notwithstanding the retreat of the Seleka following the resignation of Michel Djotodia and the setting up of a new transition government in January 2014, the main hostilities between the Anti-Balaka and the Seleka which had started in earnest in September 2013 continued largely unabated until the end of February 2014, and continued thereafter, but subsided considerably.⁹⁴⁸⁰ The Chamber found that several attempts to bring about the cessation of hostilities failed, including the 16 June 2014 PARETO mediation agreement, the 23 July 2014 peace agreement signed by the Seleka and the Anti-Balaka in Brazzaville, Republic of the Congo, and the agreement signed in Nairobi in April 2015.⁹⁴⁸¹

3903. In the view of the Chamber, the seriousness and the frequency of the attacks by the Anti-Balaka and their armed clashes with the Seleka and how they took place in several locations over a period of time during the Anti-Balaka advance to Bangui were ample to show that this violence was not isolated or sporadic, and protracted in nature.

3904. Having regard to these conclusions, the Chamber finds that from September 2013 until at least February 2014 there existed an armed conflict not of an international character ongoing in the territory of the CAR between the Seleka and the Anti-Balaka, including Mr Yekatom's group.

⁹⁴⁷⁸ See paragraph 63 above.

⁹⁴⁷⁹ See paragraph 58 above.

⁹⁴⁸⁰ See paragraph 66 above.

⁹⁴⁸¹ See paragraph 67 above.

c. Nexus requirement and perpetrators' awareness

3905. Having regard to the above, the Chamber finds that all of the conduct underlying the charged counts took place in the context of and was associated with the non-international armed conflict as described. Accordingly, the nexus requirement, namely that the conduct took place in the context of and was associated with an armed conflict not of an international character.

3906. The Chamber now turns to the mental element underlying the contextual requirements, namely that perpetrator was aware of factual circumstances that established the existence of an armed conflict. The Chamber found that Mr Yekatom was aware of the Anti-Balaka's advance towards Bangui and himself participated in the attack on Boeing and Cattin with his group on 5 December 2013.⁹⁴⁸² The Chamber found that Mr Yekatom retained and exercised control over his group which was seen as and understood to be part of the Anti-Balaka. The Chamber found that he was the uncontested leader of this group which first set up at Yamwara in Boeing after 5 December 2013, and moved down the PK9-Mbaïki axis following Michel Djotodia's resignation.⁹⁴⁸³ Additionally, Chamber found that Mr Ngaïssona knew and was informed of the advance of the groups towards Bangui as well as of the hostilities during this advance, including the killings and dislocation of Muslim civilians.⁹⁴⁸⁴ Accordingly, the Chamber finds that both Mr Ngaïssona and Mr Yekatom were aware of the factual circumstances that established the existence of the armed conflict.

3907. On the basis of the above, the Chamber concludes that the contextual elements are satisfied in respect of the war crimes charged under Counts 1, 3, 5, 6, 13, 16, 25, 27, 30, 32, 33, 38 and 41.

ii. *Contextual elements of crimes against humanity*

3908. For purposes of its determination of whether the contextual elements of the crimes against humanity charged in this case are fulfilled, the Chamber considered a number of factors.

⁹⁴⁸² See paragraphs 55, 73-74.

⁹⁴⁸³ See paragraph 63 above.

⁹⁴⁸⁴ See paragraph 56 above.

a. Recalling of factual findings

3909. The Chamber recalls the background that gave rise to the Anti-Balaka looking at events from August 2012 onwards. The Chamber found that around August 2012, a coalition of armed groups opposing then-President François Bozizé emerged in the CAR under the name of the ‘Seleka’, led by CAR citizens and including elements from Chad and Sudan, with Michel Djotodia as its leader.⁹⁴⁸⁵ The Chamber found that on 24 March 2013, the Seleka took control of Bangui and Michel Djotodia proclaimed himself President of the CAR.⁹⁴⁸⁶ The Chamber found that after the Seleka took control of Bangui on 24 March 2013, they committed violence and abuses in various localities across the CAR, in particular against individuals considered to be associated with François Bozizé, his Gbaya ethnic group, his government’s security forces, and non-Muslims. However, the Muslim civilian population was not entirely spared from this violence.⁹⁴⁸⁷ Mr Ngaïssona’s properties in Bangui were also looted.⁹⁴⁸⁸ The Chamber found that the Seleka included fighters in particular from Chad and Sudan and was led by Central African Muslims. Due to the violence and abuses committed by the Seleka and in light of its perceived composition, tensions in particular between Muslim and non-Muslim communities in CAR increased.⁹⁴⁸⁹

3910. The Chamber considered how the various groups forming the Anti-Balaka subsequently emerged. The Chamber found that self-defence groups in various localities across the CAR formed or re-activated from previous existence very quickly following the take-over of power by the Seleka in March 2013 and individuals within those groups also obtained amulets or *gris-gris*.⁹⁴⁹⁰ The Chamber found that these self-defence groups that initially formed in the provinces aimed at defending against the abuses and violence committed by the Seleka, within which framework some considered necessary to remove Michel Djotodia and the Seleka from power.⁹⁴⁹¹ The Chamber found that while initially having formed separately, these groups started out with a common enemy and increasingly coordinated their

⁹⁴⁸⁵ See paragraph 27 above.

⁹⁴⁸⁶ See paragraph 30 above.

⁹⁴⁸⁷ See paragraph 31 above.

⁹⁴⁸⁸ See paragraph 31 above.

⁹⁴⁸⁹ See paragraph 32 above.

⁹⁴⁹⁰ See paragraph 40 above.

⁹⁴⁹¹ See paragraph 45 above.

activities, thereby essentially forming one movement. It was this movement that came to be known as the Anti-Balaka.⁹⁴⁹²

3911. The Chamber considered how the various Anti-Balaka groups began organising. The Chamber found that certain individuals and local groups converged onto and joined together in Gobere, north-east of Bossangoa.⁹⁴⁹³ In Gobere, civilians and former members of the FACA and PG gathered, and (i) organised into various sub-groups with a leader each; (ii) set up or maintained contacts with groups and individuals in other locations, including Maxime Mokom in Zongo, who was considered to be a coordinator of operations; (iii) organised trainings in weapon handling and combat by FACA members; and (iv) made further plans with a view to descending onto Bangui and removing the Seleka and Michel Djotodia from power.⁹⁴⁹⁴ At the same time, former members of the FACA and PG also in other localities created new or joined pre-existing self-defence groups, organising themselves into military-like structures and assuming or sharing command over them.⁹⁴⁹⁵

3912. The Chamber further considered how the Anti-Balaka's perceptions evolved during this time. The Chamber found that due to the religious and ethnic commonalities between the Muslims in the CAR and the Seleka, the Anti-Balaka perceived the former as collectively responsible for, complicit in, or supportive of the violence and abuses committed by the Seleka. On this basis, as the Anti-Balaka emerged and coalesced in pursuit of its core objective, its elements targeted the Muslim civilian population, specifically in the west of the CAR, killing and dislocating them.⁹⁴⁹⁶ The Chamber found that the implementation and execution of the Anti-Balaka's core objective was primed by anti-foreign sentiments and inflammatory rhetoric openly expressed by François Bozizé and others, which incited vigilance against those perceived to support the Seleka, in particular Muslim civilians.⁹⁴⁹⁷

3913. The Chamber considered how the various Anti-Balaka groups began coordinating with a common objective. Maxime Mokom liaised with individuals and groups in Cameroon,

⁹⁴⁹² See paragraph 43 above.

⁹⁴⁹³ See paragraph 40 above.

⁹⁴⁹⁴ See paragraph 41 above.

⁹⁴⁹⁵ See paragraph 42 above.

⁹⁴⁹⁶ See paragraph 45 above.

⁹⁴⁹⁷ See paragraph 46 above.

Zongo and within the CAR, including his father Bernard Mokom, Mr Yekatom, and groups forming in the provinces, with a view to coordinating the activities and eventual advance onto Bangui.⁹⁴⁹⁸ The Chamber found that the Anti-Balaka groups, which had formed in the provinces and in part gathered together at Gobere, started their advance towards Bangui, with the ultimate objective to attack the capital in order to remove Michel Djotodia from power and oust the Seleka from the CAR.⁹⁴⁹⁹

3914. The Chamber considered how these Anti-Balaka committed crimes in execution of this common objective. The Chamber found that during their advance towards Bangui, various Anti-Balaka groups started engaging in attacks against the Seleka from September 2013 onwards. Such attacks were not limited to Seleka forces, but included attacking localities with Muslim civilians.⁹⁵⁰⁰ The Chamber found that Anti-Balaka attacks were launched around Bossangoa and in Bouca (Ouham prefecture), in Ndjo, Bossembélé, Boali and Gaga (Ombella-M'Poko prefecture), as well as in Bouar (Nana-Mambéré prefecture). As part of these attacks, Anti-Balaka elements attacked Bossangoa on 17 September 2013.⁹⁵⁰¹ The Chamber found that throughout the advance and during these attacks, Anti-Balaka groups targeted Muslim civilians.⁹⁵⁰²

3915. The Chamber considered the level of coordination amongst the various Anti-Balaka groups in advance of the attacks on Bangui and Bossangoa. The Chamber found that these groups going into different localities communicated with each other and individuals abroad, including Maxime Mokom, with a view to coordinating such attacks.⁹⁵⁰³ The Chamber found that the advance of the Anti-Balaka groups and hostilities on the way culminated in coordinated attacks in Bangui and Bossangoa on 5 December 2013.⁹⁵⁰⁴ As regards the Bangui Attack, the Chamber found that the plan to mount an attack on Bangui existed at least as of 30 November 2013 and the Anti-Balaka elements and groups travelled from the provinces to arrive close to Bangui before 5 December 2013.⁹⁵⁰⁵ During their move from the

⁹⁴⁹⁸ See paragraph 37 above.

⁹⁴⁹⁹ See paragraph 50 above.

⁹⁵⁰⁰ See paragraph 50 above.

⁹⁵⁰¹ See paragraph 52 above.

⁹⁵⁰² See paragraph 53 above.

⁹⁵⁰³ See paragraph 51 above.

⁹⁵⁰⁴ See paragraph 54 above.

⁹⁵⁰⁵ See paragraph 69 above.

provinces to Bangui, Anti-Balaka chiefs communicated across their groups, kept and maintained records or lists of elements, armed themselves, and waited at common locations and prepared for an attack on Bangui.⁹⁵⁰⁶

3916. The Chamber considered the common objectives of the attacks on Bangui and Bossangoa on 5 December 2013. The Chamber found that the Anti-Balaka participating in the Bangui Attack shared the same goal, which was to target Seleka positions in Bangui with a view to ‘getting rid of Djotodia’ and ‘chasing out the Seleka’, which included systematic targeting of Muslim civilians.⁹⁵⁰⁷ Similarly, during the Bossangoa Attack, the Anti-Balaka targeted residential areas, including the Boro neighbourhood, generally known as the Muslim neighbourhood in Bossangoa, with the intention of showing that the Anti-Balaka were attacking not only Bangui but also in the provinces, and to ‘free’ the town from Seleka and all Muslims, thereby targeting Muslim civilians and drawing no distinction between them and the Seleka.⁹⁵⁰⁸

3917. The Chamber considered the involvement of Mr Yekatom’s group during the Bangui Attack. The Chamber found that Mr Yekatom’s group coordinated with other Anti-Balaka groups to participate in the Bangui Attack.⁹⁵⁰⁹ The movement of Mr Yekatom’s group in the bush, when superimposed onto those from other groups who proceeded towards Bangui along the same time frame, shows that this coordination had begun well before November 2013.⁹⁵¹⁰ The Chamber found that Mr Yekatom’s instructions to his elements concerning the attack on 5 December 2013 were to fight the Seleka and included targeting sectors where ‘Muslims’ were to be found.⁹⁵¹¹ The Chamber found that in the early morning of 5 December 2015, Mr Yekatom launched an attack on Boeing, attacking the Boeing Market, the Boeing Mosque, before proceeding to attacking Cattin.⁹⁵¹²

3918. The Chamber considered other commonalities between the Bangui Attack and the Bossangoa Attack. The Chamber found that various Anti-Balaka groups that participated in

⁹⁵⁰⁶ See paragraph 70 above.

⁹⁵⁰⁷ See paragraph 71 above.

⁹⁵⁰⁸ See paragraph 82 above.

⁹⁵⁰⁹ See paragraph 73 above.

⁹⁵¹⁰ See paragraph 73 above.

⁹⁵¹¹ See paragraph 74 above.

⁹⁵¹² See paragraphs 76, 78, 79 above.

the Bangui Attack had common leaders, who coordinated their actions and instructed them.⁹⁵¹³ The Chamber found that Anti-Balaka groups that reassembled close to Bangui prior to the Bangui Attack were each assigned a specific target within Bangui and instructed to begin the attack on the respective targets at 05:00 on 5 December 2013.⁹⁵¹⁴ The Chamber found that the Bangui Attack was carried out as planned, resulting in clashes between the Anti-Balaka and the Seleka in several locations in Bangui, including Boeing, with the Anti-Balaka beginning to retreat around 10:00 the same day.⁹⁵¹⁵ On the same day and in coordination with the Bangui Attack, the Bossangoa Attack started at approximately 13:00 and lasted until the late afternoon or early evening of the same day.⁹⁵¹⁶

3919. The Chamber considered the common pattern of crimes that were carried out during the Bangui Attack and the Bossangoa Attack. The Chamber found that both attacks led to the commission of crimes against Muslim civilians, including attacking, killings, and enslaving of Muslim civilians, ultimately leading to the Muslim civilians having to leave these areas.⁹⁵¹⁷

3920. The Chamber considered certain events following 5 December 2013. The Chamber found that the radio statement issued by FROCCA on 5 December 2013 in relation to the attack on Bangui referred to the attack as ‘[l]e rétablissement de l’ordre fonctionnel’ and further stated that the Anti-Balaka ‘*sont des Centrafricains pour aller libérer leur pays des jougs des djihadistes venus du D[arfour], du T[chad], du S[oudan]*’.⁹⁵¹⁸ On 10 January 2014, Michel Djotodia resigned, leading to the end of his government, following which the Seleka forces started to withdraw from Bangui, in particular towards the north and north-east of the CAR.⁹⁵¹⁹ A transitional government was setup with Catherine Samba-Panza elected as new transitional head of state of the CAR on 20 January 2014.⁹⁵²⁰

⁹⁵¹³ See paragraph 71 above.

⁹⁵¹⁴ See paragraph 71 above.

⁹⁵¹⁵ See paragraph 71 above.

⁹⁵¹⁶ See paragraph 81 above.

⁹⁵¹⁷ See paragraphs 72, 77-80, 82-88 above.

⁹⁵¹⁸ See paragraph 71 above.

⁹⁵¹⁹ See paragraph 58 above.

⁹⁵²⁰ See paragraph 59 above.

3921. The Chamber considered the further evolution of the Anti-Balaka following 5 December 2013. The Chamber found that with a view to engaging with the transition government and international authorities, the Anti-Balaka structure started being further formalised with the return of Mr Ngaïssona and his appointment as general coordinator.⁹⁵²¹

3922. The Chamber found that the structure of the Anti-Balaka evolved during the period relevant to the charges, and was subject to various leadership tussles, however, it always remained represented towards the national and international authorities as one entity through Mr Ngaïssona.⁹⁵²² The Chamber found that in 2014, Anti-Balaka groups set up bases in different neighbourhoods across Bangui with meetings being held at variable intervals at Mr Ngaïssona's concessions or at the Azimut hotel.⁹⁵²³ The Chamber found that in February 2014, the Anti-Balaka itself estimated counting about 50,000 elements in Bangui and the provinces. The Anti-Balaka coordination also issued identity cards or badges to some of the Anti-Balaka elements.⁹⁵²⁴

3923. The Chamber considered the actions of the Anti-Balaka in early 2014. The Chamber found that the Anti-Balaka continued to target the Muslim civilian population in 2014 across the western CAR prefectures, including in the second half of January and early February 2014 in Ombella-M'Poko (Gaga, Zawa, Yaloké), Ouham-Pendé (Bossemptélé), Nana-Mambéré (Baoro), Mambéré-Kadéï (Guen, Carnot, Berbérati) and Lobaye (Boda).⁹⁵²⁵

b. Existence of an 'attack directed against any civilian population'

3924. The Chamber notes that the Defence takes issue with the nature of the Anti-Balaka as an organisation. The Ngaïssona Defence argues that the Anti-Balaka were not a 'top-down organisation' but a 'myriad of self-defence groups that spontaneously rose out of the Seleka's heinous and continuous crimes against the civilian population following the 24 March coup'.⁹⁵²⁶ It further argues that the emergence of the Anti-Balaka was sporadic

⁹⁵²¹ See paragraph 62 above.

⁹⁵²² See paragraph 64 above.

⁹⁵²³ See paragraph 65 above.

⁹⁵²⁴ See paragraph 65 above.

⁹⁵²⁵ See paragraph 68 above.

⁹⁵²⁶ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 163. See also paras 231-233 (arguing that the Anti-Balaka is not 'one group').

and by its very nature, ‘this movement was diffuse[d]’ and ‘often indistinguishable from the general population, and fundamentally elusive due to its constantly fluctuating expansion and evolution’.⁹⁵²⁷ The Ngaïssona Defence argues that it is a ‘fundamentally flawed narrative’ to consider that the Anti-Balaka was ‘a homogenous group’ that would have ‘shared a common objective to violently target “the Muslim civilian population in western CAR”’ resulting in the commission of the charged crimes ‘throughout the *entire period of the charges and across the country*’.⁹⁵²⁸ Further, the Ngaïssona Defence argues that the Prosecution failed to demonstrate that there was at least ‘a minimal level of coordination among those who control the relevant alleged organisation’.⁹⁵²⁹ It argues that there was a lack of specificity regarding the ‘inner circle’ and insufficient level of coordination within ‘each alleged geographical group’.⁹⁵³⁰ Similarly, the Yekatom Defence argues that the ‘Anti-Balaka’ is a nebulous term,⁹⁵³¹ and that, in any event, Mr Yekatom’s group was not Anti-Balaka.⁹⁵³²

3925. The Chamber notes that the legal framework and the jurisprudence do not provide the contours which an ‘organisation’ must fulfil for purposes of finding an ‘organisational policy’. The Chamber recalls that for the purpose of assessing ‘organisational policy’, it ‘suffices that the organisation has a set of structures or mechanisms, whatever those may be, that are sufficiently efficient to ensure the coordination necessary to carry out an attack directed against a civilian population’.⁹⁵³³ Accordingly, the Chamber considers that there is no requirement, as a matter of law, that an organisation for the purposes of Article 7 of the Statute be homogenous, or otherwise a strictly hierarchical, top-down organisation, as such. Indeed, it may well include a variety of groups, as long as those groups have ‘mechanisms’ sufficiently efficient to ensure ‘coordination’ necessary to carry out the attack within the meaning of the framework.

⁹⁵²⁷ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 231.

⁹⁵²⁸ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 222 (emphasis in the original).

⁹⁵²⁹ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 164.

⁹⁵³⁰ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 165-200.

⁹⁵³¹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 211-216.

⁹⁵³² [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 217-227, 243-244.

⁹⁵³³ [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, para. 1119.

3926. The Chamber considers that the evolution of the Anti-Balaka clearly shows how some individuals and the local self-defence groups, including Mr Yekatom's group, began organising and developed structures and mechanisms over time and came to be known as the Anti-Balaka. Markers of these structures and mechanisms appeared in (i) having common organisational forces underlying all Anti-Balaka attacks in the form of common leaders, who coordinated their actions and instructed the various Anti-Balaka groups; (ii) the various Anti-Balaka groups communicating with each other during their advance towards Bangui; (iii) the existence of a plan to mount highly coordinated attacks on Bangui and Bossangoa on 5 December 2013 and the preparations undertaken in advance of these attacks; (iv) successfully carrying out coordinated attacks on two separate locations on the same day with the shared goal; and (v) the Anti-Balaka groups continuing to engage in hostilities in early 2014, at least, following the same pattern of conduct underlying the discussed Anti-Balaka attacks in 2013. In this instance, how the various Anti-Balaka organised internally on a granular level, including whether they were strictly hierarchical or homogenous, is immaterial. In the view of the Chamber, the Anti-Balaka had sufficient bearings of an organisation for the purposes of finding an organisational policy within the meaning of Article 7 of the Statute.

3927. The Chamber turns in this context to the Defence arguments concerning the objectives of the Anti-Balaka. The Ngaïssona Defence argues that it was the context of the Seleka violence that 'gave rise to the Anti-Balaka movement' and that it had 'no connection whatsoever to an alleged organizational policy that would have been implemented' by Bozizé's 'alleged inner circle, including Mr N[gaïssona]'.⁹⁵³⁴ The Chamber notes the Ngaïssona Defence argument that as the 'groups evolved', the 'official position of the Anti-Balaka was circulated and was clearly to target the Seleka with the aim of ousting D[jotodia] only'.⁹⁵³⁵ It further argues that the Anti-Balaka shared 'one legitimate objective: ousting the criminal Seleka regime and liberating the CAR population from its oppression, not to attack the Muslim civilian population',⁹⁵³⁶ and that the 'Anti-Balaka groups acted pursuant to

⁹⁵³⁴ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 147.

⁹⁵³⁵ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 265.

⁹⁵³⁶ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 263.

legitimate and lawful goals and did not agree to target the Muslim civilian population'.⁹⁵³⁷ It further argues that Bozizé's return was an 'option', rather than an 'objective'.⁹⁵³⁸ The Ngaïssona Defence argues that after the Seleka departed, the Anti-Balaka objective 'was then to take control of an area to avoid violence'.⁹⁵³⁹ It adds that the 'coordination considered the killings of Muslim population unacceptable' and launched 'a reconciliation project across the country between the Muslim and Christian communities to halt and prevent the commission of exactions amongst the civilian population'.⁹⁵⁴⁰

3928. The Chamber notes a similar argument by the Yekatom Defence that Mr Yekatom's group was founded on the 'objective to target the Seleka forces who had committed mass atrocities against the CAR civilian population'.⁹⁵⁴¹ It argues that the core objectives of Mr Yekatom's group were the restoration of security and administrative infrastructures in the CAR, protection of the civilian population, and reinforcement of resources and security measures.⁹⁵⁴² The Chamber also notes the Yekatom Defence's argument that Mr Yekatom's group did not harm the Muslim population during its operations but rather sought to protect them.⁹⁵⁴³

3929. The Chamber recalls that an organisational policy may crystallise and develop also as actions are undertaken by the perpetrators.⁹⁵⁴⁴ In the present case, the Chamber considered that, in order to determine whether the Anti-Balaka carried out an attack, as alleged, it was necessary to have regard to the overall flow of events, beginning well before the Anti-Balaka came to be known as a 'movement', including the evolution of the roles of the various actors, including both the accused.

3930. In the view of the Chamber, while the initial impetus for the self-defence groups to emerge may have been in response to the Seleka violence, over time, the various Anti-Balaka groups

⁹⁵³⁷ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 268.

⁹⁵³⁸ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 181-182.

⁹⁵³⁹ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 266.

⁹⁵⁴⁰ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 266.

⁹⁵⁴¹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 586. *See also* paras 2, 615, 666, 689.

⁹⁵⁴² [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 228-242.

⁹⁵⁴³ *See e.g.* [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 608, 665, 694.

⁹⁵⁴⁴ [Al Hassan Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1110; [Onqwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2679; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 674; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, para. 1110.

joined and coalesced around the objective to oust the Seleka and inflict retributive violence on Muslim civilians. In this respect, the objective – as argued by the Ngaïssona Defence, meaning the ousting the Seleka and liberating the CAR population from its oppression – did not exclude attacking the Muslim civilian population. The Chamber considers immaterial for purposes of its determination the question of whether the aim to remove Michel Djotodia and oust the Seleka from the CAR was legitimate and lawful. What was of significance, and indeed material, was that during their advance to Bangui, various Anti-Balaka groups engaged in attacks against the Seleka from September 2013 onwards and that such attacks included targeting Muslim civilians.

3931. To the extent that the Defence challenge that the organisational policy did not target Muslim civilians, the Chamber notes that, when assessing the Anti-Balaka actions towards Muslim civilians, a clear and distinct pattern of violence is discernible when comparing the various attacks that the Anti-Balaka groups launched in the provinces in September 2013 with the attacks on 5 December 2013 in Bangui and Bossangoa. This pattern is also seen in the advance of Mr Yekatom's group on the PK9-Mbaïki axis, as well as the attacks that took place in 2014, after Mr Ngaïssona became general coordinator of the Anti-Balaka. The Chamber recalls its findings that these attacks followed a pattern with Anti-Balaka groups killing and injuring Muslim civilians, looting and destroying their belongings, and often placing them in enclaved positions under difficult circumstances, eventually leading to many Muslims having to leave the respective areas.⁹⁵⁴⁵

3932. On the basis of the above, the Chamber finds that the acts described as an attack against the civilian population occurred pursuant to a policy to attack the civilian population.

c. Widespread or systematic nature of the attack

3933. Further, based on the temporal and geographic extent of the attack, the Chamber finds that it was widespread within the meaning of Article 7(1) of the Statute. In addition, considering that throughout the period of the charges the Anti-Balaka attacked Muslim civilians whom they perceived as associated with the Seleka and it followed a similar pattern, the Chamber finds that these attacks were also systematic. This included, in particular, Mr Yekatom's

⁹⁵⁴⁵ See paragraph 68 above.

group's actions that followed an identical pattern, as part of a coordinated effort, killing and displacing Muslim persons from neighbourhoods in Bangui and then along the PK9-Mbaïki axis. The Chamber considers that the actions of Mr Yekatom and his elements were not random or accidental.

3934. Accordingly, having regard to its conclusion above, the Chamber finds that between September 2013 and December 2014, there was a widespread and systematic attack conducted by the Anti-Balaka, including Mr Yekatom's group, against the Muslim civilian population and those perceived as collectively responsible for, complicit with, or supportive of the Seleka, pursuant to or in furtherance of a criminal policy to primarily target the Muslim population in Bangui and in western CAR prefectures in retribution for Seleka exactions.

d. Nexus requirement and perpetrators' awareness

3935. The crimes charged in relation to the Bangui Attack, the Bossangoa Attack, Yamwara and the PK9-Mbaïki axis under Counts 2, 4, 8, 11, 12, 14, 15, 17, 24, 26, 28, 31, 37, 39, 40 and 42, were committed, as discussed below, in the context of specific Anti-Balaka attacks and actions, including by Mr Yekatom's group. Considering that the Anti-Balaka perceived Muslims as collectively responsible for, complicit in, or supportive of the violence and abuses committed by the Seleka, and thus targeted the Muslim civilian population, specifically in the west of the CAR, the attacks in Bangui and Bossangoa, as well as the actions at Yamwara and along the PK9-Mbaïki axis form part of the attack against the civilian population within the meaning of Article 7 of the Statute as defined in this section. Accordingly, the Chamber finds, in respect of Counts 2, 4, 8, 11, 12, 14, 15, 17, 24, 26, 28, 31, 37, 39, 40 and 42, that the conduct was committed as part of the widespread and systematic attack directed against a civilian population, as required by Article 7(1) of the Statute.

3936. The Chamber now turns to the mental element underlying the contextual requirements, namely that the perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population.

3937. The Chamber found that through meetings in Cameroon and communications with individuals in Zongo, in particular Maxime Mokom, who in turned liaised with persons and groups in Bangui and in the provinces, François Bozizé, Mr Ngaïssona, Bernard Mokom and others planned steps to respond to the Seleka violence in the CAR as well as to ensure François Bozizé's return to power, by all means possible, including through armed violence.⁹⁵⁴⁶ During his time outside of the CAR in 2013, Mr Ngaïssona was actively involved in planning steps to respond to the Seleka violence in the CAR and to ensure François Bozizé's return to power by meeting and liaising with François Bozizé, Bernard Mokom and others to discuss strategies and plans, reaching out to individuals within and outside of the CAR with a view to gathering support for their cause, and providing financial assistance to those willing to assist in their activities.⁹⁵⁴⁷

3938. The Chamber found that Maxime Mokom liaised with individuals and groups in Cameroon, Zongo and within the CAR, including his father Bernard Mokom, Mr Yekatom, and groups forming in the provinces, with a view to coordinating the activities and eventual advance onto Bangui.⁹⁵⁴⁸ Around the same time, Mr Yekatom started forming a group, over which he assumed control, with Freddy Ouandjio, also known as Cœur de Lion, and Habib Beina, with a view to planning a response to the Seleka violence and removing Michel Djotodia and the Seleka from power.⁹⁵⁴⁹

3939. The Chamber found that throughout the period relevant to the charges, Mr Yekatom retained and exercised control over an active group of elements which was seen as and understood to be part of the Anti-Balaka. Mr Yekatom was the uncontested leader of this group which first set up at Yamwara in Boeing after 5 December 2013, and moved down the PK9-Mbaïki axis following Michel Djotodia's resignation.⁹⁵⁵⁰ The Chamber further found that from his involvement in coordinating his own group's advance through the provinces towards Bangui for purposes of the attack on Bangui on 5 December 2013, Mr Yekatom knew of the advance of the Anti-Balaka groups through the provinces towards Bangui, including the hostilities,

⁹⁵⁴⁶ See paragraph 34 above.

⁹⁵⁴⁷ See paragraph 35 above.

⁹⁵⁴⁸ See paragraph 37 above.

⁹⁵⁴⁹ See paragraph 36 above.

⁹⁵⁵⁰ See paragraph 63 above.

as well as killings and dislocation of Muslim civilians, taking place in this context.⁹⁵⁵¹ Mr Yekatom knew that the Anti-Balaka perceived, and himself perceived, the Muslims in the CAR as collectively responsible for, complicit in, or supportive of the violence and abuses committed by the Seleka and that the Anti-Balaka targeted the Muslim civilian population, specifically in the west of the CAR, on this basis.⁹⁵⁵² In addition to this, the Chamber recalls that, before the Bangui Attack, Mr Yekatom instructed his elements to target sectors where ‘Muslims’ were to be found.⁹⁵⁵³ He also instructed his elements on the night before the Bangui Attack to target Seleka positions along the Boeing-Cattin-PK5 direction, which encompassed attacking the Muslims traders at the Boeing Market.⁹⁵⁵⁴ The Chamber found that Mr Yekatom’s instructions were understood by the elements to accept that Muslim civilians would be killed as a result of the fighting based on his elements not having been trained or instructed to apply the principle of distinction during combat and bearing strong anti-Muslim sentiment and feelings of vengeance against the Seleka.⁹⁵⁵⁵

3940. In respect of the Bangui Attack, the Chamber found that the killings of Hassan and the three unnamed Muslim men in Boeing and Cattin, as well as the dislocation of Muslims from Boeing and Cattin took place during Mr Yekatom’s group’s attack there on 5 December 2013. These crimes were identical in pattern to the crimes committed by the Anti-Balaka in the provinces prior to the Bangui Attack. The same holds true for Mr Yekatom’s group’s advance to PK9-Mbaïki axis.

3941. As regards the Yamwara Incident, in particular, the Chamber notes that it took place approximately three weeks after the Bangui Attack after Mr Yekatom’s group had established a base at Yamwara and involved targeting what Mr Yekatom’s elements perceived to be Muslim civilians resulting in the death of one of the group members. The Chamber recalls that all seven persons captured during this incident were civilian. Mr Yekatom’s elements considered them ‘Muslim’ by associating the three women in the group as related to the Seleka.⁹⁵⁵⁶ They considered Saint Cyr a ‘Goula’ for not being able to

⁹⁵⁵¹ See paragraph 55 above.

⁹⁵⁵² See paragraph 48 above.

⁹⁵⁵³ See paragraphs 74 above.

⁹⁵⁵⁴ See paragraph 75 above.

⁹⁵⁵⁵ See paragraph 74 above.

⁹⁵⁵⁶ See also paragraph 96 above.

speak the concerned dialect during his interrogation at Yamwara,⁹⁵⁵⁷ and found a ‘Seleka card’ on him during a search at the checkpoint.⁹⁵⁵⁸ Mr Yekatom’s elements used the expression ‘peeling the papaya’ at the checkpoint during his capture at the checkpoint, which other elements from Mr Yekatom’s group have been known to use in relation to captives suspected of being Seleka.⁹⁵⁵⁹ These facts, taken together, show that the seven persons were perceived as Muslims and subjected to retributive violence, consistent with the Anti-Balaka policy. Mr Yekatom was aware that all seven persons were civilian at the time of their capture and that his elements mistreated all seven of them, killing one.

3942. Having regard to this, the Chamber finds that Mr Yekatom knew or intended the conduct to be part of the widespread and systematic attack by the Anti-Balaka directed against the Muslim civilian population.

3943. As regards Mr Ngaïssona, the Chamber found that he provided financial contributions and engaged in activities pertaining to the organisation and coordination of groups for the purpose of facilitating the commission of criminal acts targeting the Muslim population.⁹⁵⁶⁰ After Michel Djotodia’s resignation on 10 January 2014 and immediately upon his return to Bangui on 14 January 2014, Mr Ngaïssona became the general coordinator of the Anti-Balaka. As such, Mr Ngaïssona represented the entirety of the Anti-Balaka towards the CAR transition government and international authorities.⁹⁵⁶¹ Mr Ngaïssona continued to provide financial assistance to the Anti-Balaka and actively engaged in formalising the structure of the Anti-Balaka.⁹⁵⁶² The Chamber found that the structure of the Anti-Balaka evolved during the period relevant to the charges, and was subject to various leadership tussles. However, it always remained represented towards the national and international authorities as one entity through Mr Ngaïssona.⁹⁵⁶³

3944. The Chamber found that Mr Ngaïssona knew and was informed of the advance of the groups towards Bangui as well as of the hostilities during this advance, including the killings and

⁹⁵⁵⁷ See paragraph 100 above.

⁹⁵⁵⁸ See paragraph 98 above.

⁹⁵⁵⁹ See paragraph 97 above.

⁹⁵⁶⁰ See paragraphs 34-35, 38-39, 47, 49 above.

⁹⁵⁶¹ See paragraphs 61-62 above.

⁹⁵⁶² See paragraph 62 above.

⁹⁵⁶³ See paragraph 61 above.

dislocation of Muslim civilians from around Bossangoa and in Bouca (Ouham prefecture), in Ndjo, Bossembélé, Boali and Gaga (Ombella-M'Poko prefecture), as well as in Bouar (Nana-Mambéré prefecture).⁹⁵⁶⁴ Mr Ngaïssona knew that the Anti-Balaka perceived, and himself perceived, the Muslims in the CAR as collectively responsible for, complicit in, or supportive of the violence and abuses committed by the Seleka, and that the Anti-Balaka targeted the Muslim civilian population, specifically in the west of the CAR.⁹⁵⁶⁵

3945. Having regard to this, the Chamber finds that Mr Ngaïssona knew or intended the conduct to be part of the widespread and systematic attack by the Anti-Balaka directed against the Muslim civilian population.

3946. Accordingly, the Chamber concludes that the contextual elements are satisfied in respect of the crimes against humanity charged under Counts 2, 4, 8, 11, 12, 14, 15, 17, 24, 26, 28, 31, 37, 39, 40 and 42.

iii. Concurrence of analogous crimes against humanity and war crimes

3947. Several underlying crimes are charged in the present case as both crimes against humanity under Article 7 of the Statute and as war crimes under Article 8 of the Statute. This concerns murder as a crime against humanity under Article 7(1)(a) of the Statute and as a war crime under Article 8(2)(c)(i) of the Statute (Counts 2-3, 15-16, 26-27 and 31-32); forcible transfer and deportation as a crime against humanity under Article 7(1)(d) of the Statute and displacement as a war crime under Article 8(2)(e)(vii) of the Statute (Counts 4-5, 24-25 and 37-38); torture as a crime against humanity under Article 7(1)(f) of the Statute and as a war crime under Article 8(2)(c)(i) of the Statute (Counts 12-13); and rape as a crime against humanity under Article 7(1)(g) of the Statute and as a war crime under Article 8(2)(e)(vi) of the Statute (Counts 40-41).

⁹⁵⁶⁴ See paragraphs 52, 56 above.

⁹⁵⁶⁵ See paragraph 49 above.

3948. The Chamber considers that the contextual elements of crimes against humanity on the one and war crimes on the other require proof of facts not required by the other.⁹⁵⁶⁶ Further, the contextual elements of crimes in the jurisdiction of the Court are not neutral as concerns the qualitative legal evaluation of the charged conduct. The statutory contextual elements of crimes distinguish crimes within the material jurisdiction of the Court from ordinary crimes falling outside such jurisdiction. Beyond that, these elements, considered individually, encapsulate distinct interests protected by the corresponding incriminating provisions under the Statute, reflecting partly different forms of criminality and thereby complementing in the protected interests the incrimination of individual ‘specific’ crimes. In these circumstances, neither of these two sets of crimes can be said to be subsumed or consumed in any way by the other. On this basis, the Chamber finds that concurrence of analogous crimes against humanity and war crimes is permissible.⁹⁵⁶⁷

3. *Specific elements of the crimes and individual criminal responsibility*

i. *Crimes committed in the context of the attack on Bangui, including Boeing and Cattin (Counts 1 to 6, 8)*

a. Crimes committed

i. *Attack against the civilian population as such as a war crime (Count 1)*

3949. Under Count 1, Mr Yekatom and Mr Ngaïssona are charged with the war crime of directing an attack against the civilian population as such, pursuant to Article 8(2)(e)(i) of the Statute, in Bangui, including Cattin and the Boeing Market, starting on 5 December 2013, on the basis of the conduct pertaining to Counts 2 to 6 and 8.

⁹⁵⁶⁶ See also [Onqwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2820; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 1203; [Bemba Trial Judgment](#), ICC-01/05-01/08-3343, para. 750; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, para. 1696.

⁹⁵⁶⁷ See also [Onqwen Appeals Judgment](#), ICC-02/04-01/15-2022-Red, paras 1654-1659.

Recalling of factual findings

3950. The Chamber found Mr Yekatom's group coordinated with other Anti-Balaka groups to participate in the Bangui Attack.⁹⁵⁶⁸ In the afternoon of 4 December 2013, Mr Yekatom chose some of his elements and instructed them to move towards Bangui and the same day, the group arrived in Projet, situated near the M'Poko airport in Bangui.⁹⁵⁶⁹ Mr Yekatom's instructions to his elements concerning the attack on 5 December 2013 were to fight the Seleka and included targeting sectors where 'Muslims' were to be found. Mr Yekatom's instructions were understood by the elements to accept that Muslim civilians would be killed as a result of the fighting based on his elements not having been trained or instructed to apply the principle of distinction during combat and bearing strong anti-Muslim sentiment and feelings of vengeance against the Seleka.⁹⁵⁷⁰ On the night of 4 December 2013, Mr Yekatom and some of his elements visited the Boeing Market to assess its precise geographical location and conduct reconnaissance.⁹⁵⁷¹ Mr Yekatom instructed his elements to target Seleka positions along the Boeing-Cattin-PK5 direction and these instructions encompassed attacking the Muslims traders at the Boeing Market before moving along the route to PK5.⁹⁵⁷²

3951. The Chamber found that Mr Yekatom's group attacked the Boeing Market during their advance towards PK5 following Mr Yekatom's orders.⁹⁵⁷³ In the early morning of 5 December 2013, Mr Yekatom launched the attack on Boeing by firing an automatic pistol in the air when his group reached the market in Boeing.⁹⁵⁷⁴ The armed elements in front continued and advanced together and fired at the Muslim traders who were present there.⁹⁵⁷⁵ During this time, Mr Yekatom's elements shot in all directions. Those that were inside the shops fled.⁹⁵⁷⁶ Following Mr Yekatom's instructions, Mr Yekatom's elements attacked the mosque in Boeing, which was the main mosque serving the communities of both Boeing and

⁹⁵⁶⁸ See paragraph 73 above.

⁹⁵⁶⁹ See paragraph 74 above.

⁹⁵⁷⁰ See paragraph 74 above.

⁹⁵⁷¹ See paragraph 75 above.

⁹⁵⁷² See paragraph 75 above.

⁹⁵⁷³ See paragraph 76 above.

⁹⁵⁷⁴ See paragraph 76 above.

⁹⁵⁷⁵ See paragraph 76 above.

⁹⁵⁷⁶ See paragraph 76 above.

Cattin, by firing a ‘rocket’ at it. Mr Yekatom’s elements also torched the mosque in Boeing with gasoline.⁹⁵⁷⁷ Following the attack on the market and the mosque in Boeing, elements of Mr Yekatom’s group moved on to attack Cattin, where they clashed with the Seleka.⁹⁵⁷⁸

‘Directing an attack’

3952. The Chamber notes the Yekatom Defence’s arguments that the second element of this crime is not met given that the attack by Mr Yekatom’s group on Boeing and Cattin concerned a military objective.

3953. On the facts, the Yekatom Defence argues that Mr Yekatom’s group’s attack had a military objective and, in support, makes submissions on the target of the attack, the status of the victims, and the nature of the attack.⁹⁵⁷⁹ The Yekatom Defence argues that the Prosecution did not establish that the ‘primary object’ of the alleged attack on Boeing and Cattin was the civilian population as a whole or individual civilians not taking direct part in hostilities.⁹⁵⁸⁰ It argues that Mr Yekatom’s group targeted ‘bases of notorious Seleka Chiefs based in, and along the road to Cattin, and that counter-attacks were launched by the Seleka in the same vicinity’.⁹⁵⁸¹ As regards the status of the victims, the Yekatom Defence argues that the evidence raises reasonable doubt that the alleged victims were armed Seleka combatants and/or civilians actively participating in the hostilities.⁹⁵⁸² The Yekatom Defence argues that the alleged victims did not benefit from the protection under Article 8(2)(e)(i) and were legitimate military targets.⁹⁵⁸³ The Yekatom Defence submits that the traders at the Boeing Market were armed and actively participating in hostilities and had joined the Seleka in March 2013, instead of being merely civilians who had picked up arms in self-defence, and that they were ‘fully embedded within the enemy force’ by December 2013.⁹⁵⁸⁴

⁹⁵⁷⁷ See paragraph 78 above.

⁹⁵⁷⁸ See paragraph 79 above.

⁹⁵⁷⁹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 587, 589.

⁹⁵⁸⁰ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 585.

⁹⁵⁸¹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 587.

⁹⁵⁸² [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 587.

⁹⁵⁸³ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 587.

⁹⁵⁸⁴ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 598-599.

3954. On the law, the Yekatom Defence's argues that the second element of this war crime is not met where the attack is 'directed against a military objective and civilians are incidentally affected'.⁹⁵⁸⁵ It further argues, in the abstract that, even an indiscriminate attack with a military objective, in violation of the principle of proportionality, does not constitute an attack against the civilian population.⁹⁵⁸⁶ As regards the nature of the attack, the Yekatom Defence argues that Mr Yekatom's attack was not 'so indiscriminate so as to establish or allow for the inference that the actual object of the attack was the civilian population and not a military objective'.⁹⁵⁸⁷ In support of this, it argues that it was a 'limited military attack', specifically that it was limited in means, methods, geographical scope, number of elements involved, ammunition and weapons.⁹⁵⁸⁸

3955. The Chamber recalls, at the outset, that a civilian population need not be the sole and exclusive target of an attack.⁹⁵⁸⁹ Within the meaning of this crime, members of armed forces and any other legitimate combatant may be present in a civilian population. The presence within the civilian population of individuals who do not fit within the definition of civilians does not deprive the entire population of its civilian character.⁹⁵⁹⁰ For this reason, even if the Yekatom Defence's arguments are to be believed on the fact that there were Seleka bases 'in, and along the road to Cattin' or that the alleged victims were armed Seleka combatants, this did not deprive the civilian population of Boeing and Cattin of its civilian character as such.

3956. Furthermore, this crime may be established even if an operation targeted a legitimate military objective, when it can be shown that the primary object of the attack was the civilian population or individual civilians.⁹⁵⁹¹ The Chamber further recalls that military objectives are limited to those objects which by their nature, location, purpose, or use make an effective

⁹⁵⁸⁵ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 588.

⁹⁵⁸⁶ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 588.

⁹⁵⁸⁷ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 589.

⁹⁵⁸⁸ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 589.

⁹⁵⁸⁹ [Mbarushimana Confirmation Decision](#), ICC-01/04-01/10-465-Red, para. 142.

⁹⁵⁹⁰ [Mbarushimana Confirmation Decision](#), ICC-01/04-01/10-465-Red, para. 148.

⁹⁵⁹¹ [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2760 referring to [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, paras 921, 923; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, para. 802.

contribution to military action and whose partial or total destruction, capture, or neutralisation, in the circumstances ruling at the time, offers a definite military advantage.⁹⁵⁹²

3957. Considering the nature of the targets comprising this attack, in particular, a market, a mosque, and unarmed civilians, the Chamber finds that these were not legitimate military targets. The Chamber recalls that it has considered the Yekatom Defence's arguments concerning the links between the Muslim traders at the Boeing Market and the Seleka and could not conclude that such links meant that they were affiliated with the Seleka at the time of the Bangui Attack, let alone 'embedded' within them. There is further no indication in the facts that the Boeing Market or the Boeing Mosque otherwise served any military purpose. Therefore, the argument that these civilian deaths were, in fact, 'incidental civilian casualties' is moot.

Object of the attack

3958. The Chamber further considers that the indiscriminate nature of an attack may be one of the factors to enter a positive finding that such attack was intended to target the civilian population.⁹⁵⁹³ Even granting the Yekatom Defence's suggestion that Mr Yekatom's group conducted a 'limited military attack' on Boeing and Cattin in the morning of 5 December 2013, there is no indication, either in the evidence or in the Yekatom Defence's arguments, that Mr Yekatom and/or his elements took any measures to remove civilians, to the maximum extent feasible from the vicinity of such military objectives.

3959. In the view of the Chamber, Mr Yekatom's conduct, including his presence in the group that attacked Boeing and Cattin, together with his instructions before the attack, clearly show that his group's attack meant to target the Muslim civilian population of Boeing and Cattin. In the view of the Chamber, it was clear to his elements that the primary aim of the attack was not a military target or persons actively participating in hostilities.⁹⁵⁹⁴ Further, and in light

⁹⁵⁹² Article 52(2) of the 1977 Additional Protocol I. See also Central African Republic, *Le Droit de la Guerre, Fascicule No. 1: Formation élémentaire toutes armées (FETA), formation commune de base (FCB), certificat d'aptitude technique No. 1 (Chef d'équipe)*, Ministère de la Défense, Forces Armées Centrafricaines, 1999, Chapter II, Section I, para. 3.

⁹⁵⁹³ [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 921; [Galić Trial Judgment](#), IT-98-29-T, para. 60.

⁹⁵⁹⁴ See also [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 590 referring to [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 921.

of this, the Chamber need not engage with the abstract argument that even an indiscriminate attack, in violation of the principle of proportionality, does not constitute an attack against the civilian population.⁹⁵⁹⁵

3960. Having regard to these conclusions, the Chamber finds that Mr Yekatom and his elements directed an intentional attack against the civilian population, as such, in Boeing and Cattin. Mr Yekatom's participation and execution of the attack was such that, by its nature, it could only have been undertaken intentionally. Accordingly, the Chamber finds that the first, second, and third element of the war crime of attacking civilians, pursuant to Article 8(2)(c)(i) of the Statute, namely that the perpetrator directed an intentional attack against a civilian population as such or individual civilians not taking direct part in hostilities, are met.

ii. Murder as a crime against humanity and as a war crime (Counts 2 and 3)

3961. Under Counts 2 and 3, Mr Yekatom and Mr Ngaïssona are charged with murder as a crime against humanity pursuant to Article 7(1)(a) of the Statute, and murder as a war crime pursuant to Article 8(2)(c)(i) of the Statute of five to 13 persons, including Hassan Mahamat, at the Boeing market, four Muslim persons in Cattin, and Nina Pascal at the Boeing market, in the context of the attack on Bangui, including Boeing and Cattin, on 5 December 2013.

Recalling of factual findings

3962. The Chamber found that elements in Mr Yekatom's group killed Hassan Mahamat in the morning of 5 December 2013 during the attack on the Boeing Market. Hassan personally interacted with certain Seleka officials prior to 5 December 2013 in his role as delegate of the male Muslim traders at the Boeing Market.⁹⁵⁹⁶ Hassan had at least one weapon in his shop with which he fired in self-defence during the attack of 5 December 2013 carried out by Mr Yekatom's elements.⁹⁵⁹⁷ Further, Mr Yekatom's elements killed two unnamed Muslim traders at the Boeing Market during this attack. Boeing Market traders and the

⁹⁵⁹⁵ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 588.

⁹⁵⁹⁶ See paragraph 77 above.

⁹⁵⁹⁷ See paragraph 77 above.

Seleka personally interacted with each other at the Boeing Market and were seen by others as associating with each other.⁹⁵⁹⁸ There is no indication that any of the two unnamed Muslim traders were armed during the attack or otherwise engaged in combat at the time of their death.⁹⁵⁹⁹ During the attack on Cattin, elements of Mr Yekatom's group killed at least one Muslim man, who was not armed, nor engaged in combat, at the time of his death. The elements targeted this Muslim man on the basis that he was an 'Arab' and the victim eventually succumbed to the injuries inflicted on him.⁹⁶⁰⁰

Killing of one or more persons

3963. In respect of the unnamed Muslim man in Cattin, the Yekatom Defence argues that the Prosecution has not established that the death of this person was the only reasonable conclusion.⁹⁶⁰¹ The Yekatom Defence doubts that this person 'actually died', given that P-1528 was unable to identify the person or describe the extent of the injuries.⁹⁶⁰² It argues that P-1528's evidence was 'entirely circumstantial and weak' and no other evidence was available to corroborate it.⁹⁶⁰³ It adds that, in this instance, the 'importance of the identity of the unnamed man' is 'elevated' by virtue of P-1528's account.⁹⁶⁰⁴ The Yekatom Defence further argues that the Prosecution has not established that this killing was a result of the acts and omissions of Mr Yekatom,⁹⁶⁰⁵ and that it should have to identify the perpetrator where it is a 'material fact'.⁹⁶⁰⁶

3964. At the outset, the Chamber recalls that it is not barred from concluding on deaths of victims where their specific identities are not known.⁹⁶⁰⁷ Further, a victim's death may be proven by circumstantial evidence so long as the only reasonable inference that can be drawn therefrom

⁹⁵⁹⁸ See paragraph 77 above.

⁹⁵⁹⁹ See paragraph 77 above.

⁹⁶⁰⁰ See paragraph 79 above.

⁹⁶⁰¹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 593.

⁹⁶⁰² [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 593.

⁹⁶⁰³ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 593.

⁹⁶⁰⁴ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 593.

⁹⁶⁰⁵ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 594-597.

⁹⁶⁰⁶ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 597.

⁹⁶⁰⁷ [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 862; [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2698.

is that the victim died.⁹⁶⁰⁸ The Chamber recalls that the dead body of the victim need not be recovered in order to establish the fact of death.⁹⁶⁰⁹ Further, the Chamber considers that, as a matter of law, it was not necessary to identify the specific perpetrator(s) *within* Mr Yekatom's group, who were responsible for this killing,⁹⁶¹⁰ as long as it was otherwise satisfied beyond reasonable doubt that it was Mr Yekatom's elements who killed this unnamed Muslim man in Cattin. Mr Yekatom's specific conduct in relation to this killing is discussed further below. Accordingly, the Chamber finds that the only reasonable inference in the circumstances discussed above is that Mr Yekatom's elements participating in the Bangui Attack killed this Muslim man in Cattin.

3965. On this basis, in respect of the first element of murder as a crime against humanity pursuant to Article 7(1)(a) of the Statute, and of murder as a war crime pursuant to Article 8(2)(c)(i) of the Statute, namely that the perpetrator killed one or more persons, the Chamber finds that this requirement is met in respect of Mr Yekatom's elements, who were participating in the Bangui Attack, killing Hassan Mahamat, two unnamed Muslim traders at the Boeing Market, and one unnamed Muslim man in Cattin on 5 December 2013.

Status of the persons killed

3966. The Chamber now turns to the status of the victims at the relevant time.

3967. The Chamber recalls the Yekatom Defence's arguments concerning the status of the victims at the Boeing Market. The Yekatom Defence argues that the evidence raises reasonable doubt that the alleged victims were armed Seleka combatants and/or civilians actively participating in the hostilities.⁹⁶¹¹ The Yekatom Defence argues that the alleged victims did

⁹⁶⁰⁸ [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 862; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, para. 768; [Bemba Trial Judgment](#), ICC-01/05-01/08-3343, para. 88.

⁹⁶⁰⁹ [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 862; [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2698; ICTY, Trial Chamber II, *Prosecutor v. Zdravko Tolimir*, Judgment, 12 December 2012, IT-05-88/2-T, para. 715.

⁹⁶¹⁰ [Bemba Trial Judgment](#), ICC-01/05-01/08-3343, para. 88. See e.g. [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, paras 2976, 3011, 3116 (the accused, a battalion commander, was found guilty of murder through commission liability pursuant to Article 25(3)(a) of the Statute for the acts of unnamed individual elements in the armed group); ICTY, Trial Chamber II, *Prosecutor v. Boškoški and Tarčulovski*, Judgment, 10 July 2008, IT-04-82-T, paras 312, 346, 577-578, 607 (the accused was found guilty of ordering the commission of murder of a victim, in the case of which the identity of the police members who killed the victim had not been established).

⁹⁶¹¹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 587.

not benefit from the protection under Article 8(2)(e)(i) and were legitimate military targets.⁹⁶¹² The Yekatom Defence submits that the traders at the Boeing Market were armed and actively participating in hostilities and had joined the Seleka in March 2013, instead of being merely civilians who had picked up arms in self-defence, and that they were ‘fully embedded within the enemy force’ by December 2013.⁹⁶¹³ As regards the unnamed Muslim man in Cattin, the Yekatom Defence argues that his civilian status cannot be presumed given the context in which the alleged killings took place, and it must be established that the victim was a civilian taking no active part in the hostilities.⁹⁶¹⁴

3968. In determining whether these victims were taking an active part in hostilities before their death, the Chamber must have regard to the relevant facts and specific situation of the victims at the relevant time, including the location of the killings, whether the victims were carrying weapons, and the clothing, age and gender.⁹⁶¹⁵

3969. As regards Hassan, one of the named Muslim traders at the Boeing Market, the Chamber finds that he was a civilian at the time of his death and therefore had a protected status under international humanitarian law, which he did not lose during the attack on the Boeing Market. The Chamber recalls that in order for a civilian to lose such protection, it is required that their acts have a belligerent nexus, meaning they were specifically designed to directly cause the required threshold of harm in support of a party to an armed conflict and to the detriment of another.⁹⁶¹⁶

3970. In the view of the Chamber, having regard to its findings above, Hassan retained his protected civilian status when Mr Yekatom’s elements attacked the Boeing Market, including when he fired at them in self-defence, by using necessary and proportionate force.⁹⁶¹⁷ In assessing whether Hassan used necessary and proportionate force in self-

⁹⁶¹² [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 587.

⁹⁶¹³ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 598-599.

⁹⁶¹⁴ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 600.

⁹⁶¹⁵ [Bemba Trial Judgment](#), ICC-01/05-01/08-3343, para. 94 referring to ICTY, Trial Chamber I, *Prosecutor v. Sefer Halilović*, Judgment, 16 November 2005, IT-01-48-T, paras 33-34.

⁹⁶¹⁶ ICRC, Nils Melzer, *Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law*, 2009, p. 64.

⁹⁶¹⁷ See [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, n. 7127 referring *inter alia* to ICRC, Nils Melzer, *Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law*, 2009, p. 61.

defence, the Chamber recalls that Mr Yekatom launched the attack on Boeing by firing an automatic pistol in the air when his group reached the Boeing Market, following which the armed elements continued and advanced.⁹⁶¹⁸ No matter how many elements Mr Yekatom's group was composed of at the time,⁹⁶¹⁹ the Chamber considers that Hassan's firing, faced with a sizeable group of attackers, was well within the parameters of a proportionate self-defence.

3971. Accordingly, in respect of the distinct elements of murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, that the person be either *hors de combat*, or a civilian, medical personnel, or religious personnel taking no active part in the hostilities, and that perpetrator was aware of the factual circumstances that established this status, the Chamber finds that this requirement is met in respect of each victim.

iii. Forcible transfer and deportation as a crime against humanity and displacement as a war crime (Counts 4 and 5)

3972. Under Counts 4 and 5, Mr Yekatom and Mr Ngaïssona are charged with forcible transfer and deportation as a crime against humanity pursuant to Article 7(1)(d) of the Statute, and displacement as a war crime pursuant to Article 8(2)(e)(viii) of the Statute, for the dislocation of nearly all Muslim persons residing in Boeing and Cattin to PK5, a predominantly Muslim neighbourhood in Bangui, other parts of the CAR or neighbouring countries, starting from 5 December 2013 in the context of the attack on Bangui, including Boeing and Cattin, on 5 December 2013.

Recalling of factual findings

3973. The Chamber found that on 5 December 2013, Mr Yekatom's group attacked the Boeing Market during their advance towards PK5 following Mr Yekatom's orders and attacked the Boeing Mosque.⁹⁶²⁰ Following the attack on the Boeing Market and Boeing Mosque, elements of Mr Yekatom's group moved on to attack Cattin, where they clashed with the

⁹⁶¹⁸ See paragraph 76 above.

⁹⁶¹⁹ See in this regard the argument in [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 355.

⁹⁶²⁰ See paragraphs 76-78 above.

Seleka.⁹⁶²¹ From 5 December 2013 onwards, Muslims of Boeing and Cattin, including Salehou Ndiaye and P-2682, fled to PK5 in Bangui, while some others fled to other parts of the CAR, in the context of the attack by Mr Yekatom's group on Boeing and Cattin.⁹⁶²² With the influx of Muslims fleeing the Bangui Attack, PK5 became overcrowded, practically uninhabitable, and unsafe. As a result, some Muslims, including Salehou Ndiaye and P-2682, then fled to neighbouring countries fearing for their safety.⁹⁶²³

Perpetrator deported or forcibly transferred one or more persons to another State or location, by expulsion or other coercive acts

3974. The Chamber notes that the Yekatom Defence raises arguments challenging the causality of the events and whether they can be attributed to Mr Yekatom's acts. The Yekatom Defence argues that the alleged displacement of Muslim persons from Boeing and Cattin is not attributable to Mr Yekatom as there is no link between his conduct and the resulting effect of forcing the victims to leave, and submits that the evidence establishes that the Muslim population 'would have dislocated' for 'several reasons' unrelated to Mr Yekatom.⁹⁶²⁴ The Chamber additionally notes the Yekatom Defence's argument that the local civilian population created self-defence groups committing violence against the Muslim population in retaliation and the false rumours of imminent attacks that 'intensif[ied] a climate of fear and paranoia among the Muslim population'.⁹⁶²⁵

3975. The Chamber considers that Mr Yekatom's launching of the attack on Boeing and Cattin and how his elements carried out the attack, leading to the attack on the Boeing Mosque and the killing of Muslim civilians in Boeing and Cattin, created an environment where it was physically, materially, and psychologically unsafe for Muslim persons there, forcing them to leave and flee Boeing and Cattin. The Chamber considers that Mr Yekatom's launching of the attack on Boeing and Cattin, the establishment of his base in Yamwara, and the

⁹⁶²¹ See paragraph 79 above.

⁹⁶²² See paragraph 80 above.

⁹⁶²³ See paragraph 80 above.

⁹⁶²⁴ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 602-604.

⁹⁶²⁵ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 603.

continued presence of the Anti-Balaka in Bangui meant that these Muslims from Boeing and Cattin, who were in PK5 at the time, could not return to their homes.

3976. As regards the requirement that the crime must take place ‘by expulsion or other coercive acts’, the Chamber recalls that forcible transfer and deportation are ‘open-conduct’ crimes in that the perpetrator may commit several different acts that may qualify.⁹⁶²⁶ In assessing this element in respect of both forcible transfer and deportation in the present case, the Chamber recalls that the term ‘forcibly’ is not restricted to physical force, but may include *inter alia* threat of force or coercion, such as that caused by fear of violence.⁹⁶²⁷ The Chamber finds that both forcible transfer and deportation, as noted above, took place as a result of the fear of violence that was set in motion by Mr Yekatom’s launching of an attack on Boeing and Cattin and the crimes committed there by his elements. In the view of the Chamber, the Muslim persons fleeing Boeing and Cattin had no genuine choice in leaving to PK5, other parts of the CAR, or to the neighbouring countries. The Chamber recalls in this regard that there must be a genuine lack of choice on the part of the person or persons forcibly transferred, and that the prevailing situation and atmosphere, and other relevant circumstances, including in particular the victims’ vulnerability, has to be taken into account when assessing whether the individuals transferred indeed had a genuine choice.⁹⁶²⁸ In the view of the Chamber, Muslim persons in Boeing and Cattin would not have wished to flee, absent the attack by Mr Yekatom’s group and their presence there, as part of the larger Bangui Attack.⁹⁶²⁹ The Chamber considers that even if other factors contributed to the fear of violence, the existence of such factors added to the context, but are inapt by and of themselves to impact the Chamber’s conclusion that Muslim persons in Boeing and Cattin would not have fled absent the attack by Mr Yekatom’s group and their presence.

3977. The Chamber finds that Mr Yekatom’s acts amounted to ‘coercive acts’ pursuant to the first element of deportation or forcible transfer as a crime against humanity. The Chamber has

⁹⁶²⁶ [Ruto et al. Confirmation Decision](#), ICC-01/09-01/11-373, para. 244.

⁹⁶²⁷ Elements of Crimes, Article 7(1)(d) of the Statute, n. 12.

⁹⁶²⁸ [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 1056.

⁹⁶²⁹ See ICTY, Trial Chamber II, *Prosecutor v. Simić et al.*, Judgment, 17 October 2003, IT-95-9-T, para. 126.

considered not necessary to engage with the Yekatom Defence's argument that the Prosecution did not establish that Mr Yekatom took advantage of a coercive environment.⁹⁶³⁰

3978. Accordingly, the Chamber finds that the requirement of forcible transfer is met in respect of the movement of a majority of Muslim persons fleeing Boeing and Cattin from 5 December 2013 onwards to PK5 and other parts of the CAR, in the context of the attack by Mr Yekatom's elements on 5 December 2013 on Boeing and Cattin. The Chamber finds that the requirement of deportation is met in respect of the movement of these Muslim persons, who further fled from PK5 to neighbouring countries. Thus, the Chamber finds that the first requirement of forcible transfer and deportation as a crime against humanity pursuant to Article 7(1)(d) of the Statute, namely that the perpetrator forcibly transferred or deported, without grounds permitted under international law, one or more persons to another State or location, by expulsion or other coercive acts, is met.

Lawful presence

3979. The Chamber has further considered that there is no evidence on the record, nor any arguments advanced by the parties, indicating that the Muslims living in Boeing and Cattin at the time were not lawfully present there. Accordingly, and recalling that Muslim persons were present and living in Boeing and Cattin at the time of the Bangui Attack, the Chamber finds that the second requirement of element of forcible transfer and deportation as a crime against humanity pursuant to Article 7(1)(d) of the Statute, namely that such person or persons were lawfully present in the area from which they were so deported or transferred, is met.

'Without grounds' and 'not justified'

3980. Specifically as regards the requirement, under Article 7(1)(d) of the Statute, that the transfer or deportation took place 'without grounds permitted under international law', and the requirement under Article 8(2)(e)(viii) of the Statute that the displacement was 'not justified by the security of the civilians involved or by military necessity'. In addition to the factual findings above, the Chamber recalls that Mr Yekatom's group attacked Boeing and Cattin

⁹⁶³⁰ See [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 608.

with the express instructions to target sectors where ‘Muslims’ were to be found.⁹⁶³¹ Mr Yekatom’s instructions were understood by the elements to accept that Muslim civilians would be killed as a result of the fighting based on his elements not having been trained or instructed to apply the principle of distinction during combat and bearing strong anti-Muslim sentiment and feelings of vengeance against the Seleka.⁹⁶³²

3981. The Chamber has further considered that there is no indication in the evidence on the record that the displacement of the Muslim civilian population from Boeing and Cattin was justified by their security or military necessity.

3982. In light of the above, and absent any contrary indication on the facts, the Chamber does not consider that the transfer and displacement of Muslim civilians from Boeing and Cattin to PK5, and to Chad thereafter, had grounds permitted under international law, or otherwise was justified by the security of these civilians or military necessity. The Chamber thus finds that these requirements for forcible transfer and deportation as a crime against humanity pursuant to Article 7(1)(d) of the Statute, as well as for displacement as a war crime pursuant to Article 8(2)(e)(viii) of the Statute, are also met.

Order to displace

3983. The Chamber now turns to the distinct requirements of displacement as a war crime pursuant to Article 8(2)(e)(viii) of the Statute, namely that the perpetrator ordered a displacement of a civilian population.

3984. The Yekatom Defence refers to the *Ntaganda* jurisprudence and argues that the military operations undertaken on 5 December 2013 were ‘legitimate in that they were directed against military targets and complied with the principles of distinction and proportionality’ and that its objective ‘also served to protect the civilian population from the continued atrocities committed by the Seleka forces’.⁹⁶³³ The Yekatom Defence argues that neither aspect of the *Ntaganda* jurisprudence is fulfilled in the present case. As regards the first aspect requiring an express order, the Yekatom Defence argues that Mr Yekatom did not

⁹⁶³¹ See paragraph 74 above.

⁹⁶³² See paragraph 74 above.

⁹⁶³³ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 615.

issue any orders to displace the civilian population in relation to the attack on 5 December 2013.⁹⁶³⁴ It further argues that the use of the term ‘ordered’ in the first element of displacement as a war crime was deliberate and its objective was to implicate the individual giving the order of displacement and not someone who simply carries out the displacement.⁹⁶³⁵ It submits that the *Ntaganda* jurisprudence should be read keeping in mind the charges in the present case as framed against Mr Yekatom, which include ordering as a mode of liability pursuant to Article 25(3)(b) of the Statute.⁹⁶³⁶ Reading the charges in the present case together with the *Ntaganda* jurisprudence, it argues that an order based on an act or omission as a result of which displacement would occur would be ‘rendered meaningless’ as it ‘effectively creates a Russian doll effect’.⁹⁶³⁷ It asserts that ‘only [...] orders to displace a civilian population’ are ‘the correct application’ of this element of the crime.⁹⁶³⁸ As regards the second aspect concerning ‘an act or omission as a result of which such displacement would occur’, the Yekatom Defence argues that it must still be established that the order had a direct effect on the commission of the crime and that Mr Yekatom was aware of this ‘i.e. the occurrence would be virtually certain’.⁹⁶³⁹

3985. As regards the requirement of an ‘order’, the Chamber considers that conduct alone can constitute an order.⁹⁶⁴⁰ This is consistent with the *Ntaganda* jurisprudence that states that an order within the meaning of this crime itself needs only to instruct another person in any form to (i) displace a civilian population; or (ii) perform an act or omission as a result of which such displacement would occur.⁹⁶⁴¹

⁹⁶³⁴ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 613.

⁹⁶³⁵ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 611.

⁹⁶³⁶ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 612 referring to [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 1081.

⁹⁶³⁷ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 612.

⁹⁶³⁸ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 612.

⁹⁶³⁹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 614.

⁹⁶⁴⁰ See further Additional Protocol II, Article 17 (stating that the displacement of the civilian population shall not be ordered for reasons related to the conflict unless the security of the civilians involved or imperative military reasons so demand); ICRC, Rule 129(B) of the Customary International Humanitarian Law, Volume II, Chapter 38, Section A (stating that parties to a non-international armed conflict may not order the displacement of the civilian population, in whole or in part, for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand). The Chamber considers that these provisions must be read as a prohibition of displacing the civilian population in non-international armed conflicts.

⁹⁶⁴¹ [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 1081.

3986. In light of this, the Chamber finds that, in the present instance, Mr Yekatom's act of firing an automatic pistol in the air thereby launching an attack on Boeing and instructing his elements, prior to the Bangui Attack, to target all sectors where Muslims are to be found is sufficient to constitute an 'order' within the meaning of the first element of displacement as a war crime. It was a combination of these two acts that directly led to the commission of this crime. The Chamber considers that by attacking Boeing and Cattin under these premises, Mr Yekatom's elements were ordered to perform an act as a result of which the displacement of the Muslim civilian population from those areas would necessarily occur. In the Chamber's view, Mr Yekatom's conduct constituted an 'order' within the ordinary sense of the word, in that it required an imperative action to follow, namely an attack creating the conditions in which the displacement of the civilian population would inevitably take place. The Chamber considers that Mr Yekatom need not have given a formal order, written or otherwise, to his elements or to the Muslim civilian population spelling out expressly that the displacement must occur.

3987. The Chamber also considers that while modes of liability are a lens through which to assess the conduct of an accused, they offer limited support on what meaning to give to the elements of a crime. In any event, the requirements of an 'order' both as an element of this war crime and as a mode of liability can be fulfilled by conduct *not* including an express order, as such. The Chamber recalls that, in the present case, the charges against Mr Yekatom include liability for commission under Article 25(3)(a) of the Statute or, in the alternative, by ordering the commission under Article 25(3)(b) of the Statute. In the view of the Chamber, the charges in the present case, as framed, provide no normative guidance on how the material elements of the war crime of displacement must be interpreted. In this respect, the Chamber is not assisted by the Yekatom Defence's arguments and cannot determine the theoretical implications of a 'Russian doll effect' in the abstract.

3988. Further, the Chamber is satisfied that there is a direct link between Mr Yekatom's act of launching an attack on Boeing in the context of the present case and the displacement of the Muslim civilian population from Boeing and Cattin. The Chamber further considers that, in the present case, Mr Yekatom's conduct need not have been the sole reason why the Muslim civilian population fled. This is because the Chamber is otherwise satisfied that had it not

been for the attack launched by Mr Yekatom and his group at Boeing and Cattin, the concerned Muslim civilian population would not have displaced. As noted in its evidentiary analysis as well as in its conclusions on Count 4,⁹⁶⁴² while there may have been other factors that compounded or added to the reasons for displacement, they did not sever the link between Mr Yekatom's acts and the displacement.

3989. The Chamber is of the view that Mr Yekatom's specific and express instructions before the Bangui Attack of targeting sectors where 'Muslims' were to be found, seen together with the Chamber's findings on the attack on Boeing and Cattin, during which Mr Yekatom's elements targeted Muslim civilians drawing no distinction between them and the Seleka, establish conclusively the existence of an 'order' within the meaning of this crime. The Chamber considers that by attacking Boeing and Cattin under these premises, Mr Yekatom's elements were ordered to perform an act as a result of which the displacement of the Muslim civilian population from these locations would necessarily occur.

Position to effect such displacement by giving such order

3990. In respect of the third element of displacement as a war crime pursuant to Article 8(2)(e)(viii) of the Statute, namely that the perpetrator was in a position to effect such displacement by giving such order, the Chamber finds that this requirement is met by virtue of Mr Yekatom's position as the chief of the group that carried out the attack on Boeing and Cattin as well as the one providing the instructions on what to target during this attack. The Chamber considers that attacking areas while armed, Mr Yekatom's group was in a position to cause the dislocation of Muslim civilians from their homes. Further, and while noting that the war crime of displacement does not require for displacement as such to actually occur,⁹⁶⁴³ the Chamber considers that it was Mr Yekatom's group's actions when attacking Boeing and Cattin, specifically Muslim civilians, that led to the displacement of the Muslim civilian population from those areas to PK5 and later to neighbouring countries.

⁹⁶⁴² See paragraphs 80, 3974-3977 above.

⁹⁶⁴³ Trial Chamber I, *The Prosecutor v. Bosco Ntaganda*, Sentencing judgment, 7 November 2019, ICC-01/04-02/06-2442 (the '[Ntaganda Sentencing Judgment](#)'), para. 163.

iv. *Directing an attack against a building dedicated to religion as a war crime (Count 6)*

3991. Under Count 6, Mr Yekatom and Mr Ngaïssona are charged with the war crime of an attack against a building dedicated to religion, pursuant to Article 8(2)(e)(iv) of the Statute, for the destruction of the Boeing Mosque by 20 December 2013 at the latest.

Recalling of factual findings

3992. On 5 December 2013, and following Mr Yekatom's instructions, Mr Yekatom's elements attacked the Boeing Mosque by firing a rocket at it. Mr Yekatom's elements also torched the Boeing Mosque with gasoline. On the same day and in the days that followed, the local population took it apart.⁹⁶⁴⁴

'Directing an attack'

3993. The Yekatom Defence argues that the Prosecution has not established that there was an attack for the purpose of the first element of this war crime.⁹⁶⁴⁵ The Yekatom Defence submits that its position is 'focused on the fact that the destruction of the mosque is not attributable to Mr Yekatom', noting that the 'several direct eyewitness accounts' have pointed out that the mosque was dismantled by the civilian population.⁹⁶⁴⁶ The Yekatom Defence argues that by failing to demonstrate that Mr Yekatom's group was involved in the destruction of the Boeing Mosque, the Prosecution has failed to prove beyond reasonable doubt that Mr Yekatom directed an attack targeting it.⁹⁶⁴⁷ In support, the Yekatom Defence draws attention to the definition of the term 'attack', which, it argues, means 'acts of violence against the adversary, whether in offence or in defence' and refers to 'the use of armed force to carry out a military operation during the course of an armed conflict'.⁹⁶⁴⁸

⁹⁶⁴⁴ See paragraph 78 above.

⁹⁶⁴⁵ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 617-618 referring to [Al Mahdi Trial Judgment](#), ICC-01/12-01/15-171, paras 15-16; [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, paras 916, 1136, 1147; [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2758.

⁹⁶⁴⁶ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 618-619.

⁹⁶⁴⁷ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 620.

⁹⁶⁴⁸ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, n. 2113.

3994. The Chamber recalls that, as a matter of law, the elements of the war crime of an attack against a building dedicated to religion do not require any damage or destruction to the object in question, meaning there is no outcome requirement. For the purpose of this war crime, it was sufficient that Mr Yekatom's elements 'directed an attack'. Subsequent taking apart or otherwise 'dismant[ling]' of the Boeing Mosque, as argued by the Yekatom Defence, is immaterial to the Chamber's legal conclusions on the charged crime. This is also supported by the *Ntaganda* Trial Judgment which noted that the elements of this war crime only require the perpetrator to have 'launched an attack against a protected object and it need not be established that the attack caused any damage or destruction to the object in question'.⁹⁶⁴⁹

3995. Accordingly, the Chamber considers that firing a rocket at the mosque during the conduct of hostilities is sufficient to constitute 'directing an attack' at the protected object.

3996. On this basis, the Chamber finds that the first element of the war crime of attacking protected objects, pursuant to Article 8(2)(e)(iv) of the Statute, namely that the perpetrator directed an attack, is met.

Protected object

3997. Further, at the time of the events, Boeing Mosque was serving the Muslim communities of Boeing and Cattin and served no military objective at the time of the attack. Accordingly, the Chamber finds that the second element of the war crime of attacking protected objects, pursuant to Article 8(2)(e)(iv) of the Statute, namely that the object of the attack was one or more buildings dedicated to religion, which were not military objectives, is met.

⁹⁶⁴⁹ *Ntaganda Trial Judgment*, ICC-01/04-02/06-2359, para. 1136. See also *Al Mahdi Trial Judgment*, ICC-01/12-01/15-171, para. 16 noting that the jurisprudence of the ICTY in this regard was of 'limited guidance given that, in contrast to the Statute, its applicable law does not govern "attacks" against cultural objects but rather punishes their "destruction or wilful damage"' and referring to ICTY, Trial Chamber II, *Prosecutor v. Pavle Strugar*, Judgment, 31 January 2005, IT-01-42-T, para. 308 (interpreting the ICTY Statute as requiring actual damage or destruction to the cultural property in relation to Article 3(d) of the ICTY Statute, criminalising 'seizure of, destruction or wilful damage done to institutions dedicated to religion, charity and education, the arts and sciences, historic monuments and works of art and science').

v. *Persecution as a crime against humanity (Count 8)*

3998. Under Count 8, Mr Yekatom and Mr Ngaïssona are charged with the crime of persecution as a crime against humanity pursuant to Article 7(1)(h) of the Statute, for the severe deprivation of the fundamental rights of persons in Bangui, including Cattin and Boeing, by targeting them on the basis of political, ethnic, and/or religious grounds by virtue of the conduct pertaining to Counts 1 to 6.

Recalling of factual findings

3999. In addition to the findings recalled by the Chamber in respect of Counts 1 to 7, the Chamber further recalls that it found that Mr Yekatom knew that the Anti-Balaka perceived, and himself perceived, the Muslims in the CAR as collectively responsible for, complicit in, or supportive of the violence and abuses committed by the Seleka and that the Anti-Balaka targeted the Muslim civilian population, specifically in the west of the CAR, on this basis.⁹⁶⁵⁰

Perpetrator severely deprived, contrary to international law, one or more persons of fundamental rights

4000. As regards the crime forming part of the Bangui Attack, the Yekatom Defence reiterates that this attack concerned ‘a military operation targeting armed combatants and legitimate military targets’.⁹⁶⁵¹ It adds that Counts 6, 26, and 27 would be ‘exception if proven’ and would constitute two discrete incidents and would not establish ‘any alleged pattern of crimes which targeted the Muslim population’.⁹⁶⁵²

4001. In respect of these arguments, the Chamber recalls its findings concerning the Yekatom Defence’s arguments that this attack concerned a legitimate military operation.⁹⁶⁵³ The Chamber also recalls its findings that Mr Yekatom’s group participated in the Bangui Attack pursuant to the Anti-Balaka policy to target the Muslim civilian population.⁹⁶⁵⁴ In light of

⁹⁶⁵⁰ See paragraph 48 above.

⁹⁶⁵¹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 666.

⁹⁶⁵² [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 666.

⁹⁶⁵³ See paragraphs 3952-3957 above.

⁹⁶⁵⁴ See paragraph 3935 above.

this, the Chamber considers that there is no additional requirement in law that incidents underlying persecution otherwise fulfil any distinct pattern of crimes to fall within the definition of this crime.

4002. In respect of the first element of persecution as a crime against humanity, pursuant to Article 7(1)(h) of the Statute, namely that the perpetrator severely deprived, contrary to international law, one or more persons of fundamental rights, the Chamber finds that this requirement is met. Specifically, the Chamber considers that Hassan Mahamat, two unnamed Muslim traders at the Boeing Market, and one unnamed Muslim man in Cattin were deprived of their right to life.⁹⁶⁵⁵ Further, Muslim persons in Boeing and Cattin had to flee following the attack by Mr Yekatom's elements and were deprived of their right to liberty and security of person, right to liberty of movement, right against arbitrary or unlawful interference with their family, and home, right to property.⁹⁶⁵⁶ In respect of the attack on the Boeing Mosque, Muslim civilians were deprived of the right to freedom of religion and the right not to be denied the right to practice their own religion in community with other members of their group.⁹⁶⁵⁷

Targeted by reason of identity of a group or collectivity, or group or collectivity targeted as such

4003. The Chamber notes the Yekatom Defence's arguments concerning persecution that the Prosecution has failed to establish that the crimes discriminatorily targeted the Muslim population.⁹⁶⁵⁸

4004. The Chamber recalls that Mr Yekatom's elements targeted Muslim persons by reason of their perceived religious commonalities with the Seleka, and therefore on religious grounds. In particular, Mr Yekatom's instructed his elements to target Seleka positions along the Boeing-Cattin-PK5 direction and these instructions encompassed attacking the Muslim traders at the Boeing Market.⁹⁶⁵⁹ Mr Yekatom's elements attacked the Boeing Mosque that

⁹⁶⁵⁵ See paragraphs 77, 79 above.

⁹⁶⁵⁶ See paragraph 80 above. See e.g. Articles 3, 12, 13, 17, 18 of the Universal Declaration of Human Rights (the 'UDHR'); Articles 6, 7, 9, 12, 17, 18 and 27 of the International Covenant on Civil and Political Rights (the 'ICCPR').

⁹⁶⁵⁷ See paragraph 78 above. See e.g. Article 18 of the ICCPR.

⁹⁶⁵⁸ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 665.

⁹⁶⁵⁹ See paragraph 75 above.

served the Muslim communities of Boeing and Cattin.⁹⁶⁶⁰ Mr Yekatom's elements further targeted the Muslim man in Cattin on the basis that he was an 'Arab'.⁹⁶⁶¹

4005. On this basis, the Chamber finds that the requirements are met in respect of the second and third element of persecution as a crime against humanity, pursuant to Article 7(1)(h) of the Statute, namely that the perpetrator targeted such person or persons by reason of the identity of a group or collectivity or targeted the group or collectivity as such and such targeting was based on political, racial, national, ethnic, cultural, religious, gender as defined in article 7, paragraph 3, of the Statute, or other grounds that are universally recognised as impermissible under international law.

Committed in connection with any act referred to in Article 7(1) of the Statute or any crime within the jurisdiction of the Court

4006. In respect of the fourth element of persecution as a crime against humanity, pursuant to Article 7(1)(h) of the Statute, namely that the conduct was committed in connection with any act referred to in Article 7, paragraph 1, of the Statute or any crime within the jurisdiction of the Court, the Chamber finds that this requirement is met by virtue of the conduct of Mr Yekatom's elements satisfying the requirements of the crimes against humanity of murder, forcible transfer, and deportation, and war crimes of attack against civilian population as such, directing an attack against protected objects, and displacement, as found above.

b. Individual criminal responsibility

i. Mr Yekatom

4007. The Chamber now turns to Mr Yekatom's responsibility under Counts 1 to 6 and 8. Mr Yekatom is alleged to have committed the aforementioned crimes 'jointly with' or 'through' others under Article 25(3)(a) of the Statute.

⁹⁶⁶⁰ See paragraph 78 above.

⁹⁶⁶¹ See paragraph 79 above.

*Control over the crimes or control of person(s) who
execute the material elements of the crime*

4008. The Chamber recalls that the crimes charged under Counts 1 to 6 and 8 were committed by Mr Yekatom and his elements during their attack on Boeing and Cattin, as part of a coordinated attack on Bangui on 5 December 2013.

4009. The Chamber recalls that, in 2013, Mr Yekatom formed a group, including Cœur de Lion and Habib Beina, over which he assumed control with a view to planning a response to the Seleka violence and removing Djotodia and the Seleka from power.⁹⁶⁶²

4010. On 5 December 2013, Mr Yekatom's group coordinated with other Anti-Balaka groups to participate in the Bangui Attack.⁹⁶⁶³ The movement of Mr Yekatom's group in the bush, when superimposed onto those from other groups who proceeded towards Bangui along the same time frame, shows that this coordination had begun well before November 2013.⁹⁶⁶⁴ In the months leading up to this attack, Mr Yekatom and his group armed and trained in the bush.⁹⁶⁶⁵ In the afternoon of 4 December 2013, Mr Yekatom chose some of his elements and instructed them to move towards Bangui.⁹⁶⁶⁶ Mr Yekatom's instructions to his elements concerning the attack on 5 December 2013 were to fight the Seleka and included targeting sectors where Muslims are to be found.⁹⁶⁶⁷ Mr Yekatom's instructions were understood by the elements to accept that Muslim civilians would be killed as a result of the fighting based on his elements not having been trained or instructed to apply the principle of distinction during combat and bearing strong anti-Muslim sentiment and feelings of vengeance against the Seleka.⁹⁶⁶⁸ On the night of 4 December 2013, Mr Yekatom and some of his elements conducted reconnaissance and visited the Boeing Market to assess its precise geographical location and conduct reconnaissance.⁹⁶⁶⁹ The same night, Mr Yekatom instructed his elements to target Seleka positions along the Boeing-Cattin-PK5 direction and this included

⁹⁶⁶² See paragraph 36 above.

⁹⁶⁶³ See paragraph 73 above.

⁹⁶⁶⁴ See paragraph 73 above.

⁹⁶⁶⁵ See paragraph 73 above.

⁹⁶⁶⁶ See paragraph 74 above.

⁹⁶⁶⁷ See paragraph 74 above.

⁹⁶⁶⁸ See paragraph 74 above.

⁹⁶⁶⁹ See paragraph 75 above.

attacking the Muslims traders at the Boeing Market before moving along the route to PK5.⁹⁶⁷⁰ On 5 December 2013, Mr Yekatom was himself present in the group that arrived at the Boeing Market and launched the attack on Boeing by firing his automatic pistol in the air.⁹⁶⁷¹ It was on his instructions that his elements carried out the attack on the Boeing Market and the Boeing Mosque during their advance towards PK5.⁹⁶⁷²

4011. The Chamber found that Mr Yekatom's group was seen as and understood to be part of the Anti-Balaka.⁹⁶⁷³ Accordingly, the Chamber considers that the Anti-Balaka could rely on him to execute the Anti-Balaka policy to target Muslim civilians.

4012. The Chamber further considers that his role as the founder and chief of his group, as well as the one providing instructions and himself participating in the Bangui Attack, and that Mr Yekatom had control over the crimes committed by the elements in his group. On the basis of the factual conclusions recalled above, the Chamber finds that Mr Yekatom was aware of how his elements would interpret his instructions to 'target those sectors where Muslims were to be found' and not restrict their attack to the Seleka. Mr Yekatom was aware that his instructions would be understood as also targeting Muslim civilians.

4013. In relation to Counts 1, 4, 5 and 8, the Chamber finds that Mr Yekatom's responsibility underlying these counts is best captured as a direct perpetrator for having founded his group and himself launching and carrying out the attack, as a chief of his group and an armed participant in it. In arriving at this conclusion, the Chamber has considered that parts of the attack launched by Mr Yekatom were not committed directly by him but indirectly through other elements in his group. This included Alkanto who shot the 'rocket' at the Boeing Mosque and Cœur de Lion and Habib Beina, who shot at the Muslim traders at the Boeing Market, and unnamed elements who killed the Muslim man in Cattin. However, in the view of the Chamber, the mode of responsibility of indirectly committing through others does not fully or meaningfully capture the entirety of Mr Yekatom's conduct underlying these counts. Particularly, in respect of Counts 4 and 5, the Chamber considers that it was the entirety of

⁹⁶⁷⁰ See paragraph 75 above.

⁹⁶⁷¹ See paragraph 76 above.

⁹⁶⁷² See paragraphs 76, 78 above.

⁹⁶⁷³ See paragraph 63 above.

Mr Yekatom's conduct, as discussed above, that created the conditions, including an environment of fear of violence, as a result of which the Muslims in Boeing and Cattin fled.

Mental elements

4014. As regards Mr Yekatom's *mens rea*, the Chamber first recalls its factual findings above.⁹⁶⁷⁴

4015. The Chamber considers that Mr Yekatom's conduct in the context of the Bangui Attack was such that it can only have been intentional. Further, and on this basis, the Chamber finds that Mr Yekatom (i) intended to carry out an attack against the Muslim civilian population of Boeing and Cattin;⁹⁶⁷⁵ (ii) intended his elements to murder Muslim traders at the Boeing Market, including Hassan Mahamat and two unnamed Muslim traders; (iii) knew that his elements would kill Muslim civilians in Cattin; (iv) knew that his elements would attack the Boeing Mosque; and (v) knew that the launching of his attack and the instructions to his elements would cause the Muslims from Boeing and Cattin to flee.

4016. The Chamber further considered that Mr Yekatom knew that his act of launching an attack on Boeing, his own participation in the attack, his instructions to target 'all sectors' where Muslims are to be found, and his instructions to his elements on the eve of the Bangui Attack would create the conditions forcing a majority of Muslims in Boeing and Cattin to leave. The Chamber finds no merit in the Yekatom Defence's argument that the Prosecution did not 'lead any evidence which would depict Mr Yekatom undertaking acts which threaten or intimidate the Muslim population in a manner calculated to force the population to leave Boeing or Cattin'.⁹⁶⁷⁶ Having to show that the accused's acts were 'calculated to force the population to leave' introduces an additional mental requirement that does not exist in the elements of the crime. In the view of the Chamber, it is sufficient that Mr Yekatom knew his act to cause the Muslim persons to flee.

4017. Turning to the specific knowledge requirements concerning the charged crimes, the Chamber considers that Mr Yekatom and his elements knew that Muslim traders would be present on the morning of 5 December 2013 given the reconnaissance that Mr Yekatom and his

⁹⁶⁷⁴ See paragraphs 73-80 above.

⁹⁶⁷⁵ See also paragraphs 3958-3960 above.

⁹⁶⁷⁶ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 604.

elements conducted on the night of 4 December 2013. Mr Yekatom, as a FACA member, knew that unarmed Muslim traders at the Boeing Market enjoyed civilian protection. Mr Yekatom's elements, including P-1339, knew that Hassan Mahamat, a Muslim trader bearing a weapon at the time of the attack, was firing in self-defence. Mr Yekatom and his elements must have known that Hassan was employing necessary and proportionate force in self-defence.

4018. The perpetrator need only be aware of the factual circumstances that established the victim's status. In this context, the Chamber recalls that international humanitarian law explicitly provides for situations where there is doubt as to a person's civilian status: in case of doubt whether a person is a civilian, that person shall be considered to be civilian.⁹⁶⁷⁷ Mr Yekatom and his elements must have been aware that they should operate on this basis. Even if entertaining the possibility that Mr Yekatom and his elements may have held the suspicion or an inaccurate assumption that all or some Muslim traders at the Boeing Market were Seleka, such a possibility, suspicion or assumption of the perpetrator does not change the status of the victims at the time of the attack, nor the applicable law.

4019. As regards the unnamed Muslim man in Cattin, the Chamber finds that Mr Yekatom and his elements must have known that Muslims were living in Cattin before and at the time of the Bangui Attack. Mr Yekatom knew that his elements would target Muslim civilians during the attack on Bangui, given his instructions to his elements prior thereto. Mr Yekatom knew that, just before attacking Cattin, his elements had targeted Muslim civilians and a building dedicated to Muslim religion.

4020. In light of the above, the Chamber finds that Mr Yekatom and his elements were aware of the factual circumstances that established the civilian status of all the four Muslim men that Mr Yekatom's elements killed. Accordingly, the Chamber finds that the third element of murder as a war crime pursuant to Article 8(2)(c)(i) of the Statute is met.

4021. Second, the Chambers considers that Mr Yekatom and his elements must have known that Muslims were living in Boeing and Cattin before and at the time of the Bangui Attack and

⁹⁶⁷⁷ [Mbarushimana Confirmation Decision](#), ICC-01/04-01/10-465-Red, para. 148.

when he launched the attack on 5 December 2013, and that their presence was lawful. Accordingly, the Chamber finds that Mr Yekatom and his elements were aware of the factual circumstances that established the lawfulness of the presence of Muslims in Boeing and Cattin.

4022. Accordingly, the Chamber finds that the third element of deportation or forcible transfer as a crime against humanity pursuant to Article 7(1)(d) of the Statute, namely that perpetrator was aware of the factual circumstances that established the lawfulness of such presence, is met.

4023. Third, the Chamber recalls Mr Yekatom's instructions concerning the attack on 5 December 2013 included targeting sectors where 'Muslims' were to be found. Mr Yekatom's elements were aware that they were attacking a religious building and that it did not serve any military objective. Taking these two facts together, the Chamber finds that Mr Yekatom's elements intended Boeing Mosque to be the object of the attack. Accordingly, the Chamber finds that the requirement is met in respect of the third element of the war crime of attacking protected objects, pursuant to Article 8(2)(e)(iv) of the Statute, namely that the perpetrator intended such building dedicated to religion to be the object of the attack.

4024. In addition to the above, the Chamber recalls its findings that Mr Yekatom knew that his elements perceived, and himself perceived, the Muslims in the CAR as collectively responsible for, complicit in, or supportive of the violence and abuses committed by the Seleka and that the Anti-Balaka targeted the Muslim civilian population, specifically in the west of the CAR, on this basis.⁹⁶⁷⁸ On this basis, the Chamber concludes that Mr Yekatom meant for the Muslim civilian population in Boeing and Cattin to be severely deprived of its rights on the basis of their religious and ethnic commonalities with the Seleka. Accordingly, the specific intent requirement applicable to the crime against humanity of persecution, pursuant to Article 7(1)(h) of the Statute, is also met.

⁹⁶⁷⁸ See paragraph 48 above.

Conclusion

4025. On the basis of the above, for Counts 1, 4, 5 and 8, the Chamber finds that Mr Yekatom committed jointly with others, within the meaning of Article 25(3)(a) of the Statute: (i) an attack against the civilian population of Boeing and Cattin as such as a war crime pursuant to Article 8(2)(e)(i) of the Statute (Count 1); (ii) forcible transport and deportation as a crime against humanity pursuant to Article 7(1)(d) of the Statute, of a majority of Muslim persons in Boeing and Cattin (Count 4); (iii) displacement as a war crime pursuant to Article 8(2)(e)(viii) of the Statute, of the Muslim civilian population in Boeing and Cattin (Count 5); and (iv) persecution as a crime against humanity pursuant to Article 7(1)(h) of the Statute (Count 8).

4026. For Counts 2 and 3, the Chamber finds that, based on the same conduct outlined above, Mr Yekatom committed through others, within the meaning of Article 25(3)(a) of the Statute, the crimes of murder as a crime against humanity, pursuant to Article 7(1)(a) of the Statute (Count 2), and murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute (Count 3). As regards Count 6, the Chamber finds that Mr Yekatom committed through others, within the meaning of Article 25(3)(a) of the Statute, the war crime of attacking a building dedicated to religion, pursuant to Article 8(2)(e)(iv) of the Statute (Count 6).

ii. Mr Ngaïssona

4027. The Chamber now turns to Mr Ngaïssona's responsibility under Counts 1 to 6 and 8. Mr Ngaïssona is alleged to have committed the aforementioned crimes by facilitating the commission of the crimes as set out in the confirmed charges by aiding, abetting or otherwise assisting in their commission under Article 25(3)(c) of the Statute.

Recalling of factual findings

4028. The Chamber found that, during the period that Mr Yekatom was forming his group in 2013,⁹⁶⁷⁹ Mr Ngaïssona was actively involved in planning steps to respond to the Seleka violence in the CAR and to ensure François Bozizé's return to power by meeting and liaising

⁹⁶⁷⁹ See paragraph 36 above.

with François Bozizé, Bernard Mokom and others to discuss strategies and plans, reaching out to individuals within and outside of the CAR with a view to gathering support for their cause, and providing financial assistance to those willing to assist in their activities.⁹⁶⁸⁰

Mr Ngaïssona was one of the members of FROCCA, the objective of which was to advocate for the return to ‘the constitutional order’, which signified the return of François Bozizé to power.⁹⁶⁸¹

4029. Through meetings in Cameroon and communications with individuals in Zongo, in particular Maxime Mokom, Mr Ngaïssona and others planned steps to respond to the Seleka violence in the CAR as well as to ensure François Bozizé’s return to power, by all means possible, including through armed violence.⁹⁶⁸² Mr Yekatom’s group was one such group that was formed with a view to planning a response to the Seleka violence and removing Michel Djotodia and the Seleka from power.⁹⁶⁸³

4030. The Anti-Balaka groups, which had formed in the provinces and in part gathered together at Gobere, started their advance towards Bangui, with the ultimate objective to attack the capital in order to remove Michel Djotodia from power and oust the Seleka from the CAR. In this advance, various Anti-Balaka groups started engaging in attacks against the Seleka from September 2013 onwards. Such attacks were not limited to Seleka forces, but included attacking localities with Muslim civilians.⁹⁶⁸⁴

4031. During this period of at least September to December 2013 and prior to the Bangui Attack, Mr Ngaïssona provided financial contributions and engaged in activities pertaining to the organisation and coordination of groups for the purpose of facilitating the commission of criminal acts targeting the Muslim population.⁹⁶⁸⁵ This included killings and dislocating of Muslim civilians from around Bossangoa, Bouca (Ouham prefecture), in Ndjo, Bossembélé, Boali and Gaga (Ombella-M’Poko prefecture), as well as in Bouar (Nana-Mambéré prefecture), including the attack on Bossangoa in September 2013.⁹⁶⁸⁶ Mr Ngaïssona knew

⁹⁶⁸⁰ See paragraph 35 above.

⁹⁶⁸¹ See paragraph 39 above.

⁹⁶⁸² See paragraph 34 above.

⁹⁶⁸³ See paragraph 36 above.

⁹⁶⁸⁴ See paragraph 50 above.

⁹⁶⁸⁵ See paragraph 38 above.

⁹⁶⁸⁶ See paragraphs 52-53, 56 above.

and was informed of the advance of the groups towards Bangui as well as of the hostilities during this advance, including the killings and dislocation of Muslim civilians from these locations.⁹⁶⁸⁷

4032. The plan to mount an attack on Bangui existed at least as of 30 November 2013.⁹⁶⁸⁸ By the beginning of December 2013, several thousand Anti-Balaka elements had arrived at the outskirts of Bangui to participate in an attack.⁹⁶⁸⁹ This included Mr Yekatom's elements that arrived at a location situated near the Bangui airport on 4 December 2013 and carried out preparations on the eve of the Bangui Attack.⁹⁶⁹⁰ The movement of Mr Yekatom's group in the bush, when superimposed onto those from other groups who proceeded towards Bangui along the same time frame, shows that this coordination had begun well before November 2013.⁹⁶⁹¹

4033. In the early morning hours of 5 December 2013, the Anti-Balaka mounted a coordinated attack on Bangui.⁹⁶⁹² This included Mr Yekatom's group that attacked Boeing and Cattin.⁹⁶⁹³ A radio statement issued by FROCCA on 5 December 2013 in relation to the attack on Bangui referred to the attack as '*[l]e rétablissement de l'ordre fonctionnel*' and further stated that the Anti-Balaka '*sont des Centrafricains pour aller libérer leur pays des jougs des djihadistes venus du D[arfour], du T[chad], du S[oudan]*'.⁹⁶⁹⁴

Aiding, abetting or otherwise assisting

4034. In light of the above, the Chamber finds that Mr Ngaïssona, by funding and supporting the Anti-Balaka prior to the attacks on Bangui and Bossangoa on 5 December 2013 aided, abetted, or otherwise assisted in the commission of the aforementioned crimes during the Bangui Attack by Mr Yekatom and his elements.

⁹⁶⁸⁷ See paragraph 56 above.

⁹⁶⁸⁸ See paragraph 69 above.

⁹⁶⁸⁹ See paragraph 70 above.

⁹⁶⁹⁰ See paragraphs 74-75 above.

⁹⁶⁹¹ See paragraph 73 above.

⁹⁶⁹² See paragraphs 69-72 above.

⁹⁶⁹³ See paragraphs 69, 73-79 above.

⁹⁶⁹⁴ See paragraph 71 below.

Mental elements

4035. As regards Mr Ngaïssona's *mens rea*, the Chamber recalls its finding that Mr Ngaïssona knew that an attack would take place on Bangui.⁹⁶⁹⁵ Mr Ngaïssona provided funds to Anti-Balaka elements that participated in the Bangui Attack.⁹⁶⁹⁶ Mr Ngaïssona made his contributions prior to the Bangui Attack, in which Mr Yekatom's elements participated,⁹⁶⁹⁷ fully aware that the Anti-Balaka would violently target the Muslim civilian population in the west of the CAR, committing the widespread attack that ultimately took place from September 2013 through February 2014, including the seminal coordinated Anti-Balaka attacks of Bangui and Bossangoa on 5 December 2013.⁹⁶⁹⁸ Mr Ngaïssona knew and was informed of the advance of the groups towards Bangui as well as of the hostilities during this advance, including the killings and dislocation of Muslim civilians from these locations.⁹⁶⁹⁹ Mr Ngaïssona knew that the Anti-Balaka perceived, and himself perceived, the Muslims in the CAR as collectively responsible for, complicit in, or supportive of the violence and abuses committed by the Seleka and that the Anti-Balaka targeted the Muslim civilian population, specifically in the west of the CAR, on this basis.⁹⁷⁰⁰ Further, the Chamber finds that Mr Ngaïssona must have known that Muslim civilians lived in Bangui, particularly, in Boeing and Cattin.

4036. Having regard to the above, the Chamber finds that Mr Ngaïssona (i) intended for Muslim civilians to be attacked during the attack on Boeing and Cattin; (ii) intended for Muslim civilians to be killed; and (iii) intended for Muslim civilians to be dislocated.

4037. Turning to the special intent requirement that Mr Ngaïssona's assistance was made with the aim of facilitating the commission of the charged crimes, the Chamber considers that it is not required for the Chamber to assess, as a matter of law, whether Mr Ngaïssona's actions had any effect on such crimes, contrary to what is argued by the Ngaïssona Defence.⁹⁷⁰¹ Nonetheless, the Chamber has indeed considered Mr Ngaïssona's financial aid and

⁹⁶⁹⁵ See paragraph 70 above.

⁹⁶⁹⁶ See paragraph 70 above.

⁹⁶⁹⁷ See paragraphs 69, 73-79 above.

⁹⁶⁹⁸ See paragraph 49 above.

⁹⁶⁹⁹ See paragraphs 56 above.

⁹⁷⁰⁰ See paragraphs 49 above.

⁹⁷⁰¹ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 402-403, 405.

psychological support, in the very least, to have had a positive effect on the commission of the crimes during the Bangui Attack. The Chamber further considered that Mr Ngaïssona provided this financial aid, organisational assistance, and psychological support to the Anti-Balaka in the context of anti-foreign sentiments and inflammatory rhetoric openly expressed by François Bozizé and others, which incited vigilance against those perceived to support the Seleka, in particular Muslim civilians.⁹⁷⁰²

4038. Consistent with the jurisprudence of the court, and contrary to the Ngaïssona Defence arguments,⁹⁷⁰³ the Chamber need not require a causal link between Mr Ngaïssona's aid and assistance to the Anti-Balaka and the crimes committed by them. Similarly, the Chamber recalls that no minimum threshold of such assistance was necessary, as a matter of law, and therefore, the Chamber considers the Ngaïssona Defence's arguments concerning the limited nature of his support⁹⁷⁰⁴ immaterial to its determination. It was further not required, as argued,⁹⁷⁰⁵ that Mr Ngaïssona's assistance must have been made to specific persons or a specific group. In this regard, financial or psychological assistance generally to the Anti-Balaka, without identifying any specific element or group, was sufficient. Mr Ngaïssona need not have been personally in contact with Mr Yekatom or his group, or indeed with any of the Anti-Balaka elements on the ground, to have assisted the commission of the crimes by them. Further, Mr Ngaïssona need not have known all the details of the crimes, simply that the Anti-Balaka will commit the crimes in the ordinary course of events. In this respect, the Chamber is satisfied when looking at such crimes on a macro-level and not the specific details of these crimes, of which Mr Ngaïssona would have had knowledge of.

4039. The Chamber further notes the Ngaïssona Defence's arguments on the facts that Mr Ngaïssona was concerned about the scale of the criminality to which the civilian population was subjected to under the Seleka regime and that it was in this context that he tried to mobilise parts of the population in Bangui or attend meetings in Paris as part of the FROCCA group.⁹⁷⁰⁶ The Ngaïssona Defence also argues that '[e]ven taken at its highest, the

⁹⁷⁰² See paragraph 46 above.

⁹⁷⁰³ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 399-400, 404-406.

⁹⁷⁰⁴ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 403, 406.

⁹⁷⁰⁵ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 404.

⁹⁷⁰⁶ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 566, 571-575.

flimsy and inconsistent hearsay evidence supporting Mr N[gaïssona's] nominal financial assistance aligns more with humanitarian assistance than with the financing of an armed struggle'.⁹⁷⁰⁷ It submits that upon his return to Bangui, Mr Ngaïssona gave money for transportation, accommodation and food, and that his financial contributions were humanitarian in nature and therefore had no bearing on the occurrence of any crimes and/or manner of their commission.⁹⁷⁰⁸

4040. The Chamber considers that also financial assistance provided for purposes other than purchase of weapons or ammunition, or other matters not directly linked to specific hostile acts, can amount to a form of assistance through which liability under the Statute can be incurred, as long as the required elements under the Statute are fulfilled. Indeed, the Chamber considers that also financial contributions which aim at sustaining an armed group, such as to provide for its food or other sustenance, can amount to such assistance. This is because, in the view of the Chamber, such financial assistance contributes to maintaining such armed group in existence and operation.

4041. In the view of the Chamber, regardless of what Mr Ngaïssona's concerns and motives may have been at the time, it is clear, on the facts, that Mr Ngaïssona provided financial, organisational and psychological support to the Anti-Balaka with the knowledge of the crimes that the Anti-Balaka were committing during their advance towards Bangui. Overall, the Chamber finds that Mr Ngaïssona's assistance was such that it could only have been provided intentionally with the aim of facilitating the concerned crimes.

4042. Having regard to the above, the Chamber finds that Mr Ngaïssona provided his financial contributions and support to the Anti-Balaka for the purpose of facilitating the crimes against the Muslim civilian population, including killings and dislocation of Muslims. In particular, the Chamber notes that Mr Ngaïssona knew and was informed of the hostilities committed by the Anti-Balaka during their advance towards Bangui. These included the killings and dislocation of Muslims on seven different locations in and around Bossangoa prior to the Bangui Attack and Bossangoa Attack,⁹⁷⁰⁹ committed by the Anti-Balaka groups coordinating

⁹⁷⁰⁷ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 458.

⁹⁷⁰⁸ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 510-512.

⁹⁷⁰⁹ See paragraphs 52-53 above.

with each other.⁹⁷¹⁰ The Chamber infers that Mr Ngaïssona would have known that, during the ordinary course of these attacks, the Anti-Balaka would also attack buildings dedicated to the Muslim religion. Despite this, Mr Ngaïssona continued to provide funds to Anti-Balaka that participated in the Bangui Attack.⁹⁷¹¹ Mr Ngaïssona's financial support made it possible for at least some of the elements to participate in the attacks during the advance and during the seminal attacks on Bangui and Bossangoa.

4043. Accordingly, the Chamber finds that the only reasonable conclusion in these circumstances is that Mr Ngaïssona was not only aware that the Anti-Balaka would commit these crimes in the ordinary course of events, but intended for them to commit these crimes in Bangui during the Bangui Attack and lent his assistance with the aim of facilitating such crimes.

4044. Turning to the specific knowledge requirements concerning a number of the charged crimes, the Chamber recalls its finding that Mr Yekatom's instructions to his elements included targeting sectors where 'Muslims' were to be found. Mr Yekatom's instructions were understood by the elements to accept that Muslim civilians would be killed as a result of the fighting based on his elements not having been trained or instructed to apply the principle of distinction during combat and bearing strong anti-Muslim sentiment and feelings of vengeance against the Seleka.⁹⁷¹² Mr Yekatom also instructed his elements to target Seleka positions along the Boeing-Cattin-PK5 direction and these instructions encompassed attacking the Muslim traders at the Boeing Market before moving along the route to PK5.⁹⁷¹³ The Chamber further found that Mr Ngaïssona knew and was informed of the advance of the groups towards Bangui as well as of the hostilities during this advance, including the killings and dislocation of Muslim civilians from the locations mentioned.⁹⁷¹⁴

4045. On this basis, the Chamber finds that the following specific knowledge requirements are met: (i) that the perpetrator was aware of the victims being either *hors de combat*, or civilians, medical personnel or religious personnel taking no active part in hostilities, applicable to murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute; and (ii) that

⁹⁷¹⁰ See paragraphs 50-51 above.

⁹⁷¹¹ See paragraph 70 above.

⁹⁷¹² See paragraph 74 above.

⁹⁷¹³ See paragraph 75 above.

⁹⁷¹⁴ See paragraph 56 above.

the perpetrator was aware of the factual circumstances establishing the lawfulness of presence in the area, applicable to forcible transfer and deportation as a crime against humanity, pursuant to Article 7(1)(d) of the Statute.

4046. Turning to the specific intent requirements concerning a number of charged crimes, the Chamber recalls the same findings as above, as well as its finding that Mr Ngaïssona knew that the Anti-Balaka perceived, and himself perceived, the Muslims in the CAR as collectively responsible for, complicit in, or supportive of the violence and abuses committed by the Seleka and that the Anti-Balaka targeted the Muslim civilian population, specifically in the west of the CAR, on this basis.⁹⁷¹⁵

4047. On this basis, the Chamber concludes that Mr Ngaïssona intended the Muslim civilian population of Boeing and Cattin to be the object of the attack, intended the Boeing Mosque to be the object of the attack, and also intended the Muslim civilian population to be discriminated against on the basis of their religious and ethnic commonalities with the Seleka. Accordingly, the specific intent requirements applicable to the war crime of directing an attack against the civilian population as such, pursuant to Article 8(2)(e)(i) of the Statute, the war crime of attacking protected objects, pursuant to Article 8(2)(e)(iv) of the Statute, and the crime against humanity of persecution, pursuant to Article 7(1)(h) of the Statute, are also met.

Conclusion

4048. On the basis of the above, the Chamber therefore finds that, within the context of the attack on Bangui, including Boeing and Cattin, carried out by the Anti-Balaka including Mr Yekatom's group on 5 December 2013, Mr Ngaïssona aided, abetted or otherwise assisted, within the meaning of Article 25(3)(c) of the Statute, the commission of the following crimes: (i) attack against the civilian population as such as a war crime pursuant to Article 8(2)(e)(i) of the Statute (Count 1); (ii) murder as a crime against humanity, pursuant to Article 7(1)(a) of the Statute (Count 2); (iii) murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute (Count 3); (iv) forcible transfer and deportation as a crime

⁹⁷¹⁵ See paragraph 49 above.

against humanity, pursuant to Article 7(1)(d) of the Statute (Count 4); (v) displacement as a war crime, pursuant to Article 8(2)(e)(viii) of the Statute (Count 5); (vi) directing an attack against a building dedicated to religion, pursuant to Article 8(2)(e)(iv) of the Statute (Count 6); and (vii) persecution as a crime against humanity, pursuant to Article 7(1)(h) of the Statute (Count 8).

ii. Crimes committed in the context of the attack on Bossangoa on 5 December 2013 and thereafter (Counts 30 to 35, 37 to 42)

a. Crimes committed

4049. The Chamber recalls that considering the evidence before it, it was unable to conclude on the timing or perpetrators of looting in Bossangoa (Count 34),⁹⁷¹⁶ as well as on who was responsible for the destruction of the central mosque of Bossangoa (Count 35).⁹⁷¹⁷

i. Attack against the civilian population as such as a war crime (Count 30)

4050. Under Count 30, Mr Ngaïssona is charged with the war crime of directing an attack against the civilian population as such, pursuant to Article 8(2)(e)(i) of the Statute, in Bossangoa on 5 December 2013, on the basis of the conduct pertaining to Counts 31 to 33, 35, 37 and 39 to 42.

Recalling of factual findings

4051. The Chamber found that on 5 December 2013, in coordination with the Anti-Balaka attack on Bangui on the same day, Anti-Balaka elements, divided into two groups led by Florent Kema and Théophile Ndangba, respectively, carried out an attack on the town of Bossangoa which started at approximately 13:00 and lasted until the late afternoon or early evening.⁹⁷¹⁸ The Chamber also found that during the attack, the Anti-Balaka targeted residential areas, including the Boro neighbourhood, generally known as the Muslim neighbourhood in

⁹⁷¹⁶ See paragraph 2938 above.

⁹⁷¹⁷ See paragraph 2955 above.

⁹⁷¹⁸ See paragraph 81 above.

Bossangoa, with the intention of showing that the Anti-Balaka were attacking not only Bangui but also in the provinces, and to ‘free’ the town from Seleka and all Muslims, thereby targeting Muslim civilians and drawing no distinction between them and the Seleka.⁹⁷¹⁹ The Chamber found that during the attack, the Anti-Balaka was well armed, with some AK-47s and RPGs, as well as hunting weapons.⁹⁷²⁰ The Chamber further found that during the attack, several individuals were injured, an Anti-Balaka element forced P-2462 into sexual intercourse, and at least 18 persons were killed.⁹⁷²¹ The Chamber also found that during the attack, the Muslim civilian population of Bossangoa fled the attacked neighbourhoods to seek shelter at the *École de la Liberté*, where their numbers rose into several thousands.⁹⁷²² The Chamber found that the Muslim civilians that had sought refuge at the *École de la Liberté* remained confined to the school premises for fear of threats by the Anti-Balaka, staying there in cramped and generally dire conditions.⁹⁷²³

‘Directing an attack’

4052. The Ngaïssona Defence argues that the Anti-Balaka carried out the attack lawfully, with the sole aim of targeting military objectives and objects, or anyone who actively took part in the hostilities.⁹⁷²⁴ Specifically, it argues that the Anti-Balaka did not attack indiscriminately, took precautionary measures not to target civilians, and that the civilian population in Bossangoa was not the target because (i) the Anti-Balaka targeted legitimate military objectives and (ii) a large proportion of civilians actively participated in hostilities.⁹⁷²⁵ The Ngaïssona Defence also submits that the attack was proportionate.⁹⁷²⁶

4053. On the facts, the Chamber recalls its discussion in relation thereto above, in which it concluded that the great majority of Muslims in Bossangoa did not join the Seleka and were not otherwise armed at the time of the attack.⁹⁷²⁷ On the law, the Chamber recalls that a

⁹⁷¹⁹ See paragraph 82 above.

⁹⁷²⁰ See paragraph 82 above.

⁹⁷²¹ See paragraphs 83-84 above.

⁹⁷²² See paragraph 86 above.

⁹⁷²³ See paragraph 87 above.

⁹⁷²⁴ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 291.

⁹⁷²⁵ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 292-308.

⁹⁷²⁶ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 309-311.

⁹⁷²⁷ See paragraphs 2811-2814 above.

civilian population need not be the sole and exclusive target of an attack.⁹⁷²⁸ The presence within the civilian population of individuals who do not fit within the definition of civilians does not deprive the entire population of its civilian character.⁹⁷²⁹ Therefore, even if the Ngaïssona Defence's arguments are to be believed that the Anti-Balaka targeted legitimate military objectives, this did not deprive the civilian population in Bossangoa of its civilian character as such.

4054. Furthermore, this crime may be established if an operation targeted a legitimate military objective when it can be shown that the primary object of the attack was the civilian population or individual civilians.⁹⁷³⁰

Object of the attack

4055. Recalling in this regard its findings that the Anti-Balaka attacked residential areas and targeted Muslim civilians in Bossangoa, being well armed with some AK-47s, RPGs and hunting weapons while doing so, and on the basis of the above, the Chamber concludes that the Anti-Balaka directed an intentional attack against the Muslim civilian population as such in Bossangoa.

ii. Murder as a crime against humanity and as a war crime (Counts 31 and 32)

4056. Under Counts 31 and 32, Mr Ngaïssona is charged with murder as a crime against humanity, pursuant to Article 7(1)(a) of the Statute, and murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, on 5 December 2013 in Bossangoa.

Killing of one or more persons

4057. The Chamber found that in the course of the attack on Bossangoa, the Anti-Balaka killed at least 18 persons.⁹⁷³¹ Thus, the Chamber finds that the first legal element of both murder as a

⁹⁷²⁸ [Mbarushimana Confirmation Decision](#), ICC-01/04-01/10-465-Red, para. 142.

⁹⁷²⁹ [Mbarushimana Confirmation Decision](#), ICC-01/04-01/10-465-Red, para. 148.

⁹⁷³⁰ [Onqwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2760 referring to [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, paras 921, 923; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, para. 802.

⁹⁷³¹ See paragraph 84 above.

crime against humanity, pursuant to Article 7(1)(a) of the Statute, and murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, namely that the perpetrator killed one or more persons, is met.

4058. The Ngaïssona Defence argues that the identity and *mens rea* of the perpetrator(s) are not established as ‘it is impossible to discount the possibility that the alleged victims might have been unfortunately killed in cross or friendly fire’.⁹⁷³²

4059. The Chamber considers that, as a matter of law, it is not necessary to identify the specific perpetrator(s) within the Anti-Balaka responsible for the killings,⁹⁷³³ as long as it is otherwise satisfied beyond reasonable doubt that it was Anti-Balaka elements who committed these killings.

4060. In this regard, the Chamber recalls its finding, on the basis of its analysis of the evidence before it, that it was indeed the Anti-Balaka who killed the individuals.

Status of the persons killed

4061. The Ngaïssona Defence further argues that the Chamber ‘cannot reasonably exclude the possibility that the alleged victims might have been actively participating in hostilities at the time of their death’.⁹⁷³⁴

4062. The Chamber recalls in this regard its finding, on the basis of its analysis of the evidence before it, that the persons found to have been killed by the Anti-Balaka were not armed or taking part in hostilities.⁹⁷³⁵ Specifically, the Chamber considered the evidence before it indicating that these individuals were not members of the Seleka, not armed at the time of their death, and not otherwise engaged in fighting against the Anti-Balaka at the time of their death on 5 December 2013. The argument of the Ngaïssona Defence that it cannot be ‘excluded’ that the victims ‘might’ have actively participated in hostilities is, without more,

⁹⁷³² [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 334-335.

⁹⁷³³ [Bemba Trial Judgment](#), ICC-01/05-01/08-3343, para. 87. See e.g. [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, paras 2976, 3011, 3116; ICTY, Trial Chamber II, *Prosecutor v. Boškoški and Tarčulovski*, Judgment, 10 July 2008, IT-04-82-T, paras 312, 346, 577-578, 607.

⁹⁷³⁴ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 331.

⁹⁷³⁵ See paragraph 84 above.

speculative and therefore inapt to impact the Chamber's conclusion. The Chamber finds that there are no indications in the evidence to suggest that the individuals found to have been killed by the Anti-Balaka during the attack in Bossangoa on 5 December 2013 had lost their protected status as civilians at the time of their death.

4063. On the basis of the above, the Chamber therefore finds that the second element of murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, namely that the person or persons killed were either *hors de combat*, or were civilians, medical personnel, or religious personnel taking no active part in the hostilities, is also met.

iii. Destruction of the adversary's property as a war crime (Count 33)

4064. Under Count 33, Mr Ngaïssona is charged with destruction of property as a war crime, pursuant to Article 8(2)(e)(xii) of the Statute, on 5 December 2013 and in the days thereafter in Bossangoa.

Destruction of certain property

4065. The Chamber found that at some point between 5 and 8 December 2013, the Anti-Balaka burned and destroyed residential structures, lived in by Muslims at the time of the attack, in the immediate vicinity of the imam's residence.⁹⁷³⁶ Accordingly, the Chamber finds that the first element of the war crime of destruction of property, namely that the perpetrator destroyed certain property, is met.

Property of an adversary

4066. The property in question belonged to the individuals living in the residences in the immediate vicinity of the imam's property, which the Chamber found to have been Muslims. The Chamber reiterates its finding that the Anti-Balaka elements perceived Muslims as collectively responsible for, complicit in, or supportive of the violence and abuses committed by the Seleka, and targeted the Muslim civilian population, specifically in the west of the

⁹⁷³⁶ See paragraph 85 above.

CAR, accordingly.⁹⁷³⁷ Accordingly, the second element of the war crime of destruction of property, that the property was property of an adversary, is also met.

*Protection from destruction under international law
of armed conflict*

4067. Considering that the objects destroyed were residential structures, and recalling its conclusion that there were no Seleka bases in the area in question and further that no clashes between the Anti-Balaka and the Seleka took place in the area around the imam's residence,⁹⁷³⁸ the Chamber also finds that no circumstances are indicated on facts which could mean that the objects constituted military objects. The Chamber thus finds that the property destroyed was protected from that destruction under the international law of armed conflict. There is also no indication on facts that the destruction was required by military necessity. The third and fifth elements of the war crime of destruction of property, namely that, respectively, the property was protected from destruction under the international law of armed conflict and the destruction was not required by military necessity, are therefore established.

*iv. Forcible transfer and deportation as a crime
against humanity and displacement as a war crime
(Counts 37 and 38)*

4068. Under Counts 37 and 38, Mr Ngaïssona is charged with forcible transfer and deportation as a crime against humanity pursuant to Article 7(1)(d) of the Statute and displacement as a war crime pursuant to Article 8(2)(e)(viii) of the Statute, for the dislocation of Bossangoa's Muslim population to the *École de la Liberté*, before being evacuated to other locations, in the context of the attack on Bossangoa on 5 December 2013 and in the days following the attack.

⁹⁷³⁷ See paragraph 45 above.

⁹⁷³⁸ See paragraph 2862 above.

Recalling of factual findings

4069. The Chamber found that during the attack on Bossangoa on 5 December 2013, the Muslim civilian population of Bossangoa fled the attacked neighbourhoods to seek shelter at the *École de la Liberté*, where their numbers rose into several thousands.⁹⁷³⁹ The Chamber found that Muslim civilians that had sought refuge at the *École de la Liberté* remained confined to the school premises for fear of threats by the Anti-Balaka, staying there in cramped and generally dire conditions.⁹⁷⁴⁰ The Chamber found that the Muslim civilians at the *École de la Liberté* were dependent on the protection of international forces for their safety and could not leave the school premises venturing into Bossangoa without risk to their person.⁹⁷⁴¹ The Chamber further found that eventually, in light of the prevailing insecurity as well as the dire and cramped living conditions at the *École de la Liberté*, all Muslims staying at the school were transported away from Bossangoa to Chad in two separate convoys, leaving in February and April 2014, respectively, following which Bossangoa was emptied of its Muslim population.⁹⁷⁴²

Perpetrator deported or forcibly transferred one or more persons to another State or location, by expulsion or other coercive acts

4070. The Ngaïssona Defence argues that Muslim civilians left their homes as result of a lawful attack and for their own security, and that their displacement to the *École de la Liberté* was ‘not only allowed under IHL, but arguably required by it’.⁹⁷⁴³

4071. The Chamber recalls, on the facts, its conclusion that the Anti-Balaka, in launching its attack on Bossangoa, specifically targeted residential areas, including the Boro neighbourhood which was generally known as the Muslim neighbourhood in Bossangoa, drawing no distinction between Seleka and Muslim civilians.⁹⁷⁴⁴ The Chamber further recalls, on the law, that the ‘forcible’ nature of a displacement need not be physical force, but may include

⁹⁷³⁹ See paragraph 86 above.

⁹⁷⁴⁰ See paragraph 87 above.

⁹⁷⁴¹ See paragraph 87 above.

⁹⁷⁴² See paragraph 88 above.

⁹⁷⁴³ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 355-359 (footnote omitted).

⁹⁷⁴⁴ See paragraph 82 above.

threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, or by taking advantage of a coercive environment.

4072. The Chamber is of the view that the attack on Bossangoa in general, and the specific targeting of Muslim residential areas and the Muslim civilian population therein created conditions which made it physically, materially and psychologically unsafe for Muslim civilians there, forcing them to leave and flee to the *École de la Liberté*. The Chamber further considers that in light of the prevailing conditions around the *École de la Liberté* following the attack, these Muslims could not return to their homes. The Chamber also finds that the conditions at the *École de la Liberté* following the attack were such that these Muslims could not only not return to their homes, but saw themselves being forced to leave Bossangoa altogether. The Chamber considers that the fear of threats by the Anti-Balaka, combined with the deplorable conditions at the *École de la Liberté*, amounted to ‘coercive acts’.

4073. In this context, the Chamber also notes the Ngaïssona Defence’s argument that the departure of Muslim civilians for Chad was ‘entirely voluntary’ and not attributable to the Anti-Balaka.⁹⁷⁴⁵ The Chamber recalls in this regard that there must be a genuine lack of choice on the part of the person or persons forcibly transferred, and that the prevailing situation and atmosphere, and other relevant circumstances, including in particular the victims’ vulnerability, has to be taken into account when assessing whether the individuals transferred indeed had a genuine choice.

4074. The Chamber recalls that the Muslim civilians of Bossangoa fled to the *École de la Liberté* due to the Anti-Balaka attack on the town on 5 December, and that they remained confined at the school for fear of threats by the Anti-Balaka, staying in cramped and generally dire conditions, with these conditions as well as the prevailing insecurity leading to the transfer of all Muslim staying at the school to Chad. In the Chamber’s view, the circumstances under which the Muslim civilians reached the *École de la Liberté*, combined with those under which these Muslim civilians remained at the *École de la Liberté*, make clear that these individuals had no genuine choice but to flee their homes for the school, as well as agreeing

⁹⁷⁴⁵ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 360-366.

to be transported away from the school thereafter. Any ‘reconciliation efforts’, as mentioned by the Ngaïssona Defence,⁹⁷⁴⁶ did not lead to the creation of conditions which would have allowed Muslims confined to the *École de la Liberté* to return to their homes as they remained dependent on the protection of international forces for their safety and could not leave the school without risk to their person.⁹⁷⁴⁷ The Chamber considers that an agreement, or even a wish expressed, to be transported, does not mean that such transfer was ‘entirely voluntary’, as argued by the Ngaïssona Defence. On the contrary, the Chamber considers that it is clear on the facts that the conditions leading to their fleeing to the *École de la Liberté* and circumstances thereat were such that the Muslim civilians that fled to and stayed at the *École de la Liberté* did not have a genuine choice to stay in Bossangoa and return to their homes.

4075. The Chamber further considers that the circumstances mentioned were created by the Anti-Balaka. This is based on its finding that the Anti-Balaka attacked Bossangoa on 5 December 2013, and within this attack specifically targeted residential areas, as well as on the finding that Muslims who had fled to the *École de la Liberté* had to stay there for fear of threats by the Anti-Balaka, and despite the deplorable conditions there. This is irrespective of whether the Anti-Balaka were in full control of Bossangoa following its attack on the town. The Chamber is of the view that but for the Anti-Balaka attack on Bossangoa and its continued presence there, maintaining the prevailing insecurity, the Muslims that had fled to the *École de la Liberté* would not have stayed there and would not have been transported to Chad subsequently.

4076. On the basis of the above, the Chamber thus finds that the requirement for forcible transfer and deportation as a crime against humanity pursuant to Article 7(1)(d) of the Statute, namely that the perpetrator forcibly transferred or deported, without grounds permitted under international law, one or more persons to another State or location, by expulsion or other coercive acts, is met.

⁹⁷⁴⁶ See [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 362-366.

⁹⁷⁴⁷ See paragraph 87 above.

Lawful presence

4077. In relation to the question of the Muslims' lawful presence in the area, the Chamber considers that there is no indication on the facts that the Muslims residing in Bossangoa were not lawfully present there. The Chamber recalls in this regard that the perpetrator need not make any legal evaluation as to the lawfulness of presence in an area, but need only be aware of the factual circumstances establishing the 'lawful presence'. Recalling its finding that the Anti-Balaka targeted residential areas of Bossangoa, including Boro which was known as the Muslim neighbourhood of the town, with the stated aim of 'freeing' the town not only from the Seleka, but from all Muslims, the Chamber considers that the Anti-Balaka were, on the facts, aware, that the Muslims in Bossangoa were lawfully present in their areas.

'Without grounds' and 'not justified'

4078. Specifically as regards the requirement, under Article 7(1)(d) of the Statute, that the transfer or deportation took place 'without grounds permitted under international law', and the requirement under Article 8(2)(e)(viii) of the Statute that the displacement was 'not justified by the security of the civilians involved or by military necessity', the Chamber recalls that the Anti-Balaka attacked Bossangoa with the stated aim of 'freeing' the town from Seleka and all Muslims.⁹⁷⁴⁸ The Chamber further recalls its conclusion that in attacking residential areas, including those generally known as Muslim neighbourhoods, the Anti-Balaka drew no distinction between the Seleka and all Muslims in Bossangoa.⁹⁷⁴⁹

4079. In light of the above, and absent any contrary indication on the facts, the Chamber does not consider that the transfer and displacement of Muslim civilians to the *École de la Liberté*, and Chad thereafter, had grounds permitted under international law, or otherwise was justified by the security of these civilians or military necessity. The Chamber thus finds that these requirements for forcible transfer and deportation as a crime against humanity pursuant to Article 7(1)(d) of the Statute, as well as for displacement as a war crime pursuant to Article 8(2)(e)(viii) of the Statute, are also met.

⁹⁷⁴⁸ See paragraph 82 above.

⁹⁷⁴⁹ See paragraph 82 above.

Order to displace

4080. The Chamber now turns to the distinct requirement of displacement as a war crime pursuant to Article 8(2)(e)(viii) of the Statute that the perpetrator ‘ordered’ the displacement of a civilian population and was in a position to effect such displacement by giving such order.

4081. The Ngaïssona Defence argues that there was no such order to displace or otherwise to perform an act or omission as the result of which such displacement would occur, by either Mr Ngaïssona or someone under his authority, who was ‘in a position to effect such displacement by giving such order’.⁹⁷⁵⁰

4082. The Chamber recalls its finding that the Anti-Balaka attacked Bossangoa with the stated aim of showing that the Anti-Balaka were attacking not only Bangui but also in the provinces, and to ‘free’ the town from the Seleka and all Muslims,⁹⁷⁵¹ as well as its finding that the Anti-Balaka perceived the Muslims in the CAR as collectively responsible for, complicit in, or supportive of the violence and abuses committed by the Seleka and therefore targeted the Muslim civilian population, specifically in the west of the CAR.⁹⁷⁵²

4083. The Chamber further recalls that conduct alone can constitute an order.⁹⁷⁵³ This is consistent with the *Ntaganda* jurisprudence that states that an order within the meaning of this crime itself needs only to instruct another person in any form to (i) displace a civilian population; or (ii) perform an act or omission as a result of which such displacement would occur.⁹⁷⁵⁴

4084. The Chamber is of the view that the specific aim of wanting to ‘free’ Bossangoa not only from the Seleka but from all Muslims, seen together with its findings on the attack on residential areas in the town and the Anti-Balaka targeting Muslim civilians drawing no

⁹⁷⁵⁰ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 367-368.

⁹⁷⁵¹ See paragraph 82 above.

⁹⁷⁵² See paragraph 45 above.

⁹⁷⁵³ See *further* Additional Protocol II, Article 17 (stating that the displacement of the civilian population shall not be ordered for reasons related to the conflict unless the security of the civilians involved or imperative military reasons so demand); ICRC, Rule 129(B) of the Customary International Humanitarian Law, Volume II, Chapter 38, Section A (stating that parties to a non-international armed conflict may not order the displacement of the civilian population, in whole or in part, for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand). The Chamber considers that these provisions must be read as a prohibition of displacing the civilian population in non-international armed conflicts.

⁹⁷⁵⁴ [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 1081.

distinction between them and the Seleka, establish conclusively the existence of an ‘order’ within the meaning of this crime. The Chamber considers that by attacking Bossangoa under these premises, the Anti-Balaka groups were ordered to perform an act as a result of which the displacement of the Muslim civilian population in Bossangoa would necessarily occur.

Position to effect such displacement by giving such order

4085. Similarly, the Chamber considers on this basis also that the Anti-Balaka groups attacking Bossangoa were in a position to effect such displacement. Attacking residential areas while well armed, the Anti-Balaka elements were in a position to cause the dislocation of Muslim civilians from their homes. Further, and while noting that the war crime of displacement does not require for displacement as such to actually occur, the actions of the Anti-Balaka in attacking Bossangoa, including residential areas and specifically Muslim civilians, as well as in the time thereafter, led to the displacement of the Muslim civilian population to the *École de la Liberté* and later to Chad. Thus, the Chamber considers that also the third element of displacement as a war crime pursuant to Article 8(2)(e)(viii) of the Statute, namely that the perpetrator was in a position to effect such displacement by giving such order, is met.

v. *Imprisonment and other forms of severe deprivation of physical liberty as a crime against humanity (Count 39)*

4086. Under Count 39, Mr Ngaïssona is charged with imprisonment and other forms of severe deprivation of physical liberty pursuant to Article 7(1)(e) of the Statute, for the maintaining of Muslims at the *École de la Liberté* by preventing them from leaving, including by shouting threats, in the context of the attack on Bossangoa on 5 December 2013 and the weeks following the attack.

Recalling of factual findings

4087. The Chamber found that the Anti-Balaka during its attack on Bossangoa on 5 December 2013 targeted residential areas, including the Boro neighbourhood, generally known as the Muslim neighbourhood in Bossangoa, to ‘free’ the town from Seleka and all Muslims,

thereby targeting Muslim civilians.⁹⁷⁵⁵ The Chamber further found that during the attack, the Anti-Balaka forced into sexual intercourse one woman, and killed at least 18 individuals.⁹⁷⁵⁶ It also found that during the attack, the Muslim civilian population of Bossangoa fled the attacked neighbourhoods to seek shelter at the *École de la Liberté*, where their numbers rose into several thousands.⁹⁷⁵⁷ The Chamber found that the Muslim civilians that had sought refuge at the *École de la Liberté* remained confined to the school premises for fear of threats by the Anti-Balaka, staying there in cramped and generally dire conditions.⁹⁷⁵⁸ Finally, the Chamber found that the Muslim civilians at the *École de la Liberté* were dependent on the protection of international forces for their safety and could not leave the school premises venturing into Bossangoa without risk to their person.⁹⁷⁵⁹

Imprisonment or other severe deprivation of physical liberty of one or more persons

4088. The Ngaïssona Defence argues that there is ‘no credible evidence that Anti-Balaka elements severely restricted the physical liberty of Muslim civilians by forcing them to remain’ at the *École de la Liberté*, since (i) Muslim civilians were not detained as they had the possibility to leave the school premises, and (ii) there is no evidence that Anti-Balaka elements were the reason why they remained in the school.⁹⁷⁶⁰ The Ngaïssona Defence submits that the ‘crucial element of control’ of the perpetrators over the location at which Muslims were kept is missing.⁹⁷⁶¹

4089. The Chamber considers that had it not been for the fear of threats by the Anti-Balaka, the Muslims confined to the *École de la Liberté* would not have chosen to remain there in the mentioned deplorable conditions. Indeed, as found, the Muslims at the school were dependent on the protection of international forces and could not leave the school without risk to their person. That some Muslims may have ventured out of the school at their own risk does not mean that such risk did not exist. The Chamber considers that a ‘crucial element

⁹⁷⁵⁵ See paragraph 82 above.

⁹⁷⁵⁶ See paragraphs 83-84 above.

⁹⁷⁵⁷ See paragraph 86 above.

⁹⁷⁵⁸ See paragraph 87 above.

⁹⁷⁵⁹ See paragraph 87 above.

⁹⁷⁶⁰ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 369.

⁹⁷⁶¹ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 374-375.

of control’, as mentioned by the Ngaïssona Defence, is not specified in the law. Rather, a chamber must determine on the facts before it whether the perpetrator imprisoned or severely deprived of their physical liberty one or more persons.

4090. In the case at hand, and bearing in mind its findings recalled above, the Chamber concludes that during the entire duration of the Muslim civilians’ stay at the *École de la Liberté*, their physical movement was restricted. Thus, the Chamber finds that the first requirement of imprisonment and other forms of severe deprivation of physical liberty as a crime against humanity, pursuant to Article 7(1)(e) of the Statute, namely that the perpetrator imprisoned on or more persons or otherwise severely deprived one or more persons of physical liberty, is met.

*Gravity of conduct in violation of fundamental rules
of international law*

4091. Turning to the question whether the gravity of the conduct was such that it was in violation of fundamental rules of international law, the Chamber recalls that whether a deprivation of physical liberty is severe will have to be determined on a case-by-case basis. The Chamber considers that in assessing the gravity of the conduct, determination of whether there is no legal basis to detain a person or the person is denied any procedural rights are but examples that can be taken into account in this assessment.

4092. Accordingly, the Chamber has considered the circumstances under which the Muslims fled to the *École de la Liberté*, as well as the conditions under which they remained there. Muslim civilians fled their homes for the school in light of the Anti-Balaka attack on Bossangoa, in the context of which the Anti-Balaka specifically targeted residential areas without distinguishing between Seleka and Muslim civilians. These Muslims then remained confined to the *École de la Liberté* with no possibility of returning to their homes, and eventually having to give up on their lives in Bossangoa altogether. With thousands of Muslims staying at the school, the conditions there were cramped and generally dire. The Chamber considers that the Muslims confined to the school were unable to move around freely. Nothing in the facts suggests that there was any basis, let alone established in law, that could justify the conditions which caused this confinement.

4093. On the basis of the above, the Chamber finds that also the second element of imprisonment and other forms of severe deprivation of physical liberty as a crime against humanity, pursuant to Article 7(1)(e) of the Statute, namely that the gravity of the conduct was such that it was in violation of fundamental rules of international law, is met.

vi. Rape as a crime against humanity and as a war crime (Counts 40 and 41)

4094. Under Counts 40 and 41, Mr Ngaïssona is charged with rape as a crime against humanity under Article 7(1)(g) of the Statute and rape as a war crime under Article 8(2)(e)(vi) of the Statute, for the rape of a 19-year-old woman in the context of the attack on Bossangoa on 5 December 2013.

Recalling of factual findings

4095. The Chamber found that an Anti-Balaka element forced P-2462 into sexual intercourse, having blindfolded and undressed her, and after the group of five Anti-Balaka he was in, had threatened her with their weapons.⁹⁷⁶²

Penetration by force, threat of force or coercion

4096. The Ngaïssona Defence argues that the alleged rape did not occur⁹⁷⁶³ and that, in any event, the identity of the alleged perpetrator was not established.⁹⁷⁶⁴

4097. The Chamber recalls in this regard its discussion on the facts, on the basis of which it concluded that an Anti-Balaka element did force P-2462 into sexual intercourse in the context of the attack in Bossangoa on 5 December 2013. The Chamber further recalls that the Anti-Balaka group within which this Anti-Balaka element was had threatened P-2462, and that the element blindfolded and undressed her. The Chamber also recalls that this took place in the context of the Anti-Balaka's attack in Bossangoa, during which it targeted residential areas.

⁹⁷⁶² See paragraph 83 above.

⁹⁷⁶³ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 380-382.

⁹⁷⁶⁴ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 383-387.

4098. On this basis, the Chamber finds that the first and second element of rape as a crime against humanity, pursuant to Article 7(1)(g) of the Statute, and rape as a war crime, pursuant to Article 8(2)(e)(vi) of the Statute, are met.

vii. *Persecution as a crime against humanity (Count 42)*

4099. Under Count 42, Mr Ngaïssona is charged with the crime of persecution as a crime against humanity pursuant to Article 7(1)(h) of the Statute, for the severe deprivation of fundamental rights of persons in Bossangoa by targeting them on the basis of political, ethnic, and/or religious grounds by virtue of the conduct pertaining to Counts 30 to 41.

Recalling of factual findings

4100. In addition to the findings recalled by the Chamber in respect of Counts 30 to 33 and 37 to 41, the Chamber recalls that it found that Mr Ngaïssona knew that the Anti-Balaka perceived, and himself perceived, the Muslims in the CAR as collectively responsible for, complicit in, or supportive of the violence and abuses committed by the Seleka and that the Anti-Balaka targeted the Muslim civilian population, specifically in the west of the CAR, on this basis.⁹⁷⁶⁵

Perpetrator severely deprived, contrary to international law, one or more persons of fundamental rights

4101. The Ngaïssona Defence argues that since the Prosecution failed to prove the charges under the related counts, it also failed to prove the crime of persecution on political, ethnic and/or religious grounds as charged.⁹⁷⁶⁶

4102. The Chamber recalls in this regard that it did find proven the conduct underlying the crimes as charged in Counts 30 to 33 and 37 to 41. In this context, the Chamber considers that Muslim civilians were deprived of their right to life,⁹⁷⁶⁷ right to physical integrity,⁹⁷⁶⁸ right

⁹⁷⁶⁵ See paragraph 49 above.

⁹⁷⁶⁶ Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, para. 389.

⁹⁷⁶⁷ See paragraph 84 above.

⁹⁷⁶⁸ See paragraph 83 above.

to property,⁹⁷⁶⁹ right to liberty and security of person, right to liberty of movement, and right against arbitrary or unlawful interference with their family and home.⁹⁷⁷⁰ On this basis, the Chamber finds that the first element of persecution as a crime against humanity pursuant to Article 7(1)(h) of the Statute, namely that the perpetrator severely deprived, contrary to international law, one or more persons of fundamental rights, is met.

Targeted by reason of identity of a group or collectivity, or group or collectivity targeted as such

4103. The Ngaïssona Defence further submits that even if the Chamber were satisfied that the Anti-Balaka elements committed part of the underlying crimes, the required discriminatory intent remains unproven, since the ‘very low number of alleged civilian casualties, compared to the large amount of people who were safely evacuated away from the hostilities is probative of an attack that did not target civilians based on their ethnicity, religion or political affiliations’, and that neither general behaviour of alleged perpetrators nor circumstances surrounding the commission of alleged crimes allow to infer a discriminatory intent.⁹⁷⁷¹

4104. The Chamber disagrees with the Ngaïssona Defence’s suggestion that discriminatory intent cannot be inferred, and proven, in light of a ‘low number’ of civilian casualties, when compared to those who were ‘safely evacuated’. The Chamber understands this to argue that a certain minimum proportion of any group would have to be targeted for a Chamber to be able to infer and conclude on the discriminatory intent required by the crime of persecution. No such requirement exists under the law.

4105. Indeed, the law is clear in requiring that the perpetrator severely deprived, contrary to international law, ‘one or more persons’ of fundamental rights. Thus, even one individual may be subject to such severe deprivation of fundamental rights. This is combined with the elements further requiring that the perpetrator targeted ‘such person or persons’ by reason of the identity of a group or collectivity, or targeted the group or collectivity as such, and that such targeting was based on political, racial, national, ethnic, cultural religious, gender as

⁹⁷⁶⁹ See paragraph 85 above.

⁹⁷⁷⁰ See paragraphs 86-88 above. See e.g. Articles 3, 12, 13, 17, 18 of the UDHR; Articles 6, 7, 9, 12, 17, 18 and 27 of ICCPR.

⁹⁷⁷¹ [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 390 (footnote omitted).

defined in Article 7(3) of the Statute, or other grounds universally recognised as impermissible under international law. Determinative is therefore not the number of casualties within a group or collectivity when compared to those within the same group of collectivity that did not. Determinative is, rather, that ‘one or more persons’ were severely deprived of fundamental rights, and ‘such person or persons’ were targeted because of the identity of the group or collectivity, based on the grounds mentioned. The Chamber is of the view that this can be established through a variety of factors and need not rely on inferring the requisite intent on the basis of whatever may be considered a ‘high’ number of casualties in the circumstances.

4106. The Chamber recalls in this regard that the Anti-Balaka attacked Bossangoa with the stated aim of ‘freeing’ the town from the Seleka and all Muslims, thus targeting Muslim civilians without distinguishing from the Seleka.⁹⁷⁷² The Chamber further recalls that it found that the Anti-Balaka targeted residential areas, including Boro, generally known as the Muslim neighbourhood in Bossangoa.⁹⁷⁷³ The Chamber also recalls that the Anti-Balaka perceived Muslims in the CAR, due to religious and ethnic commonalities, as collectively responsible for, complicit in, or supportive of the violence and abuses committed by the Seleka, thus targeting the Muslim civilian population specifically in the west of the CAR.⁹⁷⁷⁴

4107. On the basis of the above, the Chamber finds that the second and third element of persecution as a crime against humanity, pursuant to Article 7(1)(h) of the Statute, namely that the perpetrator targeted such person or persons by reason of the identity of a group or collectivity or targeted the group or collectivity as such, and such targeting was based on political, racial, national, ethnic, cultural, religious, gender as defined in Article 7(3) of the Statute, or other grounds that are universally recognised as impermissible under international law, are met.

⁹⁷⁷² See paragraph 82 above.

⁹⁷⁷³ See paragraph 82 above.

⁹⁷⁷⁴ See paragraph 45 above.

Committed in connection with any act referred to in Article 7(1) of the Statute or any crime within the jurisdiction of the Court

4108. In relation to the fourth element of persecution as a crime against humanity, pursuant to Article 7(1)(h) of the Statute, namely that the conduct was committed in connection with any act referred to in Article 7(1) of the Statute or any crime within the jurisdiction of the Court, the Chamber finds that this requirement is met by virtue of the conduct of the Anti-Balaka in Bossangoa satisfying the requirements of the crimes of murder, destruction of property, forcible transfer and deportation or displacement, imprisonment or other severe deprivation of physical liberty, and rape, as noted above.

b. Individual criminal responsibility of Mr Ngaïssona

4109. The Chamber now turns to Mr Ngaïssona's responsibility under Counts 30 to 33, and 37 to 41. Mr Ngaïssona is alleged to have committed the aforementioned crimes by facilitating the commission of the crimes as set out in the confirmed charges by aiding, abetting or otherwise assisting in their commission under Article 25(3)(c) of the Statute.

Aiding, abetting or otherwise assisting

4110. The Chamber found that Mr Ngaïssona was actively involved in planning steps to respond to the Seleka violence in the CAR and to ensure François Bozizé's return to power by meeting and liaising with François Bozizé, Bernard Mokom and others to discuss strategies and plans, reaching out to individuals within and outside of the CAR with a view to gathering support for their cause, and providing financial assistance to those willing to assist in their activities.⁹⁷⁷⁵ Mr Ngaïssona was one of the members of FROCCA, the objective of which was to advocate for the return to 'the constitutional order', which signified the return of François Bozizé to power.⁹⁷⁷⁶

4111. Through meetings in Cameroon and communications with individuals in Zongo, in particular Maxime Mokom, Mr Ngaïssona and others planned steps to respond to the Seleka violence

⁹⁷⁷⁵ See paragraph 35 above.

⁹⁷⁷⁶ See paragraph 39 above.

in the CAR as well as to ensure François Bozizé's return to power, by all means possible, including through armed violence.⁹⁷⁷⁷

4112. The Anti-Balaka groups, which had formed in the provinces and in part gathered together at Govere, started their advance towards Bangui, with the ultimate objective to attack the capital in order to remove Michel Djotodia from power and oust the Seleka from the CAR. In this advance, various Anti-Balaka groups started engaging in attacks against the Seleka from September 2013 onwards. Such attacks were not limited to Seleka forces, but included attacking localities with Muslim civilians.⁹⁷⁷⁸

4113. During this period of at least September to December 2013 and prior to the Bossangoa Attack, Mr Ngaïssona provided financial contributions and engaged in activities pertaining to the organisation and coordination of groups for the purpose of facilitating the commission of criminal acts targeting the Muslim population.⁹⁷⁷⁹ This included killings and dislocating Muslim civilians from around Bossangoa, Bouca (Ouham prefecture), in Ndjo, Bossembélé, Boali and Gaga (Ombella-M'Poko prefecture), as well as in Bouar (Nana-Mambéré prefecture), including the attack on Bossangoa in September 2013.⁹⁷⁸⁰ Mr Ngaïssona knew and was informed of the advance of the groups towards Bangui as well as of the hostilities during this advance, including the killings and dislocation of Muslim civilians from these locations.⁹⁷⁸¹

4114. The Chamber also found that the attack on Bossangoa took place in coordination with the Anti-Balaka attack on Bangui on the same day,⁹⁷⁸² with the intention of showing that the Anti-Balaka were attacking not only Bangui but also in the provinces.⁹⁷⁸³

4115. In light of this, the Chamber finds that Mr Ngaïssona, by funding and supporting the Anti-Balaka prior to the attacks on Bangui and Bossangoa on 5 December 2013 aided, abetted, or

⁹⁷⁷⁷ See paragraph 34 above.

⁹⁷⁷⁸ See paragraph 50 above.

⁹⁷⁷⁹ See paragraph 38 above.

⁹⁷⁸⁰ See paragraphs 50-53 above.

⁹⁷⁸¹ See paragraph 56 above.

⁹⁷⁸² See paragraph 81 above.

⁹⁷⁸³ See paragraph 82 above.

otherwise assisted in the commission of the aforementioned crimes during the attack on Bossangoa by the Anti-Balaka.

Mental elements

4116. As regards Mr Ngaïssona's *mens rea*, the Chamber recalls its finding that Mr Ngaïssona made his contributions prior to the Bossangoa Attack fully aware that the Anti-Balaka would violently target the Muslim civilian population in the west of the CAR, committing the widespread attack that ultimately took place from September 2013 through February 2014, including the seminal coordinated Anti-Balaka attacks of Bangui and Bossangoa on 5 December 2013.⁹⁷⁸⁴ Mr Ngaïssona knew that the Anti-Balaka perceived, and himself perceived, the Muslims in the CAR as collectively responsible for, complicit in, or supportive of the violence and abuses committed by the Seleka and that the Anti-Balaka targeted the Muslim civilian population, specifically in the west of the CAR, on this basis.⁹⁷⁸⁵ The Chamber further considered that Mr Ngaïssona provided his financial aid, organisational assistance and psychological support to the Anti-Balaka in the context of anti-foreign sentiments and inflammatory rhetoric openly expressed by François Bozizé and others, which incited vigilance against those perceived to support the Seleka, in particular Muslim civilians.⁹⁷⁸⁶

4117. Having regard to the above, the Chamber thus finds that Mr Ngaïssona: (i) intended for Muslim civilians to be attacked during the attack on Bossangoa; (ii) intended for Muslim civilians to be killed; (iii) intended for property of Muslim civilians to be destroyed; (iv) intended for Muslim civilians to be severely deprived of their physical liberty; and (v) intended for Muslim civilians to be dislocated.

4118. Turning to the special intent requirement that Mr Ngaïssona's assistance was made with the aim of facilitating the commission of the charged crimes, the Chamber recalls its considerations above.⁹⁷⁸⁷

⁹⁷⁸⁴ See paragraph 49 below.

⁹⁷⁸⁵ See paragraph 49 above.

⁹⁷⁸⁶ See paragraph 46 above.

⁹⁷⁸⁷ See paragraphs 4037-4041 above.

4119. Having regard to the above, the Chamber finds that Mr Ngaïssona provided his financial contributions and support to the Anti-Balaka for the purpose of facilitating the crimes against the Muslim civilian population, including killings and dislocation of Muslims. In particular, the Chamber notes that Mr Ngaïssona knew and was informed of the hostilities committed by the Anti-Balaka during their advance towards Bangui. These included the killings and dislocation of Muslims in seven different locations in and around Bossangoa prior to the Bangui Attack and Bossangoa Attack,⁹⁷⁸⁸ committed by the Anti-Balaka groups coordinating with each other.⁹⁷⁸⁹ Despite this, Mr Ngaïssona continued to provide funds to the Anti-Balaka.⁹⁷⁹⁰ Mr Ngaïssona's financial support made it possible for at least some of the elements to participate in the attacks during the advance and during the seminal attacks on Bangui and Bossangoa.

4120. Accordingly, the Chamber finds that the only reasonable conclusion in these circumstances is that Mr Ngaïssona was not only aware that the Anti-Balaka would commit these crimes in the ordinary course of events, but intended for them to commit these crimes in Bossangoa during the Bossangoa Attack and lent his assistance with the aim of facilitating such crimes.

4121. Turning to the specific knowledge requirements concerning a number of the charged crimes, the Chamber recalls its finding that the Anti-Balaka attacking Bossangoa targeted residential areas, including the Boro neighbourhood, generally known as the Muslim neighbourhood in Bossangoa, and drew no distinction between Muslim civilians and the Seleka.⁹⁷⁹¹ The Chamber further found that Mr Ngaïssona knew and was informed of the advance of the groups towards Bangui as well as of the hostilities during this advance, including the killings and dislocation of Muslim civilians from the locations mentioned.⁹⁷⁹²

4122. On this basis, the Chamber finds that the following specific knowledge requirements are met: (i) that the perpetrator was aware of the victims being either *hors de combat*, or civilians, medical personnel or religious personnel taking no active part in hostilities, applicable to murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute; (ii) that the

⁹⁷⁸⁸ See paragraphs 50-53 above.

⁹⁷⁸⁹ See paragraph 51 above.

⁹⁷⁹⁰ See paragraph 70 above.

⁹⁷⁹¹ See paragraph 82 above.

⁹⁷⁹² See paragraph 56 above.

perpetrator was aware of the factual circumstances establishing the protected status of property, applicable to destruction of property as a war crime, pursuant to Article 8(2)(e)(xii) of the Statute; (iii) that the perpetrator was aware of the factual circumstances establishing the lawfulness of presence in the area, applicable to forcible transfer and deportation as a crime against humanity, pursuant to Article 7(1)(d) of the Statute; and (iv) that the perpetrator was aware of the factual circumstances establishing the gravity of conduct, applicable to imprisonment and other forms of severe deprivation of physical liberty, pursuant to Article 7(1)(e) of the Statute.

4123. Turning to the specific intent requirements concerning a number of charged crimes, the Chamber recalls the same findings as above, as well as its finding that Mr Ngaïssona knew that the Anti-Balaka perceived, and himself perceived, the Muslims in the CAR as collectively responsible for, complicit in, or supportive of the violence and abuses committed by the Seleka and that the Anti-Balaka targeted the Muslim civilian population, specifically in the west of the CAR, on this basis.⁹⁷⁹³

4124. On this basis, the Chamber concludes that Mr Ngaïssona intended the Muslim civilian population of Bossangoa to be the object of the attack, and also intended the Muslim civilian population to be discriminated against on the basis of their religious and ethnic commonalities with the Seleka. Accordingly, the specific intent requirements applicable to the war crime of directing an attack against the civilian population as such, pursuant to Article 8(2)(e)(i) of the Statute, and to the crime against humanity of persecution, pursuant to Article 7(1)(h) of the Statute, are also met.

4125. The Chamber emphasises that the above considerations are valid for the crimes it found to have been committed in Bossangoa under Counts 30 to 33, 37 to 39 and 42.

Counts 40 and 41

4126. Turning to the question of Mr Ngaïssona's responsibility for the crime of rape under Counts 40 and 41, the Prosecution argues that it was common knowledge that sexual violence and rape would be committed by parties to the armed conflict in the CAR, and particularly

⁹⁷⁹³ See paragraph 49 above.

against victims perceived to be associated with the opposing armed groups.⁹⁷⁹⁴ The Prosecution argues that Mr Ngaïssona knew the essential elements of the charged crimes based on, *inter alia*, ‘his knowledge of the risk of certain types of crimes to be committed in times of conflict in the CAR including sexual and gender based violence’.⁹⁷⁹⁵

4127. The Ngaïssona Defence argues in the context of Article 25(3)(d) of the Statute that (i) ‘alleged SGBV in the present case were random acts committed by individuals’; (ii) the Prosecution ‘failed to demonstrate any pattern of SGBV amongst the alleged crimes imputed to the Anti-Balaka’; (iii) ‘there is no evidence that the alleged perpetrators of the charged rape, or other alleged acts of SGBV in the uncharged locations, committed such acts because they saw the victims as complicit of the Seleka’; and (iv) ‘there is no evidence suggesting that rape or other forms of SGBV were committed to further the common purpose’.⁹⁷⁹⁶

4128. In the view of the Chamber, the knowledge of an abstract ‘risk’ of certain types of crimes being committed is insufficient for it to find Mr Ngaïssona’s individual criminal responsibility in relation to Counts 40 and 41. Article 30(3) of the Statute specifies that knowledge means ‘awareness that a circumstance exists or a consequence will occur in the ordinary course of events’. The phrase ‘will occur in the ordinary course of events’ in Article 30(2)(b) and (3) of the Statute requires ‘virtual certainty’ that the consequence in question would occur.⁹⁷⁹⁷ The Chamber agrees with prior jurisprudence that this implies that ‘the consequence will follow, barring an unforeseen or unexpected intervention that prevent this occurrence’.⁹⁷⁹⁸

4129. The Chamber is indeed satisfied that Mr Ngaïssona had ‘virtual certainty’ that killings, injuries, dislocation, and destruction of property would occur in the ordinary course of events during the attack on Bossangoa on the basis outlined above. However, the Chamber is not

⁹⁷⁹⁴ Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, para. 318.

⁹⁷⁹⁵ Prosecution Closing Brief, ICC-01/14-01/18-2738-Conf, para. 411.

⁹⁷⁹⁶ Ngaïssona Defence Closing Brief, ICC-01/14-01/18-2736-Conf-AnxA-Corr, paras 270-276.

⁹⁷⁹⁷ [Al Hassan Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1121; [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2695; [Lubanga Appeals Judgment](#), ICC-01/04-01/06-3121-Red, paras 447-450.

⁹⁷⁹⁸ [Bemba et al. Trial Judgment](#), ICC-01/05-01/13-1989-Red, para. 29; [Katanga Trial Judgment](#), ICC-01/04-01/07-3436-tENG, para. 777.

convinced that his knowledge on the basis of ‘virtual certainty’ extended to rape occurring in the ordinary course of events.

4130. The Chamber emphasises in this regard that, according to its evaluation of the evidence, it is convinced, beyond reasonable doubt, that an Anti-Balaka element raped P-2462 during the attack on Bossangoa on 5 December 2013. The Chamber further emphasises that it is not of the view that sexual violence in general is an ‘exceptional’ occurrence in the context of armed conflicts. On the contrary.

4131. At the same time, the Chamber underscores that it must base its conclusions on the specific evidence and charges as presented and confirmed before it, and in relation to the individual criminal responsibility of a specific accused. It is within this specific, and limited, context that the Chamber is unable to conclude, on the basis of the evidence before it, that Mr Ngaïssona had ‘virtual certainty’ that rape would occur in the ordinary course of the Anti-Balaka attack in Bossangoa. The Chamber recalls in this regard that it found a clear pattern of criminal conduct relating to the targeting of Muslim civilians with killings, injuries, dislocation, destruction of property and attacks against buildings dedicated to religion in the context of the Anti-Balaka attacks during its advance towards Bangui from September 2013, during the coordinated attacks on Bangui and Bossangoa on 5 December 2013, in relation to the events at Yamwara at the end of December 2013, as regards the events along the PK9-Mbaïki axis following Michel Djotodia’s resignation, as well as in relation to the Anti-Balaka attacks in western CAR in early 2014. All this led the Chamber to conclude that Mr Ngaïssona was aware that such criminal conduct would occur in the ordinary course of events and, indeed, that he performed his own conduct for purposes of facilitating the commission of such crimes. However, the Chamber cannot conclude the same as regards the cases of rape that occurred in Bossangoa, one of which Mr Ngaïssona is charged with.

Conclusion

4132. On the basis of the above, the Chamber therefore finds that, within the context of the attack on Bossangoa, carried out by the Anti-Balaka on 5 December 2013, Mr Ngaïssona aided, abetted or otherwise assisted, within the meaning of Article 25(3)(c) of the Statute, the commission of the following crimes: (i) attack against the civilian population as such as a

war crime pursuant to Article 8(2)(e)(i) of the Statute (Count 30); (ii) murder as a crime against humanity, pursuant to Article 7(1)(a) of the Statute (Count 31); (iii) murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute (Count 32); (iv) destruction of the adversary's property as a war crime, pursuant to Article 8(2)(e)(xii) of the Statute (Count 33); (v) forcible transfer and deportation as a crime against humanity, pursuant to Article 7(1)(d) of the Statute (Count 37); (vi) displacement as a war crime, pursuant to Article 8(2)(e)(viii) of the Statute (Count 38); (vii) imprisonment and other forms of severe deprivation of physical liberty as a crime against humanity (Count 39); and (viii) persecution as a crime against humanity, pursuant to Article 7(1)(h) of the Statute (Count 42).

iii. Crimes committed within the context of the events at Yamwara on and around 24 December 2013 (Counts 11 to 17)

a. Crimes committed

*i. Other inhumane acts as a crime against humanity
(Count 11)*

4133. Under Count 11, Mr Yekatom and Mr Ngaïssona are charged with other inhumane acts as a crime against humanity, pursuant to Article 7(1)(k) of the Statute, of six persons, in the context of the abduction of seven persons in or around Cattin.

Recalling of factual findings

4134. The Chamber found that on 24 December 2013, following the death of a member of the Lapo N'Gomat family, Saint Cyr's older brother, three women related to the family were to be escorted back to their home before dark because of the security situation in Bangui at the time. The four men, namely P-1704, P-1705, P-1716 and Saint Cyr, who were family and friends of the Lapo N'Gomat family, escorted the three women, namely, P-0967, P-1811 and another (together, seven persons), to the main road to find them a taxi.⁹⁷⁹⁹

4135. As regards the circumstances of why the seven persons were stopped, the Chamber found that elements from Mr Yekatom's group apprehended these seven persons at a checkpoint

⁹⁷⁹⁹ See paragraph 95 above.

led by Alkanto close to the Lapo N’Gomat family house and Yamwara. Alkanto pointed to the women as belonging to the family of Mamour and Michel Djotodia in the presence of the elements in his group. Alkanto’s identification of the women being related to Djotodia and Mamour as well as being Muslims, combined with Alkanto’s negative feelings centred around a desire for revenge against the women, predisposed Alkanto’s group to perceive the seven persons as ‘Muslims’.⁹⁸⁰⁰

4136. The Chamber considered how Mr Yekatom’s elements treated the seven persons at the checkpoint. The Chamber found that Alkanto ordered his elements to search the male captives at the checkpoint. Alkanto’s elements beat P-1704 and P-1716 and accused them of being traitors. Following this search, no arms were found on any of the captives. An element searched Saint Cyr and found a ‘Seleka card’ on him. None of the seven persons posed a threat to Yamwara or the security of the elements placed there. In fact, the nature and the purpose of them being together and close to Yamwara was linked to the funeral of Saint Cyr’s older brother.⁹⁸⁰¹

4137. The Chamber considered the circumstances in which the seven persons were transferred from the checkpoint to Yamwara. The Chamber found that after threatening them with death and accusing them of being traitors, Alkanto ordered his elements to take the seven persons, including Saint Cyr Lapo N’Gomat, P-1704, P-1705, P-1716, P-0967 and P-1811, to Yamwara.⁹⁸⁰²

4138. The Chamber considered how Mr Yekatom’s elements treated Saint Cyr, P-1704, P-1705, and P-1716 when they brought them to Yamwara. The Chamber found that elements in Mr Yekatom’s group, namely Alkanto and others, brought the captives to Cœur de Lion’s house at Yamwara. There, in Cœur de Lion’s presence, elements in Mr Yekatom’s group, including Bojos, interrogated the four men individually on their identity, ethnicity, and reasons for being there with the women, also demanding the captive men to speak in the dialect associated with their respective ethnicities. Saint Cyr and another captive, who were Boffi from their father’s side and Goula from their mother’s side, gave their ethnicity but

⁹⁸⁰⁰ See paragraph 96 above.

⁹⁸⁰¹ See paragraph 98 above.

⁹⁸⁰² See paragraph 99 above.

neither could speak their dialect. Saint Cyr said that he was ‘Boffi’ but could not speak in this language. When Saint Cyr was unable to do so, elements in Mr Yekatom’s group accused him of being ‘Goula’, and therefore associated with Djotodia. The elements in Mr Yekatom’s group kept the women apart but close by, under the veranda of Cœur de Lion’s house. Mr Yekatom was not present at Yamwara during the group’s arrival there or during the said interrogation at Cœur de Lion’s house.⁹⁸⁰³

4139. The Chamber considered how Mr Yekatom’s elements interrogated and searched Saint Cyr, P-1704, P-1705, and P-1716 after they had been brought to Yamwara. Following the men’s interrogation, the elements in Mr Yekatom’s group forced them to undress, searched them again, threatened them with death, and found no weapons on any of them. Elements in Mr Yekatom’s group beat P-1704, P-1705, and P-1716 and threatened them with death.⁹⁸⁰⁴

4140. The Chamber considered how P-0967, P-1811, and another captive were treated when Mr Yekatom’s elements brought them to Yamwara. The Chamber found that upon another search of the captives at Yamwara, an element in Mr Yekatom’s group recovered a SIM card in the trousers of one of the female captives and no weapons were found on them.⁹⁸⁰⁵ The elements in Mr Yekatom’s group took the women inside Cœur de Lion’s house while Saint Cyr’s interrogation continued outside, and from where they could hear what was happening outside.⁹⁸⁰⁶ Elements in Mr Yekatom’s group searched the female captives again, removing their veils, and brought them inside Cœur de Lion’s house at gunpoint.⁹⁸⁰⁷ After the women were brought inside Cœur de Lion’s house, the elements in Mr Yekatom’s group forced them to undress to their underwear, searched them, and threatened them with death.⁹⁸⁰⁸ An element in Mr Yekatom’s group pointed a weapon in the women’s direction and asked P-1811 about her tribe.⁹⁸⁰⁹ During their captivity inside Cœur de Lion’s house, elements from

⁹⁸⁰³ See paragraph 100 above.

⁹⁸⁰⁴ See paragraphs 101-102 above.

⁹⁸⁰⁵ See paragraph 101 above.

⁹⁸⁰⁶ See paragraph 101 above.

⁹⁸⁰⁷ See paragraph 104 above.

⁹⁸⁰⁸ See paragraph 104 above.

⁹⁸⁰⁹ See paragraph 104 above.

Mr Yekatom's group were coming in and out of the house and threatened them with death.⁹⁸¹⁰

4141. The Chamber considered the extent to which the captives had to witness parts of Saint Cyr's mistreatment. The Chamber found that P-1704, P-1705, and P-1716 were present during Saint Cyr's interrogation, maiming and beating.⁹⁸¹¹ The Chamber found that the female captives, when they were inside Cœur de Lion's house, could hear the interrogation and mistreatment of Saint Cyr taking place outside.⁹⁸¹² At some point, the female captives could no longer hear Saint Cyr crying outside anymore.⁹⁸¹³

4142. As regards P-1716's treatment specifically, the Chamber found that he remained captive at Yamwara under Cœur de Lion's watch on the night of his capture. During this time, elements in Mr Yekatom's group threatened P-1716 with death and Cœur de Lion interrogated him. P-1716 was released the following morning after his father paid a ransom to Cœur de Lion and Mr Yekatom. Mr Yekatom knew of P-1716's capture and his mistreatment at the very latest by the morning of 25 December 2013.⁹⁸¹⁴

4143. The Chamber further considered how the captives were regrouped together later in the evening. The Chamber found that elements in Mr Yekatom's group brought the three women outside of Cœur de Lion's house, regrouped them with P-1704 and P-1705, and brought them to another location in Yamwara. The elements in Mr Yekatom's group continued to keep the three women, together with P-1704 and P-1705 in captivity at this location in Yamwara at gunpoint, where the female captives were threatened and told that they would be peeled 'like a papaya'. Saint Cyr was not amongst them.⁹⁸¹⁵

4144. The Chamber considered how P-1704, P-1705, P-0967, P-1811, and one other captive were transferred overnight to another location close to the M'Poko airport. The Chamber found that during the intervening night of 24 and 25 December 2013, the elements in Mr Yekatom's group made the five captives walk from Yamwara to a location close to the M'Poko airport.

⁹⁸¹⁰ See paragraph 104 above.

⁹⁸¹¹ See paragraph 101 above.

⁹⁸¹² See paragraph 104 above.

⁹⁸¹³ See paragraph 104 above.

⁹⁸¹⁴ See paragraph 107 above.

⁹⁸¹⁵ See paragraph 108 above.

Mr Yekatom, Cœur de Lion, or Bojos did not accompany them. At this location, the elements in Mr Yekatom's group handed over the five captives to Sylvestre Yagouzou, who introduced himself as the 'coordinator of the base behind the airport' and a 'spokesperson' of the Anti-Balaka. Sylvestre Yagouzou then kept the five captives at a location close to the airport until the following day under circumstances that, to P-0967 and P-1811, were frightening.⁹⁸¹⁶ The Chamber found that the five captives were released and handed over to Sangaris on or about 27 December 2013.⁹⁸¹⁷

Perpetrator inflicted great suffering, or serious injury to body or mental or physical health

4145. The Chamber notes that the Yekatom Defence makes a number of arguments concerning the gravity of the conduct underlying this crime, namely (i) the gravity threshold under Article 7(1)(k) of the Statute should be applied restrictively,⁹⁸¹⁸ (ii) the drafters of the Statute intended to exclude cruel treatment from being considered a crime against humanity *per se*;⁹⁸¹⁹ and (iii) the charged conduct failed to meet the standard under Article 7(1)(k) of the Statute.⁹⁸²⁰

4146. At the outset, the Chamber was not assisted by the Yekatom Defence's arguments challenging the relative gravity of the charged conduct in other cases. Further, the Chamber could draw no conclusions on the Yekatom Defence's theoretical argument that the drafters of the Statute intended to exclude cruel treatment from being considered a crime against humanity. The Chamber further grants that a variety of judicial bodies have applied the definition of 'other inhumane acts' restrictively, and that not every conduct is grave enough to fulfil the gravity requirement.⁹⁸²¹ The Chamber also considers both gravity and the notion

⁹⁸¹⁶ See paragraph 109 above.

⁹⁸¹⁷ See paragraph 110 above.

⁹⁸¹⁸ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 638-639 referring *inter alia* to ECCC, Supreme Court Chamber, *Prosecutor v. Nuon Chea et al.*, Appeal Judgment, 23 November 2016, Case No. 002/19-09-2007-ECCC/SC-F36 (the '[Case 002 Appeals Judgment](#)'), para. 581.

⁹⁸¹⁹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 639.

⁹⁸²⁰ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 639 referring *inter alia* to [Al Hassan Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1186.

⁹⁸²¹ [Case 002 Appeals Judgment](#), Case No. 002/19-09-2007-ECCC/SC-F36, para. 581.

of ‘an inhumane act’ require a value judgment and a subjective assessment of the circumstances against situations where the gravity requirements were not fulfilled.

4147. As set out below, the treatment of the six persons in the present case, when considered as a whole, squarely fulfilled the gravity requirement.

4148. In respect of the three female captives, the Chamber finds that Mr Yekatom’s elements subjected them to mental suffering by threatening them with death, using the phrase ‘peeling the papaya’ at the checkpoint, threatening them with death during their captivity at Yamwara in Cœur de Lion’s house, as well as during their captivity at the second location in Yamwara, without Saint Cyr. Mr Yekatom’s elements subjected them to physical suffering by searching them at Yamwara, forcing them to undress to their underwear, and keeping them in captivity at gunpoint in both the locations where they were kept at Yamwara. Mr Yekatom’s elements further subjected them to mental suffering by keeping them around the location where their family member, Saint Cyr, was beaten, his legs were broken, he was tied up in ‘*arbatacher*’ manner and several of his body parts were cut off within hearing distance from them. Mr Yekatom’s elements subjected them to physical suffering by making them walk overnight to another location close to the M’Poko airport, in the context of an armed conflict, where they were kept in captivity in circumstances that to P-0967 and P-1811 were frightening.

4149. In respect of the male captives, the Chamber finds that Mr Yekatom’s elements subjected them to physical suffering by beating them at the checkpoint and at Yamwara. Mr Yekatom’s elements subjected them to mental suffering by threatening them with death, accusing them of being traitors, and interrogating about their ethnicities them whilst beating them. Mr Yekatom’s elements further subjected them to mental suffering by keeping them around the location where Saint Cyr was interrogated and tortured within hearing distance from them.

4150. Additionally, in respect of P-1704 and P-1705, Mr Yekatom’s elements subjected them to mental suffering by regrouping them with the female captives following Saint Cyr’s torture and keeping them in captivity at another location in Yamwara at gunpoint. Mr Yekatom’s elements subjected them to physical suffering by making them walk overnight to another

location close to the M'Poko airport, in the context of an armed conflict, where they were further kept in captivity.

4151. Particularly, in relation to P-1716, who was not regrouped with the female captives and brought elsewhere, Mr Yekatom's elements subjected him to physical suffering by keeping him captive overnight at Yamwara under Cœur de Lion's watch. During this time, Mr Yekatom's elements subjected him to mental suffering by threatening him with death and interrogating him.

4152. Having regard to the above, the Chamber finds that Mr Yekatom's elements inflicted the suffering and injury upon the six persons, as noted above, by means of an inhumane act. These acts comprised of deprivation of liberty, threatening with death, beatings, interrogation about ethnicity and family background, subjecting a family member and/or friend to mistreatment within hearing distance, forced undressing of the female captives for searches, confinement without information as to whether and when they would be released, and providing no information on the state and/or whereabouts of the family member/friend that was mistreated.

4153. In the view of the Chamber, the gravity threshold requirement is met when considering the totality of these circumstances endured by the captives from the moment they were apprehended until their respective release. In this regard, the Chamber recalls that serious beatings, subjection to deplorable conditions of detention, and requiring persons to witness the beatings of others is sufficient to fulfil the gravity requirement of other inhumane acts as a crime against humanity.⁹⁸²² Accordingly, the Chamber finds that the requirement is met in respect of the first element of other inhumane acts as a crime against humanity, pursuant to Article 7(1)(k) of the Statute, namely that the perpetrator inflicted great suffering, or serious injury to body or to mental or physical health, by means of an inhumane act.

⁹⁸²² See paragraph 3828 above *referring to Ongwen Trial Judgment*, ICC-02/04-01/15-1762-Conf, para. 2744. See also [Al Hassan Trial Judgment](#), ICC-01/12-01/18-2594-Red, para. 1128.

Such act was of a character similar to any other act referred to in Article 7(1) of the Statute

4154. The Chamber, as noted below, has considered that parts of the conduct that resulted in the mistreatment of the six persons fulfil the requirements of the crimes of imprisonment and other severe deprivation of liberty. In addition, this conduct collectively, namely, *inter alia*, threatening the captives with death multiple times, interrogation, beatings, forced undressing of the female captives, mistreatment of a family member/friend, lack of access to procedural rights in captivity, as discussed above, is impermissible under generally applicable international law, as recognised by the principal legal systems of the world. Accordingly, the Chamber finds that the requirement is met in respect of the second element of other inhumane acts as a crime against humanity, pursuant to Article 7(1)(k) of the Statute, namely that such act was of a character similar to any other act referred to in article 7, paragraph 1, of the Statute.

ii. Torture as a crime against humanity and as a war crime (Counts 12 and 13)

4155. Under Counts 12 and 13, Mr Yekatom and Mr Ngaïssona are charged with torture as a crime against humanity, pursuant to Article 7(1)(f) of the Statute, and torture as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, of Saint Cyr, in the context of the abduction of seven persons in or around Cattin, and their subsequent transfer to Yamwara.

4156. At the outset, the Chamber notes that the Prosecution appears to argue that Mr Yekatom is charged with the torture of seven persons in the group, including Saint Cyr.⁹⁸²³ However, in the view of the Chamber, Counts 12 and 13, as regards the charge of torture, do not include the abduction and mistreatment of the six persons, other than Saint Cyr, within its factual scope. The abduction and mistreatment of the six persons is instead charged as ‘cruel treatment, pursuant to and prohibited by article 8(2)(c)(i) of the Statute’ and ‘other inhumane acts, pursuant to and prohibited by article 7(1)(k) of the Statute’ with reference to the ‘six of them’ being subjected to severe physical and mental injury, including by threatening them

⁹⁸²³ See [Prosecution Closing Brief](#), ICC-01/14-01/18-2738-Red, paras 657-675 (titled ‘torture of the seven persons’).

with death or otherwise, forcing them to undress, and/or beating them.⁹⁸²⁴ This conclusion is also supported by a comparative reading of the references to paragraphs 114 to 115 of the Confirmation Decision in respect of Saint Cyr and the references to paragraphs 114 to 116 in respect of the other six persons in the group. Accordingly, the Chamber has not assessed or entered a finding on whether the mistreatment of the six persons in the group amounted to torture under Counts 12 and 13.

Recalling of factual findings

4157. The Chamber recalls that Saint Cyr was among the group of seven persons that Mr Yekatom's element stopped at the checkpoint.⁹⁸²⁵ The Chamber found that, at the checkpoint led by Alkanto, an element searched Saint Cyr and found a 'Seleka card' on him.⁹⁸²⁶

4158. The Chamber found that none of the seven persons, including Saint Cyr, posed a threat to Yamwara or the security of the elements placed there. In fact, the nature and the purpose of them being together and close to Yamwara was linked to the funeral of Saint Cyr's older brother.⁹⁸²⁷

4159. The Chamber found that after threatening them with death and accusing them of being traitors, Alkanto ordered his elements to take the seven persons, including Saint Cyr Lapo N'Gomat, to Yamwara. Alkanto's elements perceived the seven persons in the group to be all Muslims.⁹⁸²⁸

4160. The Chamber considered how Mr Yekatom's elements treated and interrogated Saint Cyr when they brought the seven persons to Yamwara. The Chamber found that elements in Mr Yekatom's group, namely Alkanto and others, brought the captives to Cœur de Lion's house at Yamwara. There, in Cœur de Lion's presence, elements in Mr Yekatom's group, including Bojos, interrogated the four men individually on their identity, ethnicity, and

⁹⁸²⁴ [Confirmation Decision](#), ICC-01/14-01/18-403-Corr-Red, pp. 104, 106 *referring to* paras 114-115.

⁹⁸²⁵ See paragraph 95 above.

⁹⁸²⁶ See paragraph 98 above.

⁹⁸²⁷ See paragraph 98 above.

⁹⁸²⁸ See paragraphs 96, 99 above.

reasons for being there with the women, also demanding the captive men to speak in the dialect associated with their respective ethnicities. Saint Cyr and another captive, who were Boffi from their father's side and Goula from their mother's side, gave their ethnicity but neither could speak their dialect. Saint Cyr said that he was 'Boffi' but could not speak in this language. When Saint Cyr was unable to do so, elements in Mr Yekatom's group accused him of being 'Goula', and therefore associated with Djotodia.⁹⁸²⁹ Following the men's interrogation, the elements in Mr Yekatom's group forced them to undress, searched them again, threatened them with death, and found no weapons on any of them.⁹⁸³⁰

4161. The Chamber considered the circumstances of Saint Cyr's mistreatment. The Chamber found that elements in Mr Yekatom's group continued to interrogate Saint Cyr and beat him, despite him showing his identification card and insisting that he was a FACA member. Cœur de Lion, who was observing Saint Cyr's mistreatment, encouraged the assailants and ordered them to continue, saying, *inter alia*, that the victims were 'Muslims' and 'Seleka' and to 'do the job properly'. Elements in Mr Yekatom's group specifically beat Saint Cyr's legs, breaking them, and tied him up in '*arbatacher*' manner, continuing to assault him. An element in Mr Yekatom's group cut off Saint Cyr's toes, fingers, and an ear, being encouraged by Cœur de Lion's presence at the scene and his words, and feeling that there was no choice but to do it. After Saint Cyr's beating and maiming, the elements of Mr Yekatom's group took him away. Saint Cyr then died.⁹⁸³¹

*Perpetrator inflicted severe physical or mental pain
or suffering on one or more persons*

4162. The Chamber notes the Yekatom Defence's argument that when Saint Cyr and the others were apprehended, it was a 'result of investigative acts that provided a reasonable basis to suspect the group as Seleka forces or Seleka informants', based on being recognised as linked to Mamour and Djotodia and found to have 'suspicious items, including Seleka card(s)' and 'the conspicuously hidden SIM card'.⁹⁸³² In support, it argues that the first time

⁹⁸²⁹ See paragraph 100 above.

⁹⁸³⁰ See paragraph 101 above.

⁹⁸³¹ See paragraph 101 above.

⁹⁸³² Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 627, 646.

the group was stopped in the ambulance, they were permitted to proceed ‘following routine searches of the van’ and that, in contrast, it was during the ‘second stop’ that the group was recognised as being part of the Mamour’s family.⁹⁸³³ The Yekatom Defence further argues that the ‘legitimacy and necessity of the security checks in and around Yamwara’ were ‘emphasised’ by the presence of the Seleka forces’ ‘continued’ attacks against Yamwara.⁹⁸³⁴

4163. Having regard to the circumstances and the manner in which the group was apprehended, searched and threatened with death at the checkpoint and during their transfer to Yamwara, the Chamber finds that they bore no resemblance whatsoever to any ‘investigative’ act legally carried out. It did not have any of the characteristics of a lawful action, regardless of whether it would have been, otherwise, lawfully sanctioned. If anything, what was clear throughout the events was that none of the members of the group, including Saint Cyr, was armed or posed a threat to the security of elements at Yamwara. In this context, the Chamber considers that the recovery of a SIM card in the trousers of one of the women at Yamwara by one of Mr Yekatom’s elements or finding a Seleka card on Saint Cyr did not mean that the group, including Saint Cyr, were suddenly rendered without protection as civilians under the legal framework. It also did not render lawful retrospectively the manner in which the group, including Saint Cyr, was apprehended. The Chamber is convinced that elements in Mr Yekatom’s group had no reason to entertain suspicions against the group, including Saint Cyr, let alone consider, as argued, that these suspicions were ‘reasonable’.

4164. In arriving at this conclusion, the Chamber considered irrelevant the Yekatom Defence’s arguments pointing to the circumstances of the search of the vehicle in which some of the members of the group were travelling with the corpse of Saint Cyr’s brother. The Chamber considers that this search of the vehicle was also neither ‘routine’ nor lawful, noting that Mr Yekatom’s group had no legal basis to set up a checkpoint or to grant themselves the authority to carry out searches of the vehicles and individuals in and around Yamwara.

4165. Having regard to the above, in respect of the first element of torture as a crime against humanity, pursuant to Article 7(1)(f) of the Statute, and torture as a war crime, pursuant to

⁹⁸³³ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 626-627.

⁹⁸³⁴ See [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 626.

Article 8(2)(c)(i) of the Statute, namely that the perpetrator inflicted on the victim severe physical or mental pain or suffering, the Chamber finds that this requirement is met in respect of a combination of acts against Saint Cyr, including beating, interrogation, breaking of legs, being tied up in ‘*arbatacher*’ manner by elements of Mr Yekatom’s group, and maiming of his toes, fingers, and an ear at Yamwara. The Chamber considers that the severity requirement is equally met even when only considering the individual actions of the element that maimed Saint Cyr’s toes, fingers, and an ear.

Such person or persons were in custody or under control of the perpetrator

4166. The Chamber further found that Mr Yekatom and his elements had established a base at Yamwara at one point in December 2013 following the Bangui Attack.⁹⁸³⁵ Mr Yekatom was in charge of all the elements stationed at Yamwara. Cœur de Lion, who was Mr Yekatom’s deputy, lived in Yamwara.⁹⁸³⁶ Alkanto was an element in Mr Yekatom’s group and the chief of the elements who were stationed at the checkpoint where Saint Cyr was apprehended.⁹⁸³⁷

4167. Accordingly, the Chamber finds that Mr Yekatom, through Cœur de Lion and Alkanto, had control over Saint Cyr from the moment of his arrest until his eventual maiming at Yamwara. Specifically, Alkanto had control over Saint Cyr when the group was apprehended at the checkpoint and Cœur de Lion maintained control over Saint Cyr at Yamwara during his beating, interrogation, and maiming.

4168. On this basis, the Chamber finds that the requirement is met in respect of the second element of torture as a crime against humanity, pursuant to Article 7(1)(f) of the Statute, namely that the person was in the custody or under the control of the perpetrator.

⁹⁸³⁵ See paragraph 89 above.

⁹⁸³⁶ See paragraphs 89, 92 above.

⁹⁸³⁷ See paragraphs 91-92, 95 above.

Pain or suffering did not arise only from, and was not inherent or incidental to, lawful sanctions

4169. In respect of the third element of torture as a crime against humanity under Article 7(1)(f) of the Statute, namely that the pain or suffering inflicted did not arise only from, and was not inherent in or incidental to, lawful sanction, the Chamber finds that there was no nexus between the actions of Mr Yekatom and his elements and any lawful sanction. Neither Mr Yekatom nor his elements had any lawful authority or basis to set up a checkpoint where Saint Cyr was apprehended. They equally did not have the legal authority or basis to stop and search Saint Cyr there, to bring him to Yamwara, or to keep him there. Neither Mr Yekatom, Alkanto at the checkpoint, nor Cœur de Lion at Yamwara, had any legal authority or basis to require elements in Mr Yekatom's group to beat, interrogate, threaten, or maim Saint Cyr.

Against person(s) taking no active part in hostilities

4170. Turning to the distinct element of torture as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, that the person be either *hors de combat*, or a civilian, the Chamber has considered the circumstances of Saint Cyr's abduction and custody at Yamwara and his status during this time. The Chamber finds that Saint Cyr was a civilian at the time of his abduction. The Chamber recalls that he, along with the other men in this group, was escorting the women, with whom he had familial relations, to find transport to go home.⁹⁸³⁸ Saint Cyr was not armed at any stage of the events, as shown by the fact that no arms were recovered from the group during the two searches, one at the checkpoint and one at Yamwara.⁹⁸³⁹ Saint Cyr was not carrying out any activities that would have altered his civilian status at the time of his abduction. This conclusion is not affected by Saint Cyr holding a rank within the FACA at the time,⁹⁸⁴⁰ or the discovery of the purported 'Seleka card' on him, following a search by Mr Yekatom's element.⁹⁸⁴¹ The Chamber thus concludes that the distinct element of torture

⁹⁸³⁸ See paragraph 95 above.

⁹⁸³⁹ See paragraphs 98, 101 above.

⁹⁸⁴⁰ See paragraph 101 above.

⁹⁸⁴¹ See paragraph 98 above.

was a war crime under Article 8(2)(c)(i) of the Statute, namely that the person be *hors de combat* or a civilian, is met.

iii. *Cruel treatment as a war crime (Count 13)*

4171. Under Count 13, Mr Yekatom and Mr Ngaïssona are charged with cruel treatment as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, of six persons, in the context of the abduction of seven persons in or around Cattin.

Recalling of factual findings

4172. The Chamber notes the factual findings recalled in respect of Count 11.

Perpetrator inflicted severe physical or mental pain or suffering upon one or more persons

4173. In assessing the severity requirement of cruel treatment above, the Chamber has considered the Yekatom Defence's arguments raised in respect of the gravity of crimes concerning Count 11.⁹⁸⁴² While the Yekatom Defence does not 'contest that the six victims were mistreated',⁹⁸⁴³ it argues that the gravity threshold required under the legal framework cannot be established.⁹⁸⁴⁴ In support, it points to certain factual considerations, namely that the Chamber 'has conflicting information as to the precise severity of the suffering endured by the six victims which is compounded by the cross-contamination and propensity to embellish across all six witnesses'.⁹⁸⁴⁵ This concerns the (i) the extent of beatings by P-1704, P-1705, and P-1716;⁹⁸⁴⁶ (ii) circumstances and location of P-0967, P-1811 and another captive's search;⁹⁸⁴⁷ and (iii) extent of exposure to Saint Cyr's mistreatment.⁹⁸⁴⁸ As regards the legal

⁹⁸⁴² Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 634-640. See also paragraphs 4145-4153 above.

⁹⁸⁴³ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 635-637.

⁹⁸⁴⁴ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 635-637.

⁹⁸⁴⁵ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 636.

⁹⁸⁴⁶ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 636.

⁹⁸⁴⁷ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 636.

⁹⁸⁴⁸ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 636.

standard, it also argues that acts of cruel treatment must meet the same standards as acts of torture but for the purposive requirement.⁹⁸⁴⁹

4174. At the outset, as regards the factual considerations raised by the Yekatom Defence, the Chamber recalls that it has addressed the allegations of tainting of evidence in its factual assessment when reaching conclusion on how the events unfolded.⁹⁸⁵⁰ It has specifically addressed purportedly inconsistent evidence concerning the beatings,⁹⁸⁵¹ the circumstances and locations of the search of the female captives,⁹⁸⁵² as well as the extent to which each individual captive observed Saint Cyr's torture.⁹⁸⁵³

4175. As regards the severity threshold of the crimes, the Chamber notes that whilst the circumstances of the imprisonment of the six persons and Saint Cyr are the same, as noted above, the circumstance of their respective mistreatment is different. In light of this, the Chamber did not consider it necessary to answer, in law, whether the standard of severity required under cruel treatment, which relates to the treatment of the six persons, must be the same as the standard of severity required for torture, which relates to the treatment for Saint Cyr.

4176. In assessing the severity underlying the cruel treatment, the Chamber also had regard to the related jurisprudence cited by the Yekatom Defence in support of its position that the severity threshold for cruel treatment was not met in the present case,⁹⁸⁵⁴ and considered it inapposite to the extent that it concerns distinct fact patterns different from the present case.⁹⁸⁵⁵ At the same time, to the extent that this jurisprudence concerned a factual assessment on a case-by-case basis,⁹⁸⁵⁶ when considering the totality of the surrounding circumstances to conclude

⁹⁸⁴⁹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 638.

⁹⁸⁵⁰ See paragraphs 3105-3130 above.

⁹⁸⁵¹ See paragraphs 3148, 3178-3179 above.

⁹⁸⁵² See paragraphs 3203-3213 above.

⁹⁸⁵³ See paragraphs 3169-3175, 3215-3218 above.

⁹⁸⁵⁴ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 638 referring *inter alia* to ICTY, Trial Chamber II, *Prosecutor v. Limaj et al.*, [Judgement](#), 30 November 2005, IT-03-66-T (the '[Limaj et al. Trial Judgment](#)'), para. 232; [Krnojelac Trial Judgment](#), IT-97-25-T, paras 200 *et seq*; ICTY, Appeals Chamber, *Prosecutor v. Milan Lukić and Sredoje Lukić*, [Judgement](#), 4 December 2012, IT-98-32/1-A, para. 634. To the extent that these arguments concerned other inhumane acts, the Chamber has addressed them below. See paragraphs 4145-4153 above.

⁹⁸⁵⁵ See [Limaj et al. Trial Judgment](#), IT-03-66-T, para. 232; [Krnojelac Trial Judgment](#), IT-97-25-T, para. 176; ICTY, Appeals Chamber, *Prosecutor v. Milan Lukić and Sredoje Lukić*, [Judgement](#), 4 December 2012, IT-98-32/1-A, para. 634.

⁹⁸⁵⁶ [Limaj et al. Trial Judgment](#), IT-03-66-T, para. 232.

whether a certain physical assault amounted to cruel treatment or not,⁹⁸⁵⁷ it supports the approach taken by the present Chamber.

4177. Further, the personal circumstances of their mistreatment, like age, gender, relationship to Saint Cyr, length of mistreatment, length of exposure to the direct perpetrators, etc. necessitated an individualised assessment of the severity for each of the victims. As set out in its factual findings and its conclusions below, without having recourse to the legal discussion above, the Chamber was satisfied that the severity requirement was met for each of the six persons when their individual circumstances were assessed holistically.

4178. In respect of the three female captives, the Chamber finds that Mr Yekatom's elements subjected them to mental suffering by threatening them with death, using the phrase 'peeling the papaya' at the checkpoint, threatening them with death during their captivity at Yamwara in Cœur de Lion's house, as well as during their captivity at the second location in Yamwara, without Saint Cyr. Mr Yekatom's elements subjected them to physical suffering by searching them at Yamwara, forcing them to undress to their underwear, and keeping them in captivity at gunpoint in both the locations where they were kept at Yamwara. Mr Yekatom's elements further subjected them to mental suffering by keeping them around the location where their family member, Saint Cyr, was beaten, his legs were broken, he was tied up in 'arbatacher' manner and several of his body parts were cut off within hearing distance from them. Mr Yekatom's elements subjected them to physical suffering by making them walk overnight to another location close to the M'Poko airport, in the context of an armed conflict, where they were kept in captivity in circumstances that to P-0967 and P-1811 were frightening.

4179. In respect of the male captives, the Chamber finds that Mr Yekatom's elements subjected them to physical suffering by beating them at the checkpoint and at Yamwara. Mr Yekatom's elements subjected them to mental suffering by threatening them with death, accusing them of being traitors, and interrogating about their ethnicities whilst beating them. Mr Yekatom's

⁹⁸⁵⁷ See e.g. [Krnojelac Trial Judgment](#), IT-97-25-T, para. 193-215.

elements further subjected them to mental suffering by keeping them around the location where Saint Cyr was interrogated and mistreated within hearing distance from them.

4180. Additionally, in respect of P-1704 and P-1705, Mr Yekatom's elements subjected them to mental suffering by regrouping them with the female captives following Saint Cyr's torture and keeping them in captivity at another location in Yamwara at gunpoint. Mr Yekatom's elements subjected them to physical suffering by making them walk overnight to another location close to the M'Poko airport, in the context of an armed conflict, where they were further kept in captivity.

4181. Particularly, in relation to P-1716, who was not regrouped with the female captives and brought elsewhere, Mr Yekatom's elements subjected him to physical suffering by keeping him captive overnight at Yamwara under Cœur de Lion's watch. Mr Yekatom's elements subjected him to mental suffering by threatening him with death and interrogating him.

4182. Accordingly, having regard to the totality of mistreatment endured by the captives from the moment they were apprehended until their respective release, the Chamber finds that the severity threshold is met.

4183. On this basis, the Chamber finds that the requirement is met in respect of the first element of cruel treatment as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, namely that the perpetrator inflicted severe physical or mental pain or suffering upon one or more persons.

Such person or persons were hors de combat, civilians, medical or religious personnel taking no active part in hostilities

4184. The Chamber further found that all the seven persons were in one group, where the men were escorting the women, with some of whom they had familial relations, to find transport to go home.⁹⁸⁵⁸ None of the seven persons was armed at any stage of the events, as shown by the fact that no arms were recovered from the group during the two searches, one at the

⁹⁸⁵⁸ See paragraph 95 above.

checkpoint and one at Yamwara.⁹⁸⁵⁹ None of the seven persons was carrying out any activities that would have altered their civilian status. This conclusion is not affected by a SIM card being found hidden in the trousers of one of the women, neither by Saint Cyr holding a rank within the FACA at the time,⁹⁸⁶⁰ or a purported ‘Seleka card’ on him.⁹⁸⁶¹

4185. Accordingly, the Chamber finds that all seven persons in the group were civilians. In light of this, the Chamber finds that the requirement in respect of the second element of cruel treatment as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, namely that the persons be either *hors de combat*, or a civilian, is met.

*iv. Imprisonment and other forms of severe deprivation
of physical liberty as a crime against humanity
(Count 14)*

4186. Under Count 14, Mr Yekatom and Mr Ngaïssona are charged with imprisonment and other forms of severe deprivation of physical liberty pursuant to Article 7(1)(e) of the Statute, for the abduction and transfer of seven persons, including Saint Cyr, to Yamwara on or about 24 December 2013 and the subsequent transfer of six persons from Yamwara to other locations until their release on or about 27 December 2013.

Recalling of factual findings

4187. The Chamber considered the circumstances in which Mr Yekatom’s elements stopped seven persons. The Chamber found that elements from Mr Yekatom’s group apprehended these seven persons at a checkpoint led by Alkanto close to the Lapo N’Gomat family house and Yamwara.⁹⁸⁶² Alkanto ordered his elements to search the male captives at the checkpoint. Alkanto’s elements beat P-1704 and P-1716 and accused them of being traitors. Following this search, no arms were found on any of the captives. An element searched Saint Cyr and found a ‘Seleka card’ on him. None of the seven persons posed a threat to Yamwara or the

⁹⁸⁵⁹ See paragraphs 98, 101 above.

⁹⁸⁶⁰ See paragraph 101 above.

⁹⁸⁶¹ See paragraph 98 above.

⁹⁸⁶² See paragraph 96 above.

security of the elements placed there. In fact, the nature and the purpose of them being together and close to Yamwara was linked to the funeral of Saint Cyr's older brother.⁹⁸⁶³

4188. The Chamber considered the circumstances in which Mr Yekatom's elements brought the seven persons to Yamwara. The Chamber found that after threatening them with death and accusing them of being traitors, Alkanto ordered his elements to take the seven persons, including Saint Cyr Lapo N'Gomat, P-1704, P-1705, P-1716, P-0967 and P-1811, to Yamwara.⁹⁸⁶⁴

4189. The Chamber considered the circumstances of their treatment at Yamwara. The Chamber found that elements in Mr Yekatom's group, namely Alkanto and others, brought the captives to Cœur de Lion's house at Yamwara. There, in Cœur de Lion's presence, elements in Mr Yekatom's group, including Bojos, interrogated the four men individually on their identity, ethnicity, and reasons for being there with the women, also demanding the captive men to speak in the dialect associated with their respective ethnicities.⁹⁸⁶⁵

4190. The Chamber considered how P-1704, P-1705, P-1716, and Saint Cyr were treated after their interrogation at Yamwara. The Chamber found that following the men's interrogation, the elements in Mr Yekatom's group forced them to undress, searched them again, threatened them with death, and found no weapons on any of them.⁹⁸⁶⁶

4191. The Chamber considered how P-0967, P-1811, and one other captive were treated at Yamwara. The Chamber found that the elements in Mr Yekatom's group kept the women apart but close by, under the veranda of Cœur de Lion's house.⁹⁸⁶⁷ Then Mr Yekatom's group took the women inside Cœur de Lion's house while Saint Cyr's interrogation continued outside, and from where they could hear what was happening outside. After the women were brought inside Cœur de Lion's house, the elements in Mr Yekatom's group forced them to undress to their underwear, searched them, and threatened them with death. An element in Mr Yekatom's group pointed a weapon in the women's direction and asked

⁹⁸⁶³ See paragraph 98 above.

⁹⁸⁶⁴ See paragraph 99 above.

⁹⁸⁶⁵ See paragraph 100 above.

⁹⁸⁶⁶ See paragraph 101 above.

⁹⁸⁶⁷ See paragraph 100 above.

P-1811 about her tribe. During their captivity inside Cœur de Lion's house, elements from Mr Yekatom's group were coming in and out of the house and threatened them with death.⁹⁸⁶⁸

4192. The Chamber considered the circumstances of P-1716's captivity. The Chamber found that P-1716 remained captive at Yamwara under Cœur de Lion's watch on the night of his capture. During this time, elements in Mr Yekatom's group threatened P-1716 with death and Cœur de Lion interrogated him. P-1716 was released the following morning after his father paid a ransom to Cœur de Lion and Mr Yekatom.⁹⁸⁶⁹

4193. The Chamber considered how some captives were regrouped later in the evening of 24 December 2013. The Chamber found that elements in Mr Yekatom's group brought the three women outside of Cœur de Lion's house, regrouped them with P-1704 and P-1705, and brought them to another location in Yamwara. The elements in Mr Yekatom's group continued to keep the three women, together with P-1704 and P-1705, in captivity at this location in Yamwara at gunpoint, where the female captives were threatened and told that they would be peeled 'like a papaya'.⁹⁸⁷⁰

4194. The Chamber considered how P-1704, P-1705, P-0967, P-1811, and one other captive were transferred overnight to another location close to the M'Poko airport. The Chamber found that during the intervening night of 24 and 25 December 2013, the elements in Mr Yekatom's group made the five captives walk from Yamwara to a location close to the M'Poko airport. Mr Yekatom, Cœur de Lion, or Bojos did not accompany them. At this location, the elements in Mr Yekatom's group handed over the five captives to Sylvestre Yagouzou, who introduced himself as the 'coordinator of the base behind the airport' and a 'spokesperson' of the Anti-Balaka. Sylvestre Yagouzou then kept the five captives at a location close to the airport until the following day under circumstances that, to P-0967 and P-1811, were

⁹⁸⁶⁸ See paragraph 104 above.

⁹⁸⁶⁹ See paragraph 107 above.

⁹⁸⁷⁰ See paragraph 108 above.

frightening.⁹⁸⁷¹ The Chamber found that the five captives were released and handed over to Sangaris on or about 27 December 2013.⁹⁸⁷²

Imprisonment or other severe deprivation of physical liberty of one or more persons

4195. The Chamber notes the Yekatom Defence's argument that the Prosecution has not established the severity of the deprivation of liberty.⁹⁸⁷³ The Chamber notes that the Yekatom Defence takes issue with the duration of the deprivation of physical liberty with reference to a decision by Pre-Trial Chamber III in the Situation in Burundi (the '*Burundi Decision*'), arguing that this decision concerned 'a fact pattern where the period of detention ranged between one and nine months'.⁹⁸⁷⁴ It argues that the victims were detained by Mr Yekatom's group for 'one evening' before Mr Yekatom's 'intervention' for their transfer to Sylvestre Yagouzou's custody 'in order to be released to the Sangaris'.⁹⁸⁷⁵ It further argues that during this time, the victims were provided with food and bedding, nor was there any evidence that the victims required any 'medical treatment or that they were denied such treatment whilst detained'.⁹⁸⁷⁶

4196. The Chamber emphasises that there is no minimum requirement of duration that a deprivation of liberty must fulfil under Article 7(1)(e) of the Statute, and therefore, it need not be for a prolonged period of time, as also noted in the *Burundi Decision*.⁹⁸⁷⁷ In this respect, the Pre-Trial Chamber III considered duration together with the overall circumstances of detention when assessing the severity of the physical deprivation of liberty.⁹⁸⁷⁸ The fact that the *Burundi Decision* itself concerned longer durations of detention has no bearing whatsoever on how the express requirements of Article 7(1)(e) of the Statute must be read.

⁹⁸⁷¹ See paragraph 109 above.

⁹⁸⁷² See paragraph 110 above.

⁹⁸⁷³ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 642.

⁹⁸⁷⁴ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 643 referring to [Burundi Decision](#), ICC-01/17-9-Red, para. 68.

⁹⁸⁷⁵ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 643.

⁹⁸⁷⁶ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 644.

⁹⁸⁷⁷ [Burundi Decision](#), ICC-01/17-9-Red, para. 68.

⁹⁸⁷⁸ [Burundi Decision](#), ICC-01/17-9-Red, paras 69-87.

4197. Indeed, it would be artificial when assessing deprivation of liberty to only look at duration, divorcing it from the surrounding circumstances. In this respect, the Chamber has regard to the case-law under international human rights instruments concerning captivity for a duration comparable to the present case, cited in the *Burundi* Decision in support of its finding that ‘brevity of detention alone cannot be brought forward as an argument to deny the severity of the deprivation of physical liberty’.⁹⁸⁷⁹ In all of these cited cases, duration of detention was only one of the factors that the concerned court or committee considered to assess arbitrariness of detention.⁹⁸⁸⁰

4198. In the present case, as set out below, the Chamber has assessed the individual experiences of all the seven captives along with the respective duration of the deprivation of their liberty. In this assessment, duration was not the determining factor for severity, neither did it outweigh other factors. The Chamber assessed the overall circumstances of the deprivation of physical liberty, together with the duration. The Chamber noted, *inter alia*, that Mr Yekatom’s elements threatened the captives with death, kept the captives at gunpoint, interrogated them about their ethnicities, separated and regrouped the persons at will at various points during their captivity, and kept them present in or around the location of where their family member, Saint Cyr, was tortured.

⁹⁸⁷⁹ [Burundi Decision](#), ICC-01/17-9-Red, para. 68.

⁹⁸⁸⁰ See Human Rights Committee, *Isidore Kanana Tshionga a Minanga v. Zaire*, 8 November 1993, Communication No. 366/1989, para. 5.2 (detention of less than 12 hours) (the committee considered that the captive was not informed of the reasons for the arrest and detention, not presented with an arrest warrant, and taken to the place of detention under false pretexts); *Portorreal v Dominican Republic*, 5 November 1987, Communication No. 188/1984, para. 9.2 (detention of about 50 hours) (the committee considered the circumstances of the arrest, not being informed of the reasons for the arrest, lack of space in the cell where the person was held, receiving no food or water until the day following the arrest); *Spakmo v Norway*, 5 November 1999, Communication No. 631/1995 (detention of eight hours) (the committee noted that the detainee had been lawfully detained initially but the State party failed to show why it was necessary to further detain for eight hours in order to make the detainee stop their activities); ECtHR, *Case of Quinn v France*, Application no. 18580/91, Judgment of 22 March 1995, paras 39-43 (detention of 11 hours) (the court noted that there was a decision officially releasing the detainee ‘forthwith’ but this decision was not notified and no move was made to execute it); *Case of Ruslan Yakovenko v Ukraine*, Application No. 5425/11, Judgment of 4 June 2015, paras 67-70 (detention of two days) (the court noted that the domestic authorities took two days to arrange for the applicant’s release once the grounds for his detention had ceased to exist and did not employ means to minimise the delay in implementing the decision); *Case of Gębura v Poland*, Application No. 63131/00, Judgment of 6 March 2007, para. 35 (detention of two days) (the court noted that the delay between the decision to release the detainee and the actual release exceeded 48 hours and that administrative formalities related to the release could and should have been carried out more swiftly).

4199. This group comprised of Saint Cyr, P-1704, P-1705, P-1716, P-0967, P-1811, and another captive. The Chamber finds that the deprivation of physical liberty for all seven persons in the group began from the moment Mr Yekatom's elements apprehended them at the checkpoint close to the Lapo N'Gomat family house and Yamwara on 24 December 2013, from which moment their physical movement was restricted and they were under the control of Mr Yekatom's elements.⁹⁸⁸¹ During the entire duration until their respective release, including during their confinement close to the base at the airport, their physical movement was restricted and subject to the will and control of Mr Yekatom and his elements.

4200. In respect of Saint Cyr, the Chamber finds that the deprivation of his physical liberty lasted until his death,⁹⁸⁸² for a period of several hours. During this time, Saint Cyr's physical movement was restricted and under the control of Mr Yekatom's elements, by virtue of threats of death addressed to the whole group of seven, and beatings. Mr Yekatom's elements at Yamwara then interrogated him about his ethnicity, broke his legs, tied him up in 'arbatacher' manner, and maimed him. Accordingly, in the view of the Chamber, the severity threshold for Saint Cyr's deprivation of physical liberty is met.

4201. In respect of P-1716, the Chamber finds that the deprivation of his physical liberty lasted for approximately less than one day from the day of his capture until his release in the morning of 25 December 2013, when his father paid a ransom to Cœur de Lion and Mr Yekatom.⁹⁸⁸³ At the checkpoint, P-1716 was part of the group that was apprehended, mistreated and subsequently transferred along with the others to Yamwara under the threat of death, being accused as a traitor. At Yamwara, Mr Yekatom's elements beat P-1716 and threatened him with death.⁹⁸⁸⁴ P-1716 was present when Mr Yekatom's elements tortured Saint Cyr.⁹⁸⁸⁵ P-1716 remained captive at Yamwara that night under Cœur de Lion's watch, during which time Mr Yekatom's elements threatened P-1716 with death and Cœur de Lion interrogated

⁹⁸⁸¹ See paragraph 96 above.

⁹⁸⁸² See paragraph 101 above. See also paragraphs 4218-4221 below.

⁹⁸⁸³ See paragraph 107 above.

⁹⁸⁸⁴ See paragraphs 102, 107 above.

⁹⁸⁸⁵ See paragraphs 101 above.

him.⁹⁸⁸⁶ Accordingly, in the view of the Chamber, the severity threshold for P-1716's deprivation of physical liberty is met.

4202. In respect of P-0967, P-1811, P-1704, P-1705, and another captive, the Chamber finds that the deprivation of their physical liberty lasted until their release on or about 27 December 2013,⁹⁸⁸⁷ amounting to approximately three days. All five of them were initially brought together to Yamwara together with P-1716 and Saint Cyr.

4203. In assessing the severity of deprivation of liberty for P-1704 and P-1705, the Chamber has additionally considered the fact that they were both present when Saint Cyr was tortured and that Mr Yekatom's elements also beat them and threatened them with death around this time.⁹⁸⁸⁸

4204. Having regard to the overall circumstances of their captivity, as discussed above, the Chamber finds that the severity threshold for the deprivation of physical liberty is met in respect of P-0967, P-1811, P-1704, P-1705, and another captive. The Chamber is convinced that the severity requirement is met in respect of all the seven persons that were abducted at the checkpoint and brought to Yamwara, regardless of whether it may have been for 'one evening', as argued by Yekatom Defence.

4205. On this basis, the Chamber finds that the requirement in respect of the first element of imprisonment and other forms of severe deprivation of physical liberty as a crime against humanity, pursuant to Article 7(1)(e) of the Statute, namely that the perpetrator imprisoned one or more persons or otherwise severely deprived one or more persons of physical liberty, is met.

Gravity of conduct in violation of fundamental rules of international law

4206. Turning now to the second element of imprisonment and other forms of severe deprivation of physical liberty as a crime against humanity, pursuant to Article 7(1)(e) of the Statute,

⁹⁸⁸⁶ See paragraph 107 above.

⁹⁸⁸⁷ See paragraph 110 above.

⁹⁸⁸⁸ See paragraphs 101-102 above.

namely that the gravity of the conduct was such that it was in violation of fundamental rules of international law, the Chamber finds that this requirement is met by Mr Yekatom's elements apprehending the seven persons without any legal basis and providing none of them with access to any procedural rights for the entire duration of their captivity.

4207. The Chamber notes the Yekatom Defence's argument that there were 'legitimate reasons to apprehend and temporarily detain all six victims noting their familial ties to the Minister of Defence, the prominent relationship held with Djotodia, the possession of Seleka card(s) and the conspicuously hidden SIM card', giving rise to 'legitimate suspicion that the victims were Seleka forces and/spies' in the context of 'the ongoing active conflict and threats' to Yamwara.⁹⁸⁸⁹ In support, the Yekatom Defence relies on the appeal judgments in the *Čelebići* case (the '*Čelebići* Judgment') and the *Prlić* case (the '*Prlić* Judgment').⁹⁸⁹⁰

4208. In assessing whether there was a violation of fundamental rules of international law, the Chamber has considered two factors: whether Mr Yekatom had the legal basis to apprehend and keep in captivity the seven persons and whether Mr Yekatom granted to the seven persons any procedural safeguards required under international law.

4209. As regards the first factor, and despite some interaction with national authorities,⁹⁸⁹¹ the Chamber considers that Mr Yekatom and his elements had no legal basis to arbitrarily apprehend persons on the basis of suspicions at checkpoints. Mr Yekatom and his elements had no legal authority, prescribed by law or otherwise, to keep the seven persons in captivity. Even if such legal basis existed, Mr Yekatom had further no legal authority to subject the seven persons to the mistreatment that accompanied their captivity. As regards the second factor, the Chamber considers that there was no indication that Mr Yekatom's elements granted any of the seven persons access to any procedural rights that accompany such deprivation of liberty, for example, the right to be informed of the grounds of why they were

⁹⁸⁸⁹ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 646.

⁹⁸⁹⁰ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 645 referring respectively to ICTY, *Prosecutor v. Delalić et al.*, Judgement, 20 February 2001, IT-96-21-A, para. 323 and ICTY, Appeals Chamber, *Prosecutor v. Prlić et al.*, Judgement, 29 November 2017, IT-04-74-A, paras 367, 375.

⁹⁸⁹¹ See paragraphs 1877-1884, 3386-3395 above.

being apprehended and held captive, the right to legal assistance, and the right of independent and impartial review of the necessity of captivity.

4210. First, on the facts, with no arms being found on any of them, none of the seven in the group posed any threat to the security of Mr Yekatom, or his elements based at Yamwara. This conclusion is not affected by the recovery of a SIM card hidden in the trousers of one of the women, as there is no indication of why this SIM card was hidden, on whom exactly it was found, and whether Mr Yekatom's elements made any inquiry with the captives concerning this SIM card. Their interrogation by Mr Yekatom's elements appeared to have been restricted to the captives' family links and ethnicities, rather than genuine inquiries about determining their protected status as civilians.

4211. Second, none of the seven captives were members of the Seleka forces nor spies. The Chamber recalls that Mr Yekatom's elements continued to interrogate Saint Cyr and beat him, despite him showing his identification card and insisting that he was a FACA member.⁹⁸⁹² This conclusion is not affected by the recovery of the purported 'Seleka card' on him, following a search by Mr Yekatom's element.⁹⁸⁹³ Further, apart from some of the women captives having family relations with Mamour, who was the minister of defence in the Seleka government, there was no indication that any of the seven were indeed themselves Seleka members.

4212. Third, Mr Yekatom knew that Saint Cyr was escorting the three women, with whom he had familial relations, to find transport to go home, in the context of a burial of a family relative.⁹⁸⁹⁴ Mr Yekatom's subsequent characterisation of Saint Cyr as a 'traitor' and 'being in cahoots with the Seleka'⁹⁸⁹⁵ did not justify, or otherwise render lawful, the manner in which Mr Yekatom's elements apprehended and mistreated the group, including Saint Cyr.

⁹⁸⁹² See paragraph 101 above.

⁹⁸⁹³ See paragraph 98 above.

⁹⁸⁹⁴ See paragraphs 105-106 above.

⁹⁸⁹⁵ See paragraph 103 above.

4213. In light of these conclusions, the Chamber does not consider that Mr Yekatom or his elements could have entertained reasonable suspicions that the group of seven comprised of Seleka forces or were spies.

4214. Furthermore, the Chamber considers that the jurisprudence cited by the Yekatom Defence does not support its position. First, the two decisions concern unlawful confinement of a civilian as a grave breach of the Geneva Convention.⁹⁸⁹⁶ Second, reference to these decisions does not support the Yekatom Defence's position, in that they reaffirm the principle that confinement of civilians is unlawful when (i) they are detained without reasonable grounds to believe that the security of the detaining power 'makes it absolutely necessary', and (ii) where procedural safeguards under Article 43 of the Geneva Convention IV are not complied with, even where the initial detention may have been justified.⁹⁸⁹⁷

4215. On the contrary, having regard to this principle in assessing the requirement of 'violation of fundamental rules of international law' in the present case, the Chamber considers that it was not 'absolutely necessary' for Mr Yekatom or his elements to capture the seven persons on the basis of their suspicions, regardless of whether these were legitimate or not. Further, as noted above, there is no indication that Mr Yekatom, as the detaining power, provided any procedural safeguards to any of the captives. Rather, the torture and murder of Saint Cyr and the mistreatment endured by others, as discussed in detail above, shows that none of them were treated to the standard required under the fundamental rules of international law.

4216. The Chamber has further considered the Yekatom Defence's assertion that the victims were detained for one evening before 'Mr Yekatom's intervention for their transfer to Yagouzou's custody in order to be released to the Sangaris'.⁹⁸⁹⁸ The Chamber recalls that, on the basis of the evidence pointed out by the Yekatom Defence, the Chamber could not conclude that Mr Yekatom indeed called the French forces in an effort to secure the release of the 'Lapo family'.⁹⁸⁹⁹ It found that Mr Yekatom's group coordinated with Wenezoui and Sylvestre Yagouzou and the Anti-Balaka based behind the M'Poko airport in the transfer and captivity

⁹⁸⁹⁶ *Čelebići* Judgment, IT-96-21-A, para. 320; *Prlić* Judgment, IT-04-74-A, paras 365, 375.

⁹⁸⁹⁷ *Čelebići* Judgment, IT-96-21-A, para. 322.

⁹⁸⁹⁸ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 643.

⁹⁸⁹⁹ See paragraphs 3222-3229 above.

of the, at the time, five captives.⁹⁹⁰⁰ The Chamber also found that, given their direct interactions with Mr Yekatom, the female captives had no indication about, or reason to believe, the genuineness of Mr Yekatom's composure or purported efforts to have them released.⁹⁹⁰¹ The Chamber found that Mr Yekatom met the five captives at the location at the M'Poko airport and introduced himself, aware that Sylvestre Yagouzou kept the five captives in this location surrounded by Anti-Balaka elements. In the Chamber's view, Mr Yekatom continued to be aware and engaged in the depriving the five captives of their physical liberty. Having regard to this, the Chamber cannot conclude that Mr Yekatom indeed intervened in relation to the release of the five captives.

4217. Further, in the view of the Chamber, even accepting that Mr Yekatom did intervene, this would not have reduced the severity of the deprivation of physical liberty. This is especially true given that Mr Yekatom's elements continued to threaten some of the five captives with death by using again the phrase 'peeling the papaya' and continued to keep the five captives at gunpoint in a second location in Yamwara.⁹⁹⁰² This was also the case of P-1716, who was not released on the night of his capture, when Mr Yekatom would have met the female captives, but kept overnight under Cœur de Lion's watch and threatened with death, and only released the next day after his father paid a ransom to Cœur de Lion and Mr Yekatom.⁹⁹⁰³

v. *Murder as a crime against humanity and as a war crime (Counts 15 and 16)*

4218. Under Counts 15 and 16, Mr Yekatom and Mr Ngaïssona are charged with murder as a crime against humanity pursuant to Article 7(1)(a) of the Statute, and murder as a war crime pursuant to Article 8(2)(c)(i) of the Statute, of Saint Cyr, in the context of the abduction of seven persons in or around Cattin, and their subsequent transfer to Yamwara.

⁹⁹⁰⁰ See paragraph 112 above.

⁹⁹⁰¹ See paragraph 104 above.

⁹⁹⁰² See paragraph 108 above.

⁹⁹⁰³ See paragraph 107 above.

Recalling of factual findings

4219. The Chamber found that after Saint Cyr's beating and maiming, Mr Yekatom's elements took him away.⁹⁹⁰⁴ Saint Cyr then died.⁹⁹⁰⁵ His relatives have not seen him since and his dead body has not been recovered.⁹⁹⁰⁶ When Mr Yekatom's elements brought the three women outside of Cœur de Lion's house and regrouped them with P-1704 and P-1705, Saint Cyr was not amongst them.⁹⁹⁰⁷

Killing of one or more persons

4220. Recalling that the dead body of the victim need not be recovered in order to establish the fact of death,⁹⁹⁰⁸ the Chamber finds that the only reasonable inference in the circumstances discussed above is that Mr Yekatom's elements killed Saint Cyr. On this basis, the Chamber finds that the requirement in respect of the first element of murder as a crime against humanity pursuant to Article 7(1)(a) of the Statute, and of murder as a war crime pursuant to Article 8(2)(c)(i) of the Statute, namely that the perpetrator killed one or more persons, is met.

Status of the person(s) killed

4221. As regards Saint Cyr's status at the relevant time, the Chamber has considered the circumstances of Saint Cyr's abduction and custody at Yamwara and his status during that time. The Chamber finds that Saint Cyr was a civilian at the time of his abduction. The Chamber recalls that he, along with the other men in this group, was escorting the women, with whom he had familial relations, to find transport to go home.⁹⁹⁰⁹ Saint Cyr was not armed at any stage of the events, as shown by no arms being recovered from the group during the two searches, one at the checkpoint and one at Yamwara.⁹⁹¹⁰ Saint Cyr was not carrying

⁹⁹⁰⁴ See paragraph 101 above.

⁹⁹⁰⁵ See paragraph 101 above.

⁹⁹⁰⁶ See paragraph 101 above.

⁹⁹⁰⁷ See paragraph 108 above.

⁹⁹⁰⁸ [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 862; [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, para. 2698; ICTY, Trial Chamber II, *Prosecutor v. Zdravko Tolimir*, Judgment, 12 December 2012, IT-05-88/2-T, para. 715.

⁹⁹⁰⁹ See paragraph 95 above.

⁹⁹¹⁰ See paragraphs 98, 101 above.

out any activities that would have altered his civilian status at the time of his abduction. This conclusion is not affected by Saint Cyr holding a rank within the FACA at the time,⁹⁹¹¹ or the recovery of the purported ‘Seleka card’ on him, following a search by Mr Yekatom’s element.⁹⁹¹² The Chamber therefore finds that the distinct element of murder as a war crime pursuant to Article 8(2)(c)(i) of the Statute, namely that the person be either *hors de combat*, or a civilian, medical personnel, or religious personnel taking no active part in the hostilities, is met.

vi. *Persecution as a crime against humanity (Count 17)*

4222. Under Count 17, Mr Yekatom and Mr Ngaïssona are charged with the crime of persecution as a crime against humanity pursuant to Article 7(1)(h) of the Statute, of the persons in Yamwara by targeting them on the basis of political, ethnic and/or religious grounds by virtue of the conduct pertaining to Counts 11 to 16.

Recalling of factual findings

4223. The Chamber considered the circumstances showing why Mr Yekatom’s elements stopped the seven persons at the checkpoint. The Chamber found that when elements from Mr Yekatom’s group apprehended these seven persons at a checkpoint led by Alkanto close to the Lapo N’Gomat family house and Yamwara, Alkanto pointed to the women as belonging to the family of Mamour and Michel Djotodia in the presence of the elements in his group. Alkanto’s identification of the women being related to Djotodia and Mamour as well as being Muslims, combined with Alkanto’s negative feelings centred around a desire for revenge against the women, predisposed Alkanto’s group to perceive the seven persons as ‘Muslims’.⁹⁹¹³

4224. The Chamber found that, at Yamwara, in Cœur de Lion’s presence, elements in Mr Yekatom’s group, including Bojos, interrogated P-1704, P-1705, P-1716, and Saint Cyr individually on their identity, ethnicity, and reasons for being there with the women, also demanding the captive men to speak in the dialect associated with their respective

⁹⁹¹¹ See paragraph 101 above.

⁹⁹¹² See paragraph 98 above.

⁹⁹¹³ See paragraph 96 above.

ethnicities.⁹⁹¹⁴ When Saint Cyr was unable to do so, elements in Mr Yekatom's group accused him of being 'Goula', and therefore associated with Djotodia.⁹⁹¹⁵

4225. The Chamber considered the words used by Cœur de Lion during Saint Cyr's mistreatment. The Chamber found that Cœur de Lion, who was observing Saint Cyr's mistreatment, encouraged the assailants and ordered them to continue, saying, *inter alia*, that the victims were 'Muslims' and 'Seleka' and to 'do the job properly'.⁹⁹¹⁶

4226. The Chamber found that Mr Yekatom himself interrogated the female captives about their family background and ethnicity.⁹⁹¹⁷

4227. In addition to these findings recalled by the Chamber in respect of Counts 11 to 16, the Chamber further recalls that it found that Mr Yekatom knew that the Anti-Balaka perceived, and himself perceived, the Muslims in the CAR as collectively responsible for, complicit in, or supportive of the violence and abuses committed by the Seleka and that the Anti-Balaka targeted the Muslim civilian population, specifically in the west of the CAR, on this basis.⁹⁹¹⁸

Perpetrator severely deprived, contrary to international law, one or more persons of fundamental rights

4228. The Chamber notes the Yekatom Defence's arguments concerning persecution that the Prosecution has failed to establish that the crimes discriminatorily targeted the Muslim population.⁹⁹¹⁹ As regards the events at Yamwara, the Yekatom Defence argues that the alleged crimes concerned 'suspected or actual Seleka forces and were therefore part of the legitimate aim recognised in the Confirmation Decision'.⁹⁹²⁰

4229. The Chamber recalls that Mr Yekatom's elements severely deprived all seven persons that were apprehended and brought to Yamwara of their physical liberty and did not provide

⁹⁹¹⁴ See paragraph 100 above.

⁹⁹¹⁵ See paragraph 100 above.

⁹⁹¹⁶ See paragraph 101 above.

⁹⁹¹⁷ See paragraph 104 above.

⁹⁹¹⁸ See paragraph 48 above.

⁹⁹¹⁹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 665.

⁹⁹²⁰ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 666.

them with any procedural rights for the respective duration. Mr Yekatom's elements deprived the seven persons of their right to liberty and security of person,⁹⁹²¹ right against arbitrary arrest and detention and related procedural guarantees,⁹⁹²² right not be subjected to torture and cruel, inhuman or degrading treatment,⁹⁹²³ and right of all persons deprived of their liberty to be treated with humanity and with respect for their inherent dignity.⁹⁹²⁴ Saint Cyr was additionally deprived of his right to life.⁹⁹²⁵ Accordingly, the Chamber finds that Mr Yekatom's elements severely deprived all the seven persons who were apprehended and brought to Yamwara of fundamental rights, contrary to international law. On this basis, the Chamber finds that the requirement is met in respect of the first element of persecution as a crime against humanity, pursuant to Article 7(1)(h) of the Statute.

Targeted by reason of identity of a group or collectivity, or group or collectivity targeted as such

4230. In respect of the second element of persecution as a crime against humanity, pursuant to Article 7(1)(h) of the Statute, namely that the perpetrator targeted such person or persons by reason of the identity of a group or collectivity or targeted the group or collectivity as such, the Chamber finds that this requirement is met, by virtue of Mr Yekatom's elements perceiving the seven persons as Muslims. The Chamber considers that even though some of these seven persons were not Muslims themselves, however, by virtue of being apprehended together and suspected of being linked to the Seleka, Mr Yekatom's group considered them all to be Muslims.

4231. In respect of the third element of persecution as a crime against humanity, pursuant to Article 7(1)(h) of the Statute, namely that such targeting was based on political, racial, national, ethnic, cultural, religious, gender as defined in article 7, paragraph 3, of the Statute, or other grounds that are universally recognised as impermissible under international law,

⁹⁹²¹ See paragraphs 96-102, 104-105, 107-110 above.

⁹⁹²² See paragraphs 96-102, 104-105, 107-110 above.

⁹⁹²³ See paragraphs 96-102, 104-105, 107-110 above.

⁹⁹²⁴ See paragraph 96-102, 104-105, 107-110. See e.g. Articles 3, 5, 9, 10, 12, 18 of the UDHR; Articles 7, 9, 10, 18 of the ICCPR.

⁹⁹²⁵ See paragraph 101. See e.g. Article 3 of the UDHR; Article 6 of the ICCPR.

the Chamber finds that this requirement is met, by virtue of such targeting being based on religious grounds.

Committed in connection with any act referred to in Article 7(1) of the Statute or any crime within the jurisdiction of the Court

4232. In respect of the fourth element of persecution as a crime against humanity, pursuant to Article 7(1)(h) of the Statute, namely that the conduct was committed in connection with any act referred to in Article 7, paragraph 1 of the Statute or any crime within the jurisdiction of the Court, the Chamber finds that this requirement is met in respect of all the seven persons. The conduct of Mr Yekatom's elements, wherein they severely deprived the seven persons of physical liberty and subjected them to great suffering, or serious injury to body or to mental or physical health, including torture and murder, amounted to acts referred to in article 7, paragraph 1 of the Statute and were linked to the targeting.

b. Individual criminal responsibility

i. Mr Yekatom

4233. The Chamber now turns to Mr Yekatom's responsibility under Counts 11 to 17. Mr Yekatom is alleged to have committed the aforementioned crime jointly with another or through another under Article 25(3)(a) of the Statute.

Recalling of factual findings

4234. The Chamber considered the setting up of Yamwara as a base for Mr Yekatom's elements. The Chamber found that Mr Yekatom's group established a base at Yamwara at one point in December 2013 following the Bangui Attack.⁹⁹²⁶ Elements who had not participated in the Bangui Attack joined Mr Yekatom's group at Yamwara after 5 December 2013.⁹⁹²⁷ Considerable number of elements received accommodation in the school buildings or in

⁹⁹²⁶ See paragraph 89 above.

⁹⁹²⁷ See paragraph 89 above.

provisional shelters around the premises of Yamwara, including Cœur de Lion.⁹⁹²⁸ When the base at Yamwara was established, Mr Yekatom's group set up checkpoints along its perimeter to monitor passage of vehicles and people, including, at least, one set up by Alkanto close to Yamwara.⁹⁹²⁹

4235. The Chamber considered Mr Yekatom's control of activities at Yamwara. The Chamber found that Mr Yekatom did not live at Yamwara and slept elsewhere close to the airport. Mr Yekatom did regularly visit Yamwara and maintained a constant presence there through his elements.⁹⁹³⁰ Mr Yekatom was in charge of Yamwara with Cœur de Lion as his deputy.⁹⁹³¹ All witnesses who were at Yamwara during the relevant time considered Mr Yekatom to be the 'chief' of all activities at Yamwara. Mr Yekatom was also the overall chief on matters of punishment and enforcing discipline at Yamwara, and his section chiefs also had a responsibility to discipline elements. Mr Yekatom maintained overall control over the activities at Yamwara at all times, including through Cœur de Lion. Mr Yekatom had undisputed authority over Cœur de Lion, Alkanto and Bojos, among others.⁹⁹³²

4236. As regards the Yamwara Incident, the Chamber considered Mr Yekatom's presence during the events. The Chamber found that Mr Yekatom was not present at Yamwara when the group of seven persons arrived there or during the interrogation at Cœur de Lion's house.⁹⁹³³ Further, it found that while Mr Yekatom was not present at the scene during the mistreatment of Saint Cyr, P-1704, P-1705, and P-1716, he arrived at Yamwara later in the evening of 24 December 2013 while the incident was still ongoing, meaning his elements were still holding captive and mistreating the six of the seven persons that Alkanto had apprehended.

4237. The Chamber considered Mr Yekatom's knowledge about the Yamwara Incident, in particular his approval of the elements involved in this incident. The Chamber found that Mr Yekatom came to know about this incident, including the actions of the element that had cut off Saint Cyr's toes, fingers, and an ear. Later, Mr Yekatom said that this element had

⁹⁹²⁸ See paragraph 89 above.

⁹⁹²⁹ See paragraph 91 above.

⁹⁹³⁰ See paragraph 90 above.

⁹⁹³¹ See paragraph 92 above.

⁹⁹³² See paragraph 92 above.

⁹⁹³³ See paragraph 100 above.

done a ‘good job’ insofar. Mr Yekatom did not punish this element for these acts, on the contrary, rewarded this element with posts of responsibility within his group, including as part of his security detail. Mr Yekatom considered Saint Cyr a ‘traitor’ and ‘in cahoots with the Seleka’ and that therefore, they could not ‘keep him’. When asked about Saint Cyr’s treatment, Mr Yekatom said in Sango ‘*eforolo tonga na papai*’ – meaning that ‘they peeled the papaya’, ‘they removed the skin like they would do to a papaya’.⁹⁹³⁴ The expression ‘peeling’ or ‘skinning’ the ‘papaya’ was used by elements in Mr Yekatom’s group in relation to the treatment of captured persons suspected of being Seleka.⁹⁹³⁵

4238. The Chamber considered Mr Yekatom’s direct interactions with the captives. The Chamber found that Mr Yekatom met the female captives inside Cœur de Lion’s house that night and introduced himself as ‘Rombhot’ and ‘the chief’. Mr Yekatom interrogated the female captives about their ethnicities and family background. Mr Yekatom knew that the three women were Muslim.⁹⁹³⁶ Mr Yekatom’s presence and words at this stage were not reassuring to the female captives. The female captives had no indication about, or reason to believe, the genuineness of Mr Yekatom’s composure or purported efforts to have them released.⁹⁹³⁷ Mr Yekatom knew that his elements had captured, mistreated, and kept them at gunpoint at Yamwara.⁹⁹³⁸ On the morning of 25 December 2013, Mr Yekatom met the five captives at this location and introduced himself.⁹⁹³⁹ Mr Yekatom was aware that Sylvestre Yagouzou kept them in the location close to the M’Poko airport surrounded by Anti-Balaka elements.⁹⁹⁴⁰

4239. The Chamber considered Mr Yekatom’s direct interactions with Saint Cyr’s father. The Chamber found that the same evening of the Yamwara Incident, P-1654, Saint Cyr’s father, came to Yamwara to meet Mr Yekatom. Mr Yekatom, with Bojos and Cœur de Lion, questioned P-1654 about his family for hours, including about his ethnicity, and threatened him and his family with death.⁹⁹⁴¹ They asked him why ‘the Goula’, in particular, Mamour’s

⁹⁹³⁴ See paragraph 103 above.

⁹⁹³⁵ See paragraph 97 above.

⁹⁹³⁶ See paragraph 104 above.

⁹⁹³⁷ See paragraph 104 above.

⁹⁹³⁸ See paragraph 104 above.

⁹⁹³⁹ See paragraph 110 above.

⁹⁹⁴⁰ See paragraph 110 above.

⁹⁹⁴¹ See paragraph 105 above.

relative, had been invited to the funeral; they also asked about Saint Cyr's relation with him.⁹⁹⁴² Mr Yekatom did not inform P-1654, who was fearful for Saint Cyr, about the state and location of Saint Cyr or that of the other captives.⁹⁹⁴³ After hearing the questioning from Mr Yekatom and his elements and upon P-1654's return from Yamwara to his house, the day after Saint Cyr and the others were captured, P-1654 and the rest of his family fled Boeing.⁹⁹⁴⁴

4240. The Chamber considered the extent of Mr Yekatom's knowledge about Saint Cyr. The Chamber found that Mr Yekatom was aware of Saint Cyr's presence and mistreatment at Yamwara, at the very latest during P-1654's encounter with him on the evening of 24 December 2013.⁹⁹⁴⁵ Mr Yekatom knew that his elements had mistreated Saint Cyr, and that he subsequently died.⁹⁹⁴⁶ Mr Yekatom knew that, at the time of his capture, Saint Cyr was escorting the three women, with whom he had familial relations, together with the other three men, to find transport to go home, in the context of a burial of a family relative.⁹⁹⁴⁷ Mr Yekatom knew that Saint Cyr had family links with 'Goula' and that he was unarmed at the time of his capture.⁹⁹⁴⁸ The Chamber further found that Mr Yekatom knew of P-1716's capture and his mistreatment at the very latest by the morning of 25 December 2013.⁹⁹⁴⁹

4241. In assessing Mr Yekatom's responsibility, the Chamber has regard to (i) the level of control he exercised over the activities at Yamwara and his elements there; (ii) his presence at Yamwara on the evening of 24 December 2013; (iii) his direct interactions with the female captives and Saint Cyr's father that evening; (iv) his direct interactions subsequently with the five captives at the Anti-Balaka base close to the airport; (v) his direct interactions with P-1839 after the incident; (vi) his use of the phrase 'peeling the papaya' concerning Saint Cyr; and (vii) his approval of the actions of his elements.

⁹⁹⁴² See paragraphs 105 above.

⁹⁹⁴³ See paragraph 105 above.

⁹⁹⁴⁴ See paragraph 105 above.

⁹⁹⁴⁵ See paragraph 106 above.

⁹⁹⁴⁶ See paragraph 106 above.

⁹⁹⁴⁷ See paragraph 106 above.

⁹⁹⁴⁸ See paragraph 106 above.

⁹⁹⁴⁹ See paragraph 107 above.

Control of person or persons who execute the material elements of the crime

4242. The Chamber finds that from the moment of the capture of the seven persons and at least until their respective death or release, Mr Yekatom retained control over the actions of his elements and of their will. When Alkanto and his elements brought the seven persons from the checkpoint to Yamwara, they brought them in front of Cœur de Lion's house.⁹⁹⁵⁰ It was in Cœur de Lion's presence that the four male captives were interrogated individually.⁹⁹⁵¹

4243. In the evening of abduction of the seven persons on 24 December 2013, Mr Yekatom was present at Yamwara with Cœur de Lion and Bojos when they met P-1654, Saint Cyr's father.⁹⁹⁵² Mr Yekatom did not inform Saint Cyr's father, who was fearful for Saint Cyr, about his state and location.⁹⁹⁵³

4244. Mr Yekatom, through Cœur de Lion, instrumentalised his elements, to beat, interrogate, break legs, tie up, and maim Saint Cyr. As recalled above, the element that cut off Saint Cyr's body parts felt that there was 'no choice' but to do it.⁹⁹⁵⁴ Further, the Chamber recalls that Mr Yekatom said that this element had done a 'good job insofar', in respect of the actions concerning Saint Cyr, which not only shows the reaffirmation of his control over the actions of this element, and those of Cœur de Lion, but also an approval thereof.⁹⁹⁵⁵ The Chamber considers, that, given Cœur de Lion's presence, encouragement, and orders to the assailants to 'do the job properly', this element was replaceable at the time of the incident.⁹⁹⁵⁶ The Chamber further recalls that Mr Yekatom approved of his elements mistreating the remaining six persons during their captivity at Yamwara.⁹⁹⁵⁷

4245. In respect of the male captives, Mr Yekatom, through Cœur de Lion, instrumentalised his elements to apprehend, search, beat, interrogate, and threaten with death P-1704, P-1705,

⁹⁹⁵⁰ See paragraph 100 above.

⁹⁹⁵¹ See paragraph 100 above.

⁹⁹⁵² See paragraph 105 above.

⁹⁹⁵³ See paragraph 105 above.

⁹⁹⁵⁴ See paragraph 101 above.

⁹⁹⁵⁵ See paragraph 103 above.

⁹⁹⁵⁶ See paragraph 101 above.

⁹⁹⁵⁷ See paragraph 111 above.

and P-1716. Alkanto apprehended the group of seven at the checkpoint and Mr Yekatom's elements at the checkpoint threatened them with death, using the phrase 'peeling the papaya'. Cœur de Lion was present when the seven persons were brought to Yamwara, when P-1704, P-1705, P-1716 were beaten, and when Saint Cyr was tortured. Bojos was one of Mr Yekatom's elements that interrogated the male captives at Yamwara. It was in Cœur de Lion's house where Mr Yekatom's element kept the female captives at gunpoint. Similarly, it was under Cœur de Lion's watch that P-1716 was kept overnight at Yamwara. P-1716's father paid a ransom to both Cœur de Lion and Mr Yekatom for P-1716's release.

4246. In respect of the female captives, Mr Yekatom instrumentalised his elements to apprehend, search, interrogate, and threaten them with death at various points during their captivity. Mr Yekatom's elements kept the three women under the veranda of Cœur de Lion's house during this time and were taken later inside his house where they were kept under gunpoint.⁹⁹⁵⁸ When Mr Yekatom was in Yamwara later that evening, he himself met the three female captives inside this house on 24 December 2013 and questioned them about their ethnicities and family background.⁹⁹⁵⁹ Following this, Mr Yekatom's elements further kept the five captives, including the three female captives, in another location at Yamwara, after regrouping them following Saint Cyr's torture, and threatened them with death.⁹⁹⁶⁰ Mr Yekatom used Sylvestre Yagouzou in keeping the five captives at a base close to the airport, surrounded by Anti-Balaka elements.⁹⁹⁶¹

4247. The Chamber recalls that Mr Yekatom's elements used the phrase 'peeling the papaya' that has been used in other contexts to refer to the treatment of captured Seleka.⁹⁹⁶² When asked about Saint Cyr's treatment particularly, Mr Yekatom himself used this phrase.⁹⁹⁶³ In the view of the Chamber, this phrase spoke to a level of an understanding amongst Mr Yekatom's elements about a manner of mistreatment, and possible death, of those suspected to be Seleka, despite being civilian. In the Chamber's view, the execution of this phrase did not require Mr Yekatom to be physically present at the time when those suspected

⁹⁹⁵⁸ See paragraphs 100-101 above.

⁹⁹⁵⁹ See paragraph 104 above.

⁹⁹⁶⁰ See paragraph 108 above.

⁹⁹⁶¹ See paragraph 110 above.

⁹⁹⁶² See paragraph 97 above.

⁹⁹⁶³ See paragraph 103 above.

of being Seleka were captured or to have given a specific order in that respect. This phrase did, however, denote a power of Mr Yekatom to frustrate its execution, if needed. Neither Cœur de Lion, given his position as Mr Yekatom's deputy, nor any other elements within his group, shared this power to frustrate the commission of acts, involving 'peeling the papaya'.

4248. Furthermore, also in respect of the six persons, the Chamber considered that Mr Yekatom had the sole power to end the deprivation of their physical liberty and their mistreatment during their captivity by his elements. Mr Yekatom had the authority to issue the relevant orders to require that his elements abide by the legal standards of treatment of the captives and to grant them procedural rights under international law and CAR domestic law. Despite this, the Chamber notes that when Mr Yekatom arrived in Yamwara, the captivity and mistreatment of the six persons did not abate. The Chamber notes that Mr Yekatom did not take any steps to ensure that the six persons were treated with dignity. The Chamber recalls that when Mr Yekatom met with Saint Cyr's father, P-1654, at Yamwara that evening, the five captives were not sent home. The five captives continued to be kept at gunpoint at another location in Yamwara where Mr Yekatom's elements again threatened to kill them. The Chamber found that, subsequently, Mr Yekatom's elements brought the five captives to another location close to the M'Poko airport. The Chamber considers that this did not mean that Mr Yekatom relinquished control over the five captives. The Chamber found that Mr Yekatom's elements coordinated with Wenezoui and Sylvestre Yagouzou and the Anti-Balaka based behind the M'Poko airport in the transfer and captivity of the five captives.⁹⁹⁶⁴ The Chamber further found that Mr Yekatom met the five captives again when they were being kept in the base close to the airport.⁹⁹⁶⁵ In the view of the Chamber, this signalled that Mr Yekatom continued to maintain control over the term of their captivity, its conditions, and their treatment. The Chamber notes that at no point until the release of the captives, did Mr Yekatom exercise his prerogative to release the six persons when he met Saint Cyr's father, P-1654, earlier. In the view of the Chamber, Mr Yekatom used the power apparatus

⁹⁹⁶⁴ See paragraph 112 above.

⁹⁹⁶⁵ See paragraph 110 above.

available to him to steer it intentionally towards the commission of the crime, without leaving any of his elements at liberty to decide whether the crime is to be executed.

4249. The Chamber has further considered Mr Yekatom's approval of the actions of his elements as regards this incident. The Chamber found that Mr Yekatom approved of his elements capturing, interrogating, keeping captive, and mistreating the seven captives. Mr Yekatom approved of his elements beating, interrogating, maiming, and killing Saint Cyr. As regards the remaining six captives, Mr Yekatom approved of his elements capturing, interrogating, threatening with death, forcing them to undress, keeping them captive at gunpoint, and keeping them within hearing distance of Saint Cyr's mistreatment at Yamwara. Mr Yekatom approved of his elements beating P-1704, P-1705, and P-1716 at various stages of their captivity. Mr Yekatom approved of his elements keeping P-1716 overnight at Yamwara under Cœur de Lion's watch. Mr Yekatom approved of his elements transferring P-1704, P-1705, P-0967, P-1811 and one other captive to another Anti-Balaka base close to the airport and handing them over to Sylvestre Yagouzou.

Mental elements

Article 30

4250. The Chamber now turns to Mr Yekatom's *mens rea* underlying Counts 11 to 17 pursuant to Article 30 of the Statute requiring intent and knowledge of the crimes.

4251. The Chamber has regard to Mr Yekatom's knowledge of the incident, his presence at Yamwara later in the evening of 24 December 2013, and his direct interactions with Saint Cyr's father and the three women captives. In particular, Mr Yekatom also knew that the female captives were Muslim. Mr Yekatom knew that his elements had mistreated Saint Cyr, and that he subsequently died.⁹⁹⁶⁶ When asked about Saint Cyr's treatment, Mr Yekatom said in Sango '*eforolo tonga na papai*' – meaning that 'they peeled the papaya', 'they removed the skin like they would do to a papaya'.⁹⁹⁶⁷ Mr Yekatom considered they could not 'keep' Saint Cyr as he was a 'traitor' and 'in cahoots with the Seleka'.⁹⁹⁶⁸ Indeed, when

⁹⁹⁶⁶ See paragraph 106 above.

⁹⁹⁶⁷ See paragraph 103 above.

⁹⁹⁶⁸ See paragraph 103 above.

Mr Yekatom paid a visit to the three women and the two men at the Anti-Balaka base close to the airport in the following day(s),⁹⁹⁶⁹ Saint Cyr was notably not amongst them.

4252. In addition to the above, the Chamber recalls its finding that Mr Yekatom approved of his elements capturing, interrogating, keeping captives, and mistreating the seven persons. Mr Yekatom approved of his elements beating, interrogating, maiming, and killing Saint Cyr.⁹⁹⁷⁰

4253. On this basis, the Chamber finds that Mr Yekatom: (i) intended his elements to severely deprive the seven persons of their physical liberty; (ii) intended his elements to torture and murder Saint Cyr; (iii) intended his elements to cruelly treat the six persons; (iv) intended his elements to inflict on the six persons great suffering, or serious injury to body or to mental or physical health, by means of an inhumane act; and (v) intended his elements to persecute the seven persons on the basis that they perceived them to be Muslims.

Count 11

4254. The Chamber turns to the third element of other inhumane acts as a crime against humanity, pursuant to Article 7(1)(k) of the Statute, namely that the perpetrator was aware of the factual circumstances that established the character of the inhumane act.

4255. The Chamber notes the Yekatom Defence's argument that the Prosecution did not establish that third party suffering was 'deliberate on the part of the perpetrator'.⁹⁹⁷¹ Having regard to the case-law cited in support of this argument, the Chamber considers that requiring that suffering be 'deliberate' introduces an additional mental requirement which is not in the legal framework. The third element of other inhumane acts as a crime against humanity need only show that the perpetrator was aware of the factual circumstances that established the character, meaning the 'nature and gravity', of the act. This has been established in the present case. The Chamber considers that Mr Yekatom's elements knew that keeping the

⁹⁹⁶⁹ See paragraph 110 above.

⁹⁹⁷⁰ See paragraph 111 above.

⁹⁹⁷¹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 636 *referring inter alia* to ICTR, Trial Chamber II, *Prosecutor v. Clément Kayishema and Obed Ruzindana*, [Judgement](#), 21 May 1999, Case No. ICTR-95-1-T, para. 153.

other captives within hearing distance of Saint Cyr's torture will cause severe mental suffering and that such suffering will result.

4256. The Chamber further considers that Mr Yekatom, as a FACA member, was aware of the applicable regime under international humanitarian law as well as the CAR domestic regime. Mr Yekatom knew that neither he nor his elements had any basis to capture and mistreat the seven persons. The Chamber found that Mr Yekatom met the female captives while they were being kept in Cœur de Lion's house on the night of their capture,⁹⁹⁷² and was therefore able to observe their condition. The Chamber found that Mr Yekatom also met Saint Cyr's father,⁹⁹⁷³ who was also related to the other captives, and must have been aware of the circumstances of their capture and treatment, along with that of Saint Cyr and the female captives. Further, the Chamber found that Mr Yekatom met the five captives on the morning of 25 December 2013 at the location where they were being kept at an Anti-Balaka base close to the airport and therefore, was able to know and observe the circumstances of their captivity there.⁹⁹⁷⁴

4257. Having regard to this, the Chamber finds that Mr Yekatom was aware of the factual circumstances that established the character of the inhumane act.

Counts 13 and 16

4258. The Chamber now turns to the mental element underlying Counts 13 and 16 concerning Saint Cyr's torture and murder as a war crime and cruel treatment of six persons as a war crime, namely that the victims were person or persons, who were either *hors de combat*, or were civilians and the perpetrator was aware of the factual circumstances that established the victim's civilian status.

4259. As regards the requirement that the perpetrator was aware of the factual circumstances that established the victim's civilian status, the Yekatom Defence argues that Mr Yekatom's elements would have understood Saint Cyr's family to be 'integrated within enemy

⁹⁹⁷² See paragraph 104 above.

⁹⁹⁷³ See paragraph 105 above.

⁹⁹⁷⁴ See paragraph 110 above.

forces’.⁹⁹⁷⁵ The Chamber accepts the suggestion that elements in Mr Yekatom’s group could have viewed Saint Cyr as being ‘integrated within enemy forces’ because of his family name. However, this suggestion and these conclusions do not change the Chamber’s finding regarding Mr Yekatom’s knowledge and intent. The Chamber considers that, regardless of whether Saint Cyr, through his family name, could be considered as being ‘integrated within enemy forces’, he was a civilian, by role and function, at the time of his capture, a fact that Mr Yekatom and his elements were fully aware of.

4260. The Chamber finds that Mr Yekatom’s elements, who were present at various stages of the events, namely, Alkanto, Bojos, Cœur de Lion, and others were aware of Saint Cyr’s civilian status. In particular, the element who searched Saint Cyr at the checkpoint, discovered no weapons on him or any other group member.⁹⁹⁷⁶ When elements in Mr Yekatom’s group further searched the men in the group, including Saint Cyr at Yamwara, they did not discover any weapons.⁹⁹⁷⁷ In Cœur de Lion’s presence, elements in Mr Yekatom’s group, including Bojos, interrogated the four men individually on the reasons for being there with the women.⁹⁹⁷⁸

4261. The Chamber found that Mr Yekatom was aware of the civilian status of the six persons, as the very least, on the evening of 24 December 2013, from his direct interactions with the three female captives, during which he interrogated them about their ethnicities and family background.⁹⁹⁷⁹ From his interactions with Saint Cyr’s father,⁹⁹⁸⁰ at the very least, Mr Yekatom would have known that other captives, who were also related to Saint Cyr, were also civilian. Mr Yekatom knew that, at the time of his capture, Saint Cyr was escorting the three women, with whom he had familial relations, together with the other three men, to find transport to go home, in the context of a burial of a family relative.⁹⁹⁸¹

⁹⁹⁷⁵ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 628.

⁹⁹⁷⁶ See paragraph 98 above.

⁹⁹⁷⁷ See paragraph 101 above.

⁹⁹⁷⁸ See paragraph 100 above.

⁹⁹⁷⁹ See paragraph 104 above.

⁹⁹⁸⁰ See paragraphs 105-106 above.

⁹⁹⁸¹ See paragraph 106 above.

4262. Accordingly, the Chamber finds that the requirement is met in respect of the mental element underlying torture and murder as a war crime regarding Saint Cyr and for cruel treatment of six persons as a war crime, pursuant to Article 8(2)(c)(i) of the Statute.

4263. The Chamber now turns to the special intent requirement applicable to torture as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, namely that perpetrator inflicted the pain or suffering for such purposes as: obtaining information or a confession, punishment, intimidation or coercion or for any reason based on discrimination of any kind.

4264. The Chamber notes the Yekatom Defence's arguments that the Prosecution has not established the purposive requirement under Article 8(2)(c)(i) of the Statute, in that it has not shown the 'specific purpose for which [Saint Cyr] was allegedly tortured'.⁹⁹⁸² In support, it points to the evidence that the element that cut off Saint Cyr's body parts 'was not given any order to commit such acts' and 'only [sought] to gain personal benefits which does not align with the special intent requirement'.⁹⁹⁸³

4265. The Chamber further notes the Yekatom Defence's arguments that this element was not given any order to commit such acts and that she had undertaken the acts to 'prove her worth'.⁹⁹⁸⁴ The Chamber finds that these personal motives did not have any relevance for establishing the elements of the crime. There is nothing in the legal framework of the Court requiring proof of motive of the direct perpetrator of a war crime or a crime underlying crimes against humanity to establish the mental elements of such crimes. The Chamber also considers that merely because personal motivations can be identified, it does not necessarily follow that the required nexus with the widespread or systematic attack is inevitably lacking.⁹⁹⁸⁵

⁹⁹⁸² [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 629.

⁹⁹⁸³ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 630-631.

⁹⁹⁸⁴ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 630. The Chamber notes that the Yekatom Defence made these arguments in relation to the special intent requirement applicable to torture as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, however, these arguments are also applicable to the mental element underlying torture as a crime against humanity, pursuant to Article 7(1)(f) of the Statute.

⁹⁹⁸⁵ See further ICTY, Appeals Chamber, *Prosecutor v. Duško Tadić*, Judgment, 15 July 1999, IT-94-1-A, paras 248-272.

4266. As set out below, Mr Yekatom and his elements inflicted pain and suffering on Saint Cyr for the purpose of punishment, intimidation, and discrimination based on religion.

4267. At the outset, the Chamber recalls that the element in question cut off Saint Cyr's toes, fingers, and an ear, being encouraged by Cœur de Lion's presence at the scene and his words and feeling that there was 'no choice'.⁹⁹⁸⁶ In light of this, the suggestion that this element, as a direct perpetrator, may have also had other motivations for executing the crime, namely, to 'prove her worth', is irrelevant for a finding of Mr Yekatom's responsibility. In the view of the Chamber, other purported motivation held by this element do not negate her acts and intention to inflict pain and suffering on Saint Cyr for the purpose of punishment, intimidation, and discrimination based on religion.

4268. The Chamber finds that the words and actions of Mr Yekatom's elements show that Saint Cyr's mistreatment was for the purpose of discrimination based on religion. Mr Yekatom's elements perceived Saint Cyr as being part of a group that was being considered 'all Muslim' at the time of its capture at the checkpoint.⁹⁹⁸⁷ In Cœur de Lion's presence, elements in Mr Yekatom's group, including Bojos, interrogated Saint Cyr on his identity, ethnicity, and reasons for being there with the women, also demanding he speak in the dialect associated with his ethnicity.⁹⁹⁸⁸ Saint Cyr and another captive, who were Boffi from their father's side and Goula from their mother's side, gave their ethnicity but neither could speak their dialect. Saint Cyr said that he was 'Boffi' but could not speak in this language. When Saint Cyr was unable to do so, elements in Mr Yekatom's group accused him of being 'Goula', and therefore associated with Djotodia.⁹⁹⁸⁹ Elements in Mr Yekatom's group continued to interrogate Saint Cyr and beat him, despite him showing his identification card and insisting that he was a FACA member.⁹⁹⁹⁰ During Saint Cyr's beating, Cœur de Lion was using terms like 'Muslims' and 'Seleka'.⁹⁹⁹¹

⁹⁹⁸⁶ See paragraph 101 above.

⁹⁹⁸⁷ See paragraph 96 above.

⁹⁹⁸⁸ See paragraph 100 above.

⁹⁹⁸⁹ See paragraph 100 above.

⁹⁹⁹⁰ See paragraph 101 above.

⁹⁹⁹¹ See paragraph 101 above.

4269. Considering these facts, together with the continuous beating, forced undressing, threats to kill, interrogation, tying up, and maiming that Saint Cyr was subjected to, the Chamber finds that the special purpose requirement of punishment and intimidation is also met.

4270. The Chamber finds that Mr Yekatom shared the special intent requirement with his elements. Mr Yekatom knew that his elements perceived Muslim civilians, due to their religious or ethnic affiliation, as collectively responsible for the crimes committed by the Seleka, or as complicit with, or supportive of, the Seleka.⁹⁹⁹² Mr Yekatom knew that Saint Cyr had family links with ‘Goula’.⁹⁹⁹³ Mr Yekatom knew that the three women, whom Saint Cyr was escorting, were Muslim.⁹⁹⁹⁴ Mr Yekatom considered Saint Cyr a ‘traitor’ and ‘in cahoots with the Seleka’ and that therefore, they could not ‘keep him’.⁹⁹⁹⁵ Later, Mr Yekatom said that the element that had cut off Saint Cyr’s body parts had done a ‘good job’ insofar. Mr Yekatom did not punish this element for these acts and, on the contrary, rewarded this element with posts of responsibility within his group, including as part of his security detail.⁹⁹⁹⁶

4271. This notwithstanding, the Chamber considers that for the purposes of assessing Mr Yekatom’s responsibility in relation to the events concerning Saint Cyr, as set out below, it was sufficient, in this instance, to establish the special intent requirement only in respect of Mr Yekatom, and not additionally, in relation to the element that cut off Saint Cyr’s body parts, or any other named elements in Mr Yekatom’s group.

Count 14

4272. The Chamber now turns to Mr Yekatom’s *mens rea* underlying Count 14, meaning the perpetrator was aware of the factual circumstances that established the gravity of the conduct.

⁹⁹⁹² See paragraph 48 above.

⁹⁹⁹³ See paragraph 105 above.

⁹⁹⁹⁴ See paragraph 104 above.

⁹⁹⁹⁵ See paragraph 103 above.

⁹⁹⁹⁶ See paragraph 103 above.

4273. The Chamber notes the Yekatom Defence's argument that Alkanto had 'personal vendetta' towards P-1811 and that his 'vigilance was further heightened by his personal grievances' against her [REDACTED].⁹⁹⁹⁷ The Chamber finds that these personal motives did not have any relevance for establishing the elements of the crime. There is nothing in the legal framework of the Court requiring proof of motive of the direct perpetrator of a crime underlying crimes against humanity to establish the mental elements of such crimes. The Chamber also considers that merely because personal motivations can be identified, it does not necessarily follow that the required nexus with the widespread or systematic attack is inevitably lacking.⁹⁹⁹⁸

4274. The Chamber considers that Mr Yekatom knew that neither he nor his elements had any legal authority to capture the seven persons at the checkpoint and keep them at Yamwara. Mr Yekatom, as a FACA member, was aware of the applicable regime under international humanitarian law as well as the CAR domestic regime. Mr Yekatom must have known that the seven persons should have been granted the basic procedural rights during their captivity. Mr Yekatom knew that, regardless of the purported suspicions entertained by his elements, his elements had no legal authority or basis to subject the seven persons to the mistreatment during their captivity.

4275. The Chamber found that Mr Yekatom knew that, at the time of his capture, Saint Cyr was escorting the three women, with whom he had familial relations, to find transport to go home, in the context of a burial of a family relative.⁹⁹⁹⁹ Mr Yekatom must have known that the other male captives, namely, P-1704, P-1705, and P-1716, were similarly accompanying the women and for the same reason. In respect of P-1716, who was released the following morning after his father paid a ransom to Cœur de Lion and Mr Yekatom, Mr Yekatom knew that P-1716 was being kept at Yamwara, at the very latest on the morning of 25 December 2013 when P-1716's father paid a ransom to Cœur de Lion and Mr Yekatom. Mr Yekatom must have known that P-1716 was part of the seven persons that had been apprehended at the checkpoint and had been assimilated in the group. In respect of Saint Cyr, the Chamber

⁹⁹⁹⁷ Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 432-433.

⁹⁹⁹⁸ See further ICTY, Appeals Chamber, *Prosecutor v. Duško Tadić*, Judgment, 15 July 1999, IT-94-1-A, paras 248-272.

⁹⁹⁹⁹ See paragraphs 105-106 above.

finds that Mr Yekatom knew that Saint Cyr was being targeted because of his association with the women in the group and considered him a ‘traitor’ and ‘in cahoots with the Seleka’.¹⁰⁰⁰⁰ In respect of P-0967, P-1811, and another captive, the Chamber found that Mr Yekatom knew that his elements had captured and kept them at gunpoint at Yamwara.¹⁰⁰⁰¹ Further, on the morning of 25 December 2013, Mr Yekatom met the five captives, namely, P-0967, P-1811, P-1704, P-1705, and another captive, at the Anti-Balaka base and introduced himself. Mr Yekatom was aware that Sylvestre Yagouzou had kept the five in this location close to the M’Poko airport surrounded by Anti-Balaka elements.¹⁰⁰⁰²

4276. Accordingly, the Chamber finds that Mr Yekatom was aware of the factual circumstances that established the gravity of the conduct in respect of the imprisonment and other severe deprivation of physical liberty.

Conclusion

4277. On this basis, the Chamber finds that Mr Yekatom committed through others, within the meaning of Article 25(3)(a) of the Statute: (i) other inhumane acts as a crime against humanity, pursuant to Article 7(1)(k) of the Statute (Count 11); (ii) torture as a crime against humanity, pursuant to Article 7(1)(f) of the Statute (Count 12); (iii) torture as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, for Saint Cyr and cruel treatment as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, for six persons (Count 13); (iv) imprisonment and other forms of severe deprivation of physical liberty as a crime against humanity, pursuant to Article 7(1)(e) of the Statute (Count 14); (v) murder as a crime against humanity, pursuant to Article 7(1)(a) of the Statute (Count 15); (vi) murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute (Count 16); and (vii) persecution as a crime against humanity pursuant to Article 7(1)(h) of the Statute (Count 17).

ii. Mr Ngaïssona

4278. The Chamber now turns to Mr Ngaïssona’s responsibility under Counts 11 to 17. Mr Ngaïssona is alleged to have committed the aforementioned crimes by facilitating the

¹⁰⁰⁰⁰ See paragraph 103 above.

¹⁰⁰⁰¹ See paragraph 104 above.

¹⁰⁰⁰² See paragraph 110 above.

commission of the crimes as set out in the confirmed charges by aiding, abetting or otherwise assisting in their commission under Article 25(3)(c) of the Statute.

Recalling of factual findings

4279. The Chamber refers to the factual findings as recalled above.¹⁰⁰⁰³

4280. In addition, the Chamber found that between the coordinated attacks on Bangui and Bossangoa of 5 December 2013 and until his return to Bangui on 14 January 2014, Mr Ngaïssona remained informed of the continued activities related to the Anti-Balaka, and continued liaising with various individuals in this regard.¹⁰⁰⁰⁴

Aiding, abetting or otherwise assisting

4281. In light of this, the Chamber finds that Mr Ngaïssona, by funding and supporting the Anti-Balaka prior to the attacks on Bangui and Bossangoa on 5 December 2013, and subsequently, aided, abetted, or otherwise assisted in the commission of the crimes underlying Counts 11, 13 (in respect of the six persons), 14 and 17 forming part of the Yamwara Incident by Mr Yekatom's elements. For the same reasons, the Chamber, by majority, Judge Kovács dissenting, finds that Mr Ngaïssona aided, abetted, or otherwise assisted in the commission of crimes underlying Counts 12, 13, 15 and 16 concerning Saint Cyr's torture and murder. As discussed in further detail below, Judge Kovács considers that the mental element, namely, that Mr Ngaïssona was aware that this crime would take place in the ordinary course of events, was not satisfied in respect of Saint Cyr's torture and murder.

Mental elements

4282. As regards Mr Ngaïssona's *mens rea*, the Chamber recalls its finding that Mr Ngaïssona made his contributions fully aware that the Anti-Balaka would violently target the Muslim civilian population in the west of the CAR, committing the widespread attack that ultimately took place from September 2013 through February 2014, including the seminal coordinated

¹⁰⁰⁰³ See paragraphs 4028-4031 above.

¹⁰⁰⁰⁴ See paragraph 57 above.

Anti-Balaka attacks of Bangui and Bossangoa on 5 December 2013.¹⁰⁰⁰⁵ Mr Ngaïssona knew and was informed of the advance of the groups towards Bangui as well as of the hostilities during this advance, including the killings of Muslim civilians from these locations.¹⁰⁰⁰⁶ Mr Ngaïssona knew that the Anti-Balaka perceived, and himself perceived, the Muslims in the CAR as collectively responsible for, complicit in, or supportive of the violence and abuses committed by the Seleka and that the Anti-Balaka targeted the Muslim civilian population, specifically in the west of the CAR, on this basis.¹⁰⁰⁰⁷ The Chamber further considered that Mr Ngaïssona provided his financial aid, organisational assistance and psychological support to the Anti-Balaka in the context of anti-foreign sentiments and inflammatory rhetoric openly expressed by François Bozizé and others, which incited vigilance against those perceived to support the Seleka, in particular Muslim civilians.¹⁰⁰⁰⁸

4283. Having regard to the above, the Chamber finds that Mr Ngaïssona (i) knew that the Anti-Balaka would inflict great suffering, or serious injury to body or to mental or physical health, by means of an inhumane act, on Muslim civilians; (ii) intended for Muslim civilians to be severely deprived of physical liberty; and (iii) intended for Muslim civilians to be killed generally.

4284. The Chamber, by majority, Judge Kovács dissenting, finds that Mr Ngaïssona knew that the Anti-Balaka would also torture and kill Muslim civilians within the context of the Yamwara Incident, within the meaning of Article 30(3) of the Statute which requires that ‘a circumstance exists or a consequence will occur in the ordinary course of events’.

4285. Judge Kovács has considered the particularity of the conduct concerning Saint Cyr’s torture involving an element in Mr Yekatom’s group cutting off his toes, fingers, and an ear for reasons, *inter alia*, that this element may gain the trust of the chiefs in Mr Yekatom’s group.¹⁰⁰⁰⁹ Judge Kovács also notes, in this context, the particular circumstances of Alkanto bearing negative feelings centred around a desire for revenge against the women,

¹⁰⁰⁰⁵ See paragraph 49 below.

¹⁰⁰⁰⁶ See paragraph 56 above.

¹⁰⁰⁰⁷ See paragraph 49 above.

¹⁰⁰⁰⁸ See paragraph 46 above.

¹⁰⁰⁰⁹ See paragraphs 4264-4267 above.

accompanied by Saint Cyr.¹⁰⁰¹⁰ Judge Kovács further notes that the Chamber did not find any instances of torture, similar to that faced by Saint Cyr, in any of the crimes that the Anti-Balaka committed in their advance to Bangui prior to 5 December 2013. Further, he considers that the charges, as confirmed, indeed do not contain any comparable incidents. In this respect, he draws a distinction between the incident concerning Djido Saleh in which his body parts were cut off when he was already dead, and not before, as was the case with Saint Cyr.

4286. Accordingly, Judge Kovács considers that these facts taken together show that the particular cruelty involved in the crime of torture, namely the cutting off of Saint Cyr's toes, fingers, and ear did not take place in the ordinary course of events within the meaning attributed to it in the jurisprudence as outlined above.¹⁰⁰¹¹ In his view, the personal and specific nature of the motives of Mr Yekatom's elements that contributed to the commission of this crime created a break in what one could consider 'the ordinary course', as required by Article 30(3) of the Statute, and therefore considers that this test is not satisfied in this specific instance in respect of Mr Ngaïssona. Further, Judge Kovács is of the view that it was Saint Cyr's torture that resulted in his death, and therefore, similar considerations also apply to Saint Cyr's murder. To conclude on this aspect, Judge Kovács considers that Mr Ngaïssona was not aware that Muslim civilians would be subjected to the particular cruelty resulting in their death, as was the case with Saint Cyr, in these circumstances.

4287. Judge Kovács considers it appropriate to clarify that these considerations do not apply to the cruel treatment of the six persons nor of the killings of Muslim civilians generally as outlined in other contexts. Based on the factual findings recalled above, Judge Kovács agrees with the majority that Mr Ngaïssona was aware that the Anti-Balaka would mistreat Muslim civilians.

4288. The majority has noted Judge Kovács' views and considers that the Chamber's assessment of torture was not limited to the cutting off of Saint Cyr's body parts and extended to the entire circumstances concerning his mistreatment. Further, the Chamber found that

¹⁰⁰¹⁰ See paragraph 96 above.

¹⁰⁰¹¹ See paragraph 4128 above.

Mr Ngaïssona was aware that the Anti-Balaka would inflict great suffering, or serious injury to body or to mental or physical health on Muslim civilians. The Chamber also found that Mr Ngaïssona was aware that the Anti-Balaka would kill Muslim civilians. In the view of the majority, this awareness of mistreating and killing Muslim civilians included within its ambit, cutting off of body parts, regardless of whether such specific incidents of comparable nature would have taken place, prior to the Yamwara Incident, in the context of the crimes committed in the Anti-Balaka's advance to Bangui before 5 December 2013.

4289. Further, the majority's considerations apply regardless of whether Saint Cyr's death resulted from his torture. In the view of the majority, the fact that Judge Kovács differentiates between cutting off of body parts of Saint Cyr when alive and Djido Saleh when dead does not affect the majority's conclusion.

4290. Turning to the special intent requirement that Mr Ngaïssona's assistance was made with the aim of facilitating the commission of the charged crimes, the Chamber recalls its considerations above.¹⁰⁰¹²

4291. Having regard to the above, the Chamber finds that Mr Ngaïssona provided his financial contributions and support to the Anti-Balaka for the purpose of facilitating the crimes against the Muslim civilian population, including killings of Muslims. In particular, the Chamber notes that Mr Ngaïssona knew and was informed of the hostilities committed by the Anti-Balaka during their advance towards Bangui. Mr Ngaïssona also remained informed of their continued activities until his return to Bangui on 14 January 2014.

4292. Accordingly, the Chamber, by majority, Judge Kovács dissenting in respect of Saint Cyr's torture and murder, finds that the only reasonable conclusion in these circumstances is that Mr Ngaïssona was not only aware that the Anti-Balaka would commit these crimes in the ordinary course of events, but intended for them to commit these crimes forming part of the Yamwara Incident and lent his assistance with the aim of facilitating such crimes.

¹⁰⁰¹² See paragraphs 4037-4041 above.

4293. Having regard to his views above,¹⁰⁰¹³ Judge Kovács considers that Mr Ngaïssona could not have lent his assistance with the aim of facilitating Saint Cyr's torture and murder. At the same time, Judge Kovács considers appropriate to clarify that he agrees with the majority that Mr Ngaïssona lent his assistance with the aim of facilitating the crimes, including the cruel treatment of the six persons and the killing of Muslim civilians generally as outlined in other contexts.

4294. The majority has noted Judge Kovács' views and recalls that in order to satisfy the special intent requirement that Mr Ngaïssona's assistance was made with the aim of facilitating the commission of the charged crimes, it was not necessary to have been aware of the specific details of each of the crimes. In the present instance, in the view of the majority, it was sufficient that Mr Ngaïssona was aware that the Anti-Balaka would target Muslim civilians in the ordinary course of events.

4295. On this basis of the same factual findings recalled above, the Chamber finds that the following specific knowledge requirements are met: (i) that the perpetrator was aware of the victims being either *hors de combat*, or civilians, medical personnel or religious personnel taking no active part in hostilities, applicable to murder, torture, and cruel treatment as a war crime, pursuant to Article 8(2)(c)(i) of the Statute; (ii) that the perpetrator was aware of the factual circumstances establishing the nature and gravity of the inhumane act inflicting great suffering, or serious injury to body or to mental or physical health, pursuant to Article 7(1)(k) of the Statute; and (iii) that the perpetrator was aware of the factual circumstances establishing the gravity of conduct, applicable to imprisonment and other forms of severe deprivation of physical liberty, pursuant to Article 7(1)(e) of the Statute.

4296. Turning to the specific intent requirements concerning a number of charged crimes, the Chamber recalls the same findings as above, as well as its finding that Mr Ngaïssona knew that the Anti-Balaka perceived, and himself perceived, the Muslims in the CAR as collectively responsible for, complicit in, or supportive of the violence and abuses committed

¹⁰⁰¹³ See paragraphs 4285-4286 above.

by the Seleka and that the Anti-Balaka targeted the Muslim civilian population, specifically in the west of the CAR, on this basis.¹⁰⁰¹⁴

4297. On this basis, the Chamber concludes that Mr Ngaïssona intended the Muslim civilian population to be discriminated against on the basis of their religious and ethnic commonalities with the Seleka. Accordingly, the specific intent requirement applicable to the crime against humanity of persecution, pursuant to Article 7(1)(h) of the Statute, is also met.

Conclusion

4298. On the basis of the above, the Chamber therefore finds that, within the context of the captivity of seven individuals at Yamwara by Mr Yekatom's elements on 24 December 2013 and the subsequent transfer and captivity of five of them until their release on or around 27 December 2013, Mr Ngaïssona aided, abetted or otherwise assisted, within the meaning of Article 25(3)(c) of the Statute, the commission of the following crimes: (i) other inhumane acts as a crime against humanity, pursuant to Article 7(1)(k) of the Statute (Count 11); (ii) cruel treatment as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, for six persons (Count 13); (iii) imprisonment and other forms of severe deprivation of physical liberty as a crime against humanity, pursuant to by Article 7(1)(e) of the Statute (Count 14); (v) and (iv) persecution as a crime against humanity pursuant to Article 7(1)(h) of the Statute (Count 17).

4299. Further, the Chamber, by majority, Judge Kovács dissenting, finds that Mr Ngaïssona aided, abetted, or otherwise assisted in the commission of crimes of (i) torture as a crime against humanity, pursuant to Article 7(1)(f) of the Statute (Count 12); (ii) torture as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, for Saint Cyr, pursuant to Article 8(2)(c)(i) of the Statute (Count 13); (iii) murder as a crime against humanity, pursuant to Article 7(1)(a) of the Statute (Count 15); and (iv) murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute (Count 16). Judge Kovács would have acquitted Mr Ngaïssona on Counts 12, 13, 15 and 16 in respect of Saint Cyr's torture and killing. Accordingly, Judge Kovács has not

¹⁰⁰¹⁴ See paragraph 49 above.

considered Saint Cyr's torture and murder for the purposes of assessing Mr Ngaïssona's liability for persecution as a crime against humanity (Count 17), but agrees with the majority on the outcome for this count.

iv. Crimes committed in the context of the Anti-Balaka's advance through and takeover of villages along the PK9-Mbaïki Axis (Counts 24 to 28)

a. Crimes committed

i. Forcible transfer and deportation as a crime against humanity and displacement as a war crime (Counts 24 and 25)

4300. Under Counts 24 and 25, Mr Yekatom and Mr Ngaïssona are charged with forcible transfer and deportation as a crime against humanity pursuant to Article 7(1)(d) of the Statute, and displacement as a war crime pursuant to Article 8(2)(e)(viii) of the Statute, for the dislocation of the majority of the Muslim population from their towns and villages between on or about 10 January 2014 and on or about 6 February 2014, in the context of the Anti-Balaka's advance through and takeover of villages along the PK9-Mbaïki Axis (including Sekia, Ndangala, Bimon, Kapou, Bossongo, Pissa, Mbaïki).

Recalling of factual findings

4301. The Chamber found that starting on 10 January 2014, Mr Yekatom and elements under his control left Yamwara and advanced from Bangui on the road towards Mbaïki, taking over a number of villages in the Lobaye prefecture, located in the south-west part of the country, including Sekia, Ndangala, Bimon, Kapou, Bossongo and Pissa.¹⁰⁰¹⁵ They did not meet with resistance as they passed from PK9 to Sekia and Pissa, since the Seleka had fled these areas after learning that the Anti-Balaka were approaching.¹⁰⁰¹⁶ At the time of the group's presence on the Mbaïki road, Mr Yekatom, Cœur de Lion and Alkanto instructed the elements to kill all the Muslims in their area.¹⁰⁰¹⁷

¹⁰⁰¹⁵ See paragraph 113 above.

¹⁰⁰¹⁶ See paragraph 113 above.

¹⁰⁰¹⁷ See paragraph 114 above.

4302. The Chamber found that Mr Yekatom's group took over checkpoints at PK9, Sekia, Bimon, Bossongo and Pissa in their advance towards Mbaïki.¹⁰⁰¹⁸ Mr Yekatom and his elements also set up new bases at PK9 and Sekia.¹⁰⁰¹⁹ By taking over these checkpoints, Mr Yekatom and his group aimed at searching and identifying Muslims in the area and raising money to finance the group and its needs. Mr Yekatom's group was armed.¹⁰⁰²⁰

4303. The Chamber found that a significant proportion of the Muslim civilian population fled their towns and villages along the PK9-Mbaïki axis due to and in fear of the advance of Mr Yekatom's group along the axis.¹⁰⁰²¹ The Chamber found that at least 1,000 Muslim civilians who fled from locations along the PK9-Mbaïki axis and in the Lobaye prefecture went to Mbaïki, substantially increasing the Muslim population of the town.¹⁰⁰²² Muslims in Mbaïki at the time were living in difficulty, under conditions of overcrowding, hunger and fear of death from the Anti-Balaka.¹⁰⁰²³

4304. The Chamber found that Mr Yekatom and elements under his control entered Mbaïki on 30 January 2014.¹⁰⁰²⁴ That day, a meeting was held at the *St Jeanne d'Arc* Church in Mbaïki, with Mr Yekatom and members of his group, representatives of the Mbaïki civilian and religious authorities, international organisations and NGOs, as well as the Sangaris. At the meeting, the removal of the Muslim civilian population from Mbaïki, which was a foregone conclusion at that point, was decided.¹⁰⁰²⁵ The Chamber found that after the meeting, the prefect and other individuals contacted the authorities to arrange the convoy that would transport the Muslim civilian population out of Mbaïki.¹⁰⁰²⁶ The Chamber found that during this timeframe, elements of Mr Yekatom's group threatened and harassed Muslim civilians in Mbaïki, telling them to leave the area.¹⁰⁰²⁷ The Chamber found that the Anti-Balaka also

¹⁰⁰¹⁸ See paragraph 116 above.

¹⁰⁰¹⁹ See paragraph 116 above.

¹⁰⁰²⁰ See paragraph 117 above.

¹⁰⁰²¹ See paragraph 118 above.

¹⁰⁰²² See paragraph 119 above.

¹⁰⁰²³ See paragraph 119 above.

¹⁰⁰²⁴ See paragraph 120 above.

¹⁰⁰²⁵ See paragraph 120 above.

¹⁰⁰²⁶ See paragraph 120 above.

¹⁰⁰²⁷ See paragraph 121 above.

attacked a gendarme patrol in Mbaïki which was there to protect the population, taking the patrol's weapons and the service car that they were using.¹⁰⁰²⁸

4305. The Chamber found that on 6 February 2014, Chadian forces transported a first group of Muslim civilians from Mbaïki to Chad and other locations in the CAR. These Muslim civilians had to leave their belongings behind. They left Mbaïki in fear of the Anti-Balaka and, in particular, due to the arrival of Mr Yekatom's group to Mbaïki. The total number of Muslims removed from Mbaïki at the time amounted to at least 3,000. As a result of this dislocation, very few Muslim civilians remained in Mbaïki. The living conditions in the refugee camps in Chad were extremely difficult.¹⁰⁰²⁹ The Chamber found that thereafter, the Congolese MISCA transported a second group of Muslims from Mbaïki to Bangui and other locations.¹⁰⁰³⁰

Perpetrator deported or forcibly transferred one or more persons to another State or location, by expulsion or other coercive acts

4306. As regards forcible transfer and deportation, the Yekatom Defence challenges the causal link between the movement of Mr Yekatom's group along the PK9-Mbaïki axis and 'the displacement and evacuation of the Muslim population'.¹⁰⁰³¹ It argues that the coercive environment was created by 'a convergence of adverse events, all of which was unconnected to Mr Yekatom's conduct'.¹⁰⁰³² As part of these adverse events, the Yekatom Defence points to the Muslim population becoming more vulnerable following the resignation of Michel Djotodia and the withdrawal of Seleka forces and the 'increase in the intensity of hostilities between local communities' with retaliation against Muslims being undertaken by local civilians and self-defence groups who had taken up arms prior to the arrival of Mr Yekatom's group along the axis.¹⁰⁰³³ It further submits that the Muslim population fled their localities towards Mbaïki 'at times upon the advice or instruction of the Seleka', having lost protection

¹⁰⁰²⁸ See paragraph 121 above.

¹⁰⁰²⁹ See paragraph 122 above.

¹⁰⁰³⁰ See paragraph 123 above.

¹⁰⁰³¹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 651, 657.

¹⁰⁰³² [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 653-654.

¹⁰⁰³³ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 653-654.

from the Seleka forces.¹⁰⁰³⁴ It submits that the Muslim population was mistaken in its understanding as to who the perpetrators of crimes were that led to their forced expulsion,¹⁰⁰³⁵ and was also mistaken that the arrival of Mr Yekatom's group would result in conflict.¹⁰⁰³⁶ The Yekatom Defence submits that the victims' decision 'to leave the localities prior to the commission of crimes or threatening acts due to a fear of violence commonly associated with armed conflict, or a general fear or distrust of the particular authority in question does not allow for the conclusive determination' on the causal link.¹⁰⁰³⁷ It argues that the first element of Article 7(1)(d) of the Statute is not met where the individual voluntarily leaves the area before any coercive circumstances arise and where the conduct following their departure was not aimed at creating conditions to hamper their return.¹⁰⁰³⁸

4307. The Yekatom Defence also argues that the alleged dislocation of Muslims was 'incidental' as a result of 'an entirely lawful attack, or collateral consequences of a lawful attack'.¹⁰⁰³⁹ It further argues that the purpose of the movement of Mr Yekatom's group along the axis was to 'provide security and facilitate the work of the gendarmerie in the midst of a security vacuum created' and the securing of Seleka posts served a legitimate military purpose 'namely to prevent the return of the Seleka'.¹⁰⁰⁴⁰

4308. As regards the war crime of displacement, in addition to its submission that the movement of Mr Yekatom's group was legitimate, the Yekatom Defence submits that Mr Yekatom issued no specific order for it to occur, nor has the Prosecution established that Mr Yekatom's instructions had a direct effect on the commission of the crime and he would have been virtually certain that his instructions would result in the commission of the crime in the ordinary course of events.¹⁰⁰⁴¹

¹⁰⁰³⁴ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 653.

¹⁰⁰³⁵ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 654, 656.

¹⁰⁰³⁶ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 655.

¹⁰⁰³⁷ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 655 referring to ICTY, Trial Chamber I, *Prosecutor v. Gotovina et al.*, Judgment, 15 April 2011, IT-06-90-T, para. 1762.

¹⁰⁰³⁸ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 656 referring to [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, paras 1061, 1067.

¹⁰⁰³⁹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 657.

¹⁰⁰⁴⁰ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 658.

¹⁰⁰⁴¹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 661-662.

4309. As regards the requirement that the crime must take place ‘by expulsion or other coercive acts’, the Chamber recalls that forcible transfer and deportation are ‘open-conduct’ crimes in that the perpetrator may commit several different acts that may qualify.¹⁰⁰⁴² In assessing this element in respect of both forcible transfer and deportation in the present case, the Chamber recalls that the term ‘forcibly’ is not restricted to physical force, but may include *inter alia* threat of force or coercion, such as that caused by fear of violence.¹⁰⁰⁴³

4310. The Chamber has considered the existence of coercive acts concerning three sets of persons that were dislocated within the relevant timeframe: first, those that were dislocated from locations along the PK9-Mbaïki axis as soon as Mr Yekatom’s group began advancing on 10 January 2014; second, those that were dislocated as Mr Yekatom’s group advanced along the axis, took over villages, and took over checkpoints; and third, those that were dislocated from Mbaïki during the period that Mr Yekatom’s group was present there.

4311. As regards the first set, the Chamber considers that Mr Yekatom leaving Yamwara with his elements and advancing towards Mbaïki starting on 10 January 2014 was sufficient, in itself, to create the coercive circumstances due to which the Muslims along the axis dislocated. In the Chamber’s view, the subsequent takeover of villages, taking over of checkpoints, and continued armed presence of Mr Yekatom’s group along this axis hampered the return of these Muslims to their homes during this time and thereafter.

4312. As regards the second set, the Chamber considers that the dislocation took place as a result of the fear of violence that was set in motion by Mr Yekatom’s advance, taking over of a number of villages in the Lobaye prefecture, and taking over of checkpoints during this advance towards Mbaïki. The Chamber recalls that it found that by the time that Mr Yekatom’s group arrived Mbaïki on 30 January 2014 and met the relevant authorities there, the removal of the civilian population from Mbaïki was a foregone conclusion.

¹⁰⁰⁴² [Ruto et al. Confirmation Decision](#), ICC-01/09-01/11-373, para. 244.

¹⁰⁰⁴³ Elements of Crimes, Article 7(1)(d) of the Statute, n. 12.

4313. As regards the third set, the Chamber considers that the dislocation of these Muslims from Mbaïki occurred because of Mr Yekatom's actions mentioned above combined with living in conditions of overcrowding, hunger, and fear of death from the Anti-Balaka.

4314. As regards all three sets mentioned above, the Chamber finds that both forcible transfer and deportation took place as a result of the fear of violence that was set in motion by Mr Yekatom's acts. In the view of the Chamber, the Muslim persons, in all three sets, fleeing along the PK9-Mbaïki axis had no genuine choice in leaving their homes to other parts of the CAR, or to the neighbouring countries. The Chamber recalls in this regard that there must be a genuine lack of choice on the part of the person or persons forcibly transferred, and that the prevailing situation and atmosphere, and other relevant circumstances, including in particular the victims' vulnerability, has to be taken into account when assessing whether the individuals transferred indeed had a genuine choice.¹⁰⁰⁴⁴ In the view of the Chamber, Muslims along the PK9-Mbaïki axis would not have wished to flee, absent the circumstances created by Mr Yekatom's group in that area, including, in particular, their advance towards Mbaïki, their armed presence in the Lobaye prefecture, their takeover of villages, and taking over and setting up of checkpoints in several locations.¹⁰⁰⁴⁵

4315. The Chamber considers that even if other factors contributed to the fear of violence, the existence of such factors added to the context, but are inapt by and of themselves to impact the Chamber's conclusion above. In the view of the Chamber, the purported loss of the Seleka presence only reaffirms the Chamber's conclusion that these Muslims left as a result of Mr Yekatom's acts and not as a result of a fear of violence commonly associated with armed conflict, as argued by the Yekatom Defence. The Chamber could draw no conclusion on the Yekatom Defence's argument that these Muslims were being protected by the Seleka presence there and dislocated for loss of that protection. In any event, as noted above and below, the Chamber considers that while there may have been other factors that compounded or added to the reasons for displacement, they did not sever the link between Mr Yekatom's acts and the dislocation of Muslims.¹⁰⁰⁴⁶

¹⁰⁰⁴⁴ [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 1056.

¹⁰⁰⁴⁵ See ICTY, Trial Chamber II, *Prosecutor v. Simić et al.*, Judgment, 17 October 2003, IT-95-9-T, para. 126.

¹⁰⁰⁴⁶ See paragraphs 3976-3978, 4315 above.

4316. Having regard to this, the Chamber finds that the acts of Mr Yekatom and his group amounted to ‘coercive acts’ pursuant to the first element of deportation or forcible transfer as a crime against humanity.

4317. Before turning to the remaining requirements of forcible transfer and deportation as a crime against humanity pursuant to Article 7(1)(d) of the Statute, the Chamber recalls that Muslims in Mbaïki at the time were composed of three groups: (i) Mbaïki inhabitants; (ii) Muslims who fled from localities along the PK9-Mbaïki axis; and (iii) Muslims who fled from *other* locations in the Lobaye prefecture.

4318. The Chamber finds that the requirement of forcible transfer is met in respect of the movement of all three categories of Muslim persons mentioned above, who were dislocated to other parts of the CAR, in the context of Mr Yekatom’s advance from Bangui to Mbaïki. The Chamber finds that the requirement of deportation is met in respect of the movement of these Muslim persons, who further fled from Mbaïki to Chad and other locations. Thus, the Chamber finds that the first requirement of forcible transfer and deportation as a crime against humanity pursuant to Article 7(1)(d) of the Statute, namely that the perpetrator forcibly transferred or deported, without grounds permitted under international law, one or more persons to another State or location, by expulsion or other coercive acts, is met.

Lawful presence

4319. The Chamber now turns to the second requirement of forcible transfer and deportation as a crime against humanity pursuant to Article 7(1)(d) of the Statute, namely that such person or persons were lawfully present in the area from which they were so deported or transferred, is met. The Chamber considered that there is no evidence on the record, nor any arguments advanced by the parties, indicating that these Muslims living along the PK9-Mbaïki axis and those living in Mbaïki at the time were not lawfully present there. This applied also to those Muslim persons who had been dislocated to Mbaïki from localities *not* along the PK9-Mbaïki axis and who found themselves dislocated from their homes to Mbaïki during this time. The Chamber recalls in this regard also that ‘lawful presence’ does not mean that the victim must have had legal residence in the area. The protection under this provision extends to individuals, who, for whatever reason, have come to live in a community, including

internally displaced persons, who have established temporary homes after being uprooted from their original communities.¹⁰⁰⁴⁷ Accordingly, and recalling that Muslim persons were present and living along the PK9-Mbaïki axis and in Mbaïki, the Chamber finds that the second requirement of forcible transfer and deportation as a crime against humanity pursuant to Article 7(1)(d) of the Statute is met.

‘Without grounds’ and ‘not justified’

4320. Specifically as regards the requirement, under Article 7(1)(d) of the Statute, that the transfer or deportation took place ‘without grounds permitted under international law’, and the requirement under Article 8(2)(e)(viii) of the Statute that the displacement was ‘not justified by the security of the civilians involved or by military necessity’. In addition to the factual findings above, the Chamber recalls that at the time of Mr Yekatom’s group’s presence on the Mbaïki road, Mr Yekatom, Cœur de Lion and Alkanto instructed the elements to kill all the Muslims in their area.¹⁰⁰⁴⁸ Mr Yekatom and his elements also set up new bases at PK9 and Sekia.¹⁰⁰⁴⁹ By taking over these checkpoints, Mr Yekatom and his group aimed at searching and identifying Muslims in the area and raising money to finance the group and its needs.¹⁰⁰⁵⁰

4321. The Chamber has further considered that there is no indication in the evidence on the record that the displacement of the Muslim civilian population along the PK9-Mbaïki axis was justified by their security or military necessity. Accordingly, the Chamber finds that the second element of displacement as a war crime pursuant to Article 8(2)(e)(viii) of the Statute, namely that such order was not justified by the security of the civilians involved or by military necessity, is met.

4322. In light of the above, and absent any contrary indication on the facts, the Chamber does not consider that the transfer and displacement of Muslim civilians to Mbaïki, and Chad and other locations thereafter, had grounds permitted under international law, or otherwise was

¹⁰⁰⁴⁷ [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 1069 referring to *Popović et al.* Trial Judgment, IT-05-88-T, para. 900; ICTY, Trial Chamber II, *Prosecutor v. Zdravko Tolimir*, Judgement, 12 December 2012, IT-05-88/2-T, para. 797.

¹⁰⁰⁴⁸ See paragraph 114 above.

¹⁰⁰⁴⁹ See paragraph 116 above.

¹⁰⁰⁵⁰ See paragraph 117 above.

justified by the security of these civilians or military necessity. The Chamber thus finds that these requirements for forcible transfer and deportation as a crime against humanity pursuant to Article 7(1)(d) of the Statute, as well as for displacement as a war crime pursuant to Article 8(2)(e)(viii) of the Statute, are also met.

Order to displace

4323. The Chamber now turns to the distinct requirements of displacement as a war crime pursuant to Article 8(2)(e)(viii) of the Statute, meaning the perpetrator ordered a displacement of a civilian population, such order was not justified by the security of the civilians involved or by military necessity, and the perpetrator was in a position to effect such displacement by giving such order.

4324. The Chamber recalls the Yekatom Defence's arguments made in reference to the *Ntaganda* jurisprudence above in relation to Count 5.¹⁰⁰⁵¹ The Chamber recalls that, as regards the requirement of an 'order', the Chamber considers that conduct alone can constitute an order.¹⁰⁰⁵² This is consistent with the *Ntaganda* jurisprudence that states that an order within the meaning of this crime itself needs only to instruct another person in any form to (i) displace a civilian population; or (ii) perform an act or omission as a result of which such displacement would occur.¹⁰⁰⁵³

4325. In light of this, the Chamber finds that, in the present instance, Mr Yekatom's group's advance towards Mbaïki, takeover of villages, taking over of checkpoints, armed presence along the PK9-Mbaïki axis and Mr Yekatom's instruction to his elements to kill all the Muslims in their area is sufficient to constitute an 'order' within the meaning of the first element of displacement as a war crime. It was a combination of these actions that directly

¹⁰⁰⁵¹ See paragraphs 3984-3985 above. See also [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 661.

¹⁰⁰⁵² See further Additional Protocol II, Article 17 (stating that the displacement of the civilian population shall not be ordered for reasons related to the conflict unless the security of the civilians involved or imperative military reasons so demand); ICRC, Rule 129(B) of the Customary International Humanitarian Law, Volume II, Chapter 38, Section A (stating that parties to a non-international armed conflict may not order the displacement of the civilian population, in whole or in part, for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand). The Chamber considers that these provisions must be read as a prohibition of displacing the civilian population in non-international armed conflicts.

¹⁰⁰⁵³ [Ntaganda Trial Judgment](#), ICC-01/04-02/06-2359, para. 1081.

led to the commission of this crime. The Chamber considers that the instructions of Mr Yekatom, Cœur de Lion and Alkanto to their elements in the area under these premises constituted an order to perform an act as a result of which the displacement of the Muslim civilian population from those areas would necessarily occur. In the view of the Chamber, Mr Yekatom need not have given a formal order, written or otherwise, to his elements or to the Muslim civilian population spelling out expressly that the displacement must occur.

4326. The Chamber is also satisfied that there is a direct link between the actions of Mr Yekatom's group and the displacement of the Muslim civilian population from along the PK9-Mbaïki axis. This applies to all the three sets of persons who dislocated, as discussed above.¹⁰⁰⁵⁴ The Chamber further considers that, in the present case, Mr Yekatom's conduct need not have been the sole reason why the Muslim civilian population fled. This is because the Chamber is otherwise satisfied that had it not been for the actions of Mr Yekatom and his group, the concerned Muslim civilian population would not have been displaced. Further, as noted in its evidentiary analysis as well as in its conclusions on Count 4,¹⁰⁰⁵⁵ while there may have been other factors that compounded or added to the reasons for displacement, they did not sever the link between Mr Yekatom's acts and the displacement.

4327. The Chamber has considered the Yekatom Defence's argument concerning the victims' decision to leave the localities due to a fear of violence commonly associated with the armed conflict or a general fear or distrust of a particular authority in question or before any coercive circumstances arose.¹⁰⁰⁵⁶ The Chamber accepts that some Muslims may have left as soon as Mr Yekatom's group began advancing and prior to the takeover of villages and taking over of checkpoints. However, as also noted above in relation to forcible transfer and deportation, the Chamber considers that the armed presence of Mr Yekatom's group along the PK9-Mbaïki axis from 10 January 2014 onwards and their actions until Mr Yekatom's group left Mbaïki was sufficient to hamper the return of those Muslims to their homes during this time.

¹⁰⁰⁵⁴ See paragraphs 4310-4314 above.

¹⁰⁰⁵⁵ See paragraphs 3976-3978 above.

¹⁰⁰⁵⁶ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 655-656.

4328. The Chamber is of the view that the armed presence of Mr Yekatom's group's on the Mbaïki road, as well as express instructions from Mr Yekatom, Cœur de Lion and Alkanto to their elements to kill all the Muslims in their area,¹⁰⁰⁵⁷ together with taking over of checkpoints by Mr Yekatom and his group, aimed at searching and identifying Muslims in the area, establish conclusively the existence of an 'order' within the meaning of this crime.¹⁰⁰⁵⁸ The Chamber considers that by advancing under these premises from Bangui on the road towards Mbaïki, taking over a number of villages in the Lobaye prefecture, located in the south-west part of the country, including Sekia, Ndangala, Bimon, Kapou, Bossongo and Pissa, Mr Yekatom's elements were ordered to perform an act as a result of which the displacement of the Muslim civilian population from these locations would necessarily occur.

Position to effect such displacement by giving such order

4329. In respect of the third element of displacement as a war crime pursuant to Article 8(2)(e)(viii) of the Statute, namely that the perpetrator was in a position to effect such displacement by giving such order, the Chamber finds that this requirement is met by virtue of Mr Yekatom's position as the chief of the group that advanced to Mbaïki as well as being the one providing the instructions to his elements to kill Muslims. The Chamber considers that taking over and being present in areas while armed, Mr Yekatom's group was in a position to cause the dislocation of Muslim civilians from their homes. Further, and while noting that the war crime of displacement does not require for displacement as such to actually occur, the Chamber considers that it was Mr Yekatom's group's actions that led to the displacement of the Muslim civilian population to Mbaïki and later to Chad and other locations.

ii. Murder as a crime against humanity and as a war crime (Counts 26 and 27)

4330. Under Counts 26 and 27, Mr Yekatom and Mr Ngaïssona are charged with murder as a crime against humanity pursuant to Article 7(1)(a) of the Statute, and murder as a war crime pursuant to Article 8(2)(c)(i) of the Statute of Deputy Mayor Saleh on or about 28 February

¹⁰⁰⁵⁷ See paragraph 114 above.

¹⁰⁰⁵⁸ See paragraph 117 above.

2014 in Mbaïki, in the context of the Anti-Balaka's advance through and takeover of villages along the PK9-Mbaïki Axis (including Sekia, Ndangala, Bimon, Kapou, Bossongo, Pissa, Mbaïki).

Recalling of factual findings

4331. The Chamber found that Djido Saleh, the second deputy mayor of Mbaïki, and his family, were among the very few remaining Muslims in Mbaïki, following the removal of Muslim civilians out of Mbaïki.¹⁰⁰⁵⁹ The Chamber found that prior to his killing, elements of Mr Yekatom's group threatened Djido Saleh.¹⁰⁰⁶⁰ The Chamber found that on 28 February 2014, a group of individuals attacked Djido Saleh's house while he and his family were inside. Djido Saleh's family fled. As Djido Saleh tried to flee, the group of individuals pursued him and threw stones at him. Djido Saleh tried to defend himself with a bow and at least one arrow. The group of individuals, which included at least three elements of Mr Yekatom's group, one of them being Honorine Gbafalo, killed him as he tried to reach the gendarmerie. Honorine Gbafalo cut off his genitals. Other individuals beat him and cut parts of his body, including one of his ears and his neck, partly severing his head.¹⁰⁰⁶¹

Killing of one or more person

4332. The Yekatom Defence submits that the Prosecution did not identify the perpetrator and should have done so, given that it was a 'material fact'.¹⁰⁰⁶² It argues that in the absence of this, the charged crime cannot be attributed to Mr Yekatom.¹⁰⁰⁶³

4333. The Chamber recalls that, as a matter of law, it is not necessary to identify the specific perpetrator(s) *within* Mr Yekatom's group, who were responsible for this killing,¹⁰⁰⁶⁴ as long

¹⁰⁰⁵⁹ See paragraph 124 above.

¹⁰⁰⁶⁰ See paragraph 124 above.

¹⁰⁰⁶¹ See paragraph 125 above.

¹⁰⁰⁶² [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 649.

¹⁰⁰⁶³ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 649.

¹⁰⁰⁶⁴ [Bemba Trial Judgment](#), ICC-01/05-01/08-3343, para. 87. See e.g. [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, paras 2976, 3011, 3116 (the accused, a battalion commander, was found guilty of murder through commission liability pursuant to Article 25(3)(a) of the Statute for the acts of unnamed individual elements in the armed group); ICTY, Trial Chamber II, *Prosecutor v. Boškoški and Tarčulovski*, Judgment, 10 July 2008, IT-04-82-T, paras 312, 346, 577-578, 607 (the accused was found guilty of ordering the commission of murder of a victim, in the case of which the identity of the police members who killed the victim had not been established).

as it was otherwise satisfied beyond reasonable doubt that it was Mr Yekatom's elements who killed Djido Saleh. Mr Yekatom's specific conduct in relation to this killing is discussed further below. Accordingly, the Chamber finds that the only reasonable inference in the circumstances discussed above is that Mr Yekatom's elements killed Djido Saleh.

4334. On this basis, in respect of the first element of murder as a crime against humanity pursuant to Article 7(1)(a) of the Statute, and of murder as a war crime pursuant to Article 8(2)(c)(i) of the Statute, namely that the perpetrator killed one or more persons, the Chamber finds that this requirement is met in respect of Mr Yekatom's elements.

Status of the person(s) killed

4335. The Chamber recalls its finding, on the basis of its analysis of the evidence before it, that Djido Saleh was not armed or taking part in hostilities at the relevant time.¹⁰⁰⁶⁵ Specifically, the Chamber considered the evidence before it indicating that Djido Saleh was not a member of the Seleka. The Chamber recalls that it found that Djido Saleh tried to defend himself with a bow and at least one arrow against the group of individuals that was attacking him.¹⁰⁰⁶⁶ In the Chamber's view, by using necessary and proportionate force in defending himself against a group of individuals,¹⁰⁰⁶⁷ Djido Saleh did not lose protection as a civilian. Accordingly, in respect of the distinct elements of murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute, that the person be either *hors de combat*, or a civilian, medical personnel, or religious personnel taking no active part in the hostilities, the Chamber finds that this requirement is met in respect of Djido Saleh.

iii. Persecution as a crime against humanity (Count 28)

4336. Under Count 28, Mr Yekatom and Mr Ngaïssona are charged with the crime of persecution as a crime against humanity pursuant to Article 7(1)(h) of the Statute, for the severe deprivation of the fundamental rights of persons in the villages along the PK9-Mbaïki Axis

¹⁰⁰⁶⁵ See paragraph 125 above.

¹⁰⁰⁶⁶ See paragraph 125 above.

¹⁰⁰⁶⁷ See [Ongwen Trial Judgment](#), ICC-02/04-01/15-1762-Red, n. 7127 *referring inter alia* to ICRC, Nils Melzer, Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law, 2009, p. 61.

by targeting them on the basis of political, ethnic and/or religious grounds by virtue of the conduct pertaining to Counts 24-27.

Recalling of factual findings

4337. In addition to the findings recalled by the Chamber in respect of Counts 24 to 27, the Chamber further recalls that it found that Mr Yekatom knew that the Anti-Balaka perceived, and himself perceived, the Muslims in the CAR as collectively responsible for, complicit in, or supportive of the violence and abuses committed by the Seleka and that the Anti-Balaka targeted the Muslim civilian population, specifically in the west of the CAR, on this basis.¹⁰⁰⁶⁸ In particular, the Chamber found that Mr Yekatom's elements that killed Djido Saleh and cut off parts of his dead body targeted him on the basis that he was a Muslim.¹⁰⁰⁶⁹

Perpetrator severely deprived, contrary to international law, one or more persons of fundamental rights

4338. The Chamber notes the Yekatom Defence's arguments that the Prosecution has failed to establish that the crimes discriminatorily targeted the Muslim population.¹⁰⁰⁷⁰ As regards the events along the PK9-Mbaïki axis, the Yekatom Defence argues that the alleged crimes concerned 'suspected or actual Seleka forces and were therefore part of the legitimate aim recognised in the Confirmation Decision'.¹⁰⁰⁷¹ It adds that Counts 6, 26 and 27 would be 'exception if proven' and would constitute two discrete incidents and would not establish 'any alleged pattern of crimes which targeted the Muslim population'.¹⁰⁰⁷²

4339. The Chamber recalls that there was no indication in the evidence that Djido Saleh was part of the Seleka forces or suspected to be so. The Chamber also considers that there is no additional requirement in law that incidents underlying persecution otherwise fulfil any distinct pattern of crimes to fall within the definition of this crime. In the view of the

¹⁰⁰⁶⁸ See paragraph 48 above.

¹⁰⁰⁶⁹ See paragraph 125 above.

¹⁰⁰⁷⁰ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 665.

¹⁰⁰⁷¹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 666.

¹⁰⁰⁷² [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, para. 666.

Chamber, the killing of Djido Saleh exemplifies the targeting of Muslim civilians by Mr Yekatom's elements alongside the others discussed as part of the Bangui Attack and the Yamwara Incident.

4340. In respect of the first element of persecution as a crime against humanity, pursuant to Article 7(1)(h) of the Statute, namely that the perpetrator severely deprived, contrary to international law, one or more persons of fundamental rights, the Chamber finds that this requirement is met. Specifically, the Chamber considers that Djido Saleh was deprived of his right to life.¹⁰⁰⁷³ Further, Muslim persons in locations along the PK9-Mbaiki axis had to flee following the advance by Mr Yekatom's elements and were deprived of their right to liberty and security of person, right to liberty of movement, right against arbitrary or unlawful interference with their family and home, and right to property.¹⁰⁰⁷⁴

Targeted by reason of identity of a group or collectivity, or group or collectivity targeted as such

4341. The Chamber further finds that Mr Yekatom's elements targeted Muslim persons by reason of their perceived religious commonalities with the Seleka, and therefore on religious grounds.

4342. On this basis, the Chamber finds that the requirements are met in respect of the second and third element of persecution as a crime against humanity, pursuant to Article 7(1)(h) of the Statute, namely that the perpetrator targeted such person or persons by reason of the identity of a group or collectivity or targeted the group or collectivity as such and such targeting was based on political, racial, national, ethnic, cultural, religious, gender as defined in article 7, paragraph 3, of the Statute, or other grounds that are universally recognised as impermissible under international law.

¹⁰⁰⁷³ See paragraph 125 above. See e.g. Article 3 of the UDHR; Article 6 of the ICCPR.

¹⁰⁰⁷⁴ See paragraphs 118-123 above. See e.g. Articles 3, 12, 13, 17 and 18 of the UDHR; Articles 6, 7, 9, 12, 17, 18 and 27 of the ICCPR.

Committed in connection with any act referred to in Article 7(1) of the Statute or any crime within the jurisdiction of the Court

4343. In respect of the fourth element of persecution as a crime against humanity, pursuant to Article 7(1)(h) of the Statute, namely that the conduct was committed in connection with any act referred to in article 7, paragraph 1, of the Statute or any crime within the jurisdiction of the Court, the Chamber finds that this requirement is met by virtue of the conduct of Mr Yekatom's elements satisfying the requirements of the crimes against humanity of murder, forcible transfer and deportation, and the war crime of displacement, as noted above.

b. Individual criminal responsibility

i. *Mr Yekatom*

4344. The Chamber now turns to Mr Yekatom's responsibility under Counts 24 to 28. Mr Yekatom is alleged to have committed the aforementioned crimes 'jointly with' or 'through' others under Article 25(3)(a) of the Statute.

Existence of an agreement

4345. The Chamber found that starting on 10 January 2014, Mr Yekatom and elements under his control left Yamwara and advanced from Bangui on the road towards Mbaïki, taking over a number of villages in the Lobaye prefecture, located in the south-west part of the country, including Sekia, Ndangala, Bimon, Kapou, Bossongo and Pissa.¹⁰⁰⁷⁵ They did not meet resistance as they passed from PK9 to Sekia and Pissa, since the Seleka had fled these areas after learning that the Anti-Balaka were approaching.¹⁰⁰⁷⁶ At the time of the group's presence on the Mbaïki road, Mr Yekatom, Cœur de Lion and Alkanto instructed the elements to kill all the Muslims in their area.¹⁰⁰⁷⁷ Mr Yekatom was the undisputed leader of the Anti-Balaka group along the PK9-Mbaïki axis, which comprised at least 1,000 elements at the time.¹⁰⁰⁷⁸

¹⁰⁰⁷⁵ See paragraph 113 above.

¹⁰⁰⁷⁶ See paragraph 113 above.

¹⁰⁰⁷⁷ See paragraph 114 above.

¹⁰⁰⁷⁸ See paragraph 115 above.

4346. The Chamber further found that Mr Yekatom's group took over checkpoints at PK9, Sekia, Bimon, Bossongo and Pissa in their advance towards Mbaïki, and set up new bases at PK9 and Sekia.¹⁰⁰⁷⁹ By taking over these checkpoints, Mr Yekatom and his group aimed at searching and identifying Muslims in the area and raising money to finance the group and its needs.¹⁰⁰⁸⁰

4347. The Chamber found that a significant proportion of the Muslim civilian population fled their towns and villages along the PK9-Mbaïki axis due to and in fear of the advance of Mr Yekatom's group along the axis.¹⁰⁰⁸¹ At least 1,000 Muslim civilians who fled from locations along the PK9-Mbaïki axis and in the Lobaye prefecture went to Mbaïki, substantially increasing the Muslim population of the town.¹⁰⁰⁸² Muslims in Mbaïki at the time were living in difficulty, under conditions of overcrowding, hunger and fear of death from the Anti-Balaka.¹⁰⁰⁸³

4348. The Chamber found that Mr Yekatom and elements under his control entered Mbaïki on 30 January 2014.¹⁰⁰⁸⁴ That day, a meeting was held at the *St Jeanne d'Arc* Church in Mbaïki, with Mr Yekatom and members of his group, representatives of the Mbaïki civilian and religious authorities, international organisations and NGOs, as well as the Sangaris.¹⁰⁰⁸⁵ At the meeting, the removal of the Muslim civilian population from Mbaïki, which was a foregone conclusion at that point, was decided.¹⁰⁰⁸⁶ After the meeting finished, Mr Yekatom addressed the crowds outside of the meeting location and subsequently at Mbaïki's bus station, where he delivered 'peace messages' similar to those he had expressed at the meeting.¹⁰⁰⁸⁷ The presence of the Sangaris and other international actors in Mbaïki at that time compelled Mr Yekatom to bring this 'peace message' to Mbaïki and prevented attacks of his group against the Muslim civilian population.¹⁰⁰⁸⁸

¹⁰⁰⁷⁹ See paragraph 116 above.

¹⁰⁰⁸⁰ See paragraph 117 above.

¹⁰⁰⁸¹ See paragraph 118 above.

¹⁰⁰⁸² See paragraph 119 above.

¹⁰⁰⁸³ See paragraph 119 above.

¹⁰⁰⁸⁴ See paragraph 120 above.

¹⁰⁰⁸⁵ See paragraph 120 above.

¹⁰⁰⁸⁶ See paragraph 120 above.

¹⁰⁰⁸⁷ See paragraph 120 above.

¹⁰⁰⁸⁸ See paragraph 121 above.

4349. The Chamber also found that during this time, elements of Mr Yekatom's group threatened and harassed Muslim civilians in Mbaïki, telling them to leave the area.¹⁰⁰⁸⁹ Both Mr Yekatom and Cœur de Lion knew that elements of the group committed acts of violence in Mbaïki.¹⁰⁰⁹⁰ Efforts and measures to prevent these acts were taken only after the removal of the Muslim civilian population from Mbaïki had been decided and/or carried out.¹⁰⁰⁹¹ The Anti-Balaka also attacked a gendarme patrol in Mbaïki which was there to protect the population, taking the patrol's weapons and the service car that they were using.¹⁰⁰⁹²

4350. The Chamber found that Muslim civilians left Mbaïki in fear of the Anti-Balaka and, in particular, due to the arrival of Mr Yekatom's group to Mbaïki.¹⁰⁰⁹³

4351. The Chamber further found that following the death of Djido Saleh, Mr Yekatom told Raymond Mongbandi that the killing was 'an accident' and that he would pay for the burial, which he never did.¹⁰⁰⁹⁴ As a direct consequence of the killing, MISCA ordered Mr Yekatom and his elements to leave Mbaïki, which they immediately did.¹⁰⁰⁹⁵

4352. The Chamber recalls that it also found that Mr Yekatom knew that the Anti-Balaka perceived, and himself perceived, the Muslims in the CAR as collectively responsible for, complicit in, or supportive of the violence and abuses committed by the Seleka and that the Anti-Balaka targeted the Muslim civilian population, specifically in the west of the CAR, on this basis.¹⁰⁰⁹⁶

4353. The Chamber further found that throughout the period relevant to the charges, Mr Yekatom retained and exercised control over an active group of elements which was seen as and understood to be part of the Anti-Balaka.¹⁰⁰⁹⁷ Mr Yekatom was the uncontested leader of

¹⁰⁰⁸⁹ See paragraph 121 above.

¹⁰⁰⁹⁰ See paragraph 121 above.

¹⁰⁰⁹¹ See paragraph 121 above.

¹⁰⁰⁹² See paragraph 121 above.

¹⁰⁰⁹³ See paragraph 122 above.

¹⁰⁰⁹⁴ See paragraph 125 above.

¹⁰⁰⁹⁵ See paragraph 125 above.

¹⁰⁰⁹⁶ See paragraph 48 above.

¹⁰⁰⁹⁷ See paragraph 63 above.

this group which first set up at Yamwara in Boeing after 5 December 2013, and moved down the PK9-Mbaïki axis following Michel Djotodia's resignation.¹⁰⁰⁹⁸

4354. The Yekatom Defence submits that there was no group with a common purpose committing crimes to which Mr Yekatom was a member, since (i) the Anti-Balaka was no single unified or coordinated movement, but rather multiple resistance groups; (ii) the Anti-Balaka 'north' and 'south' coordination were distinct entities until June 2014, with diametrically opposed objectives; (iii) Mr Yekatom was part of a distinct and separate movement whose shared objectives were legitimate military aims, limited to the restoration of security and administrative infrastructures in the CAR, protection of the civilian population, and reinforcement of resources and security measures.¹⁰⁰⁹⁹

4355. In relation to these arguments, the Chamber recalls its findings on Mr Yekatom's control over his group specifically, as well as on Mr Yekatom's group's position within the Anti-Balaka.

4356. Therefore, and on the basis of the above, the Chamber finds that at the time of the advance along the PK9-Mbaïki axis, an agreement existed between Mr Yekatom, Cœur de Lion and Alkanto to establish control over the area as well as to remove all Muslims therefrom, including by killing them. This agreement is established by their instructions to kill all Muslims in the area, as well as the subsequent implementation of these instructions, which included the creation of conditions leading to the dislocation of Muslims specifically along the PK9-Mbaïki axis. This shows that the relevant meeting of minds existed in substance. The agreement was specifically directed at engaging in conduct which amounted to: (i) forcible transfer and deportation as a crime against humanity, pursuant to Article 7(1)(d) of the Statute; (ii) displacement as a war crime, pursuant to Article 8(2)(e)(viii) of the Statute; (iii) murder as a crime against humanity, pursuant to Article 7(1)(a) of the Statute; (iv) murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute; and (v) persecution as a crime against humanity, pursuant to Article 7(1)(h) of the Statute.

¹⁰⁰⁹⁸ See paragraph 63 above.

¹⁰⁰⁹⁹ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 681-686.

*Execution of the material elements of the crime
through other persons*

4357. The Chamber found that Mr Yekatom's group advanced along the PK9-Mbaïki axis, while he remained its undisputed leader.¹⁰¹⁰⁰ The Chamber further found that Mr Yekatom's elements took over checkpoints and established bases in localities along the axis, aiming at searching and identifying Muslims in the area and raising money to finance the group and its needs,¹⁰¹⁰¹ threatened Muslims in Mbaïki following the meeting at *St Jeanne d'Arc* Church,¹⁰¹⁰² and that at least three elements of his group, including Honorine Gbafalo, were involved in the killing of Djido Saleh as one of the last Muslims remaining in Mbaïki.¹⁰¹⁰³

4358. Moreover, the Chamber recalls its finding that throughout the period relevant to the charges, Mr Yekatom retained and exercised control over an active group of elements which was seen as and understood to be part of the Anti-Balaka, being its uncontested leader.¹⁰¹⁰⁴

4359. On the basis of the above, the Chamber concludes that Mr Yekatom could rely on the elements of his group to execute the agreement, and that the will of the individual elements in this execution was immaterial. The Chamber therefore finds that the conduct of the elements of Mr Yekatom's group during the advance through and takeover of villages along the PK9-Mbaïki axis, as well as in Mbaïki thereafter in the execution of the crimes there must be attributed to Mr Yekatom, Cœur de Lion and Alkanto as their own.

Mr Yekatom's control over the crime

4360. As the Chamber has found that (i) Mr Yekatom was a participant to the agreement with Cœur de Lion and Alkanto pursuant to which Mr Yekatom's group advanced along the PK9-Mbaïki axis and engaged in conduct including the commission of crimes, and (ii) the conduct of Mr Yekatom's group's elements, who executed the material elements of the crimes must be attributed to Mr Yekatom, Cœur de Lion and Alkanto as their own, the Chamber will now

¹⁰¹⁰⁰ See paragraph 115 above.

¹⁰¹⁰¹ See paragraphs 116-117 above.

¹⁰¹⁰² See paragraph 121 above.

¹⁰¹⁰³ See paragraph 125 above.

¹⁰¹⁰⁴ See paragraph 63 above.

assess the involvement of Mr Yekatom in those crimes to determine whether he had control over the crime by virtue of his essential contribution to it and the resulting power to frustrate its commission.

4361. The Yekatom Defence submits that Mr Yekatom did not control the direct perpetrators by subjugating anyone's will or by making an essential contribution to any crime, since (i) his group was far smaller and less organised than argued by the Prosecution, with Mr Yekatom not presenting himself as leader of the group; (ii) members of Mr Yekatom's group joined voluntarily to protect the civilian population and could leave the group at will and without sanction, and Mr Yekatom not being in a position to subjugate the will of his group's members; (iii) Mr Yekatom and Cœur de Lion operated two units with independent functionality across material aspects throughout the charged period; and (iv) committing crimes was antithetical to the purpose of Mr Yekatom's group as understood by him.¹⁰¹⁰⁵

4362. The Chamber reiterates its findings that at the time of the advance along the PK9-Mbaïki axis, Mr Yekatom's group numbered at least 1,000 elements, that Mr Yekatom was the undisputed leader of this group, and that Mr Yekatom, with Cœur de Lion and Alkanto, gave instruction to their elements to kill the Muslims in their area. Moreover, the Chamber recalls its findings that conditions for Muslims in Mbaïki following the meeting at the *St Jeanne d'Arc* Church were life-threatening, despite Mr Yekatom's supposed 'peace messages', such that these conditions led to the Muslim civilian population in Mbaïki, including those who had fled there from localities along the axis, having no choice but to leave the town.

4363. The above conclusively shows that Mr Yekatom had full control over his elements performing the relevant conduct in the context of the advance through and takeover of villages along the PK9-Mbaïki axis, and during the events in Mbaïki until the transport of the Muslim civilian population and including the killing of Djido Saleh. Therefore, the Chamber concludes that Mr Yekatom had control over the crimes committed during the mentioned advance and subsequent events in Mbaïki by virtue of his essential contribution to them, and the resulting power to frustrate their commission.

¹⁰¹⁰⁵ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 687-689.

Mental elements

4364. The Yekatom Defence argues that Mr Yekatom did not share the requisite *mens rea* to commit crimes, since Mr Yekatom (i) did not issue any order to target the Muslim population nor encouraged members of his group to do so at any time during the charged period; (ii) was not aware that undertaking legitimate military operations would have led to the charged crimes in the ordinary course of events; and (iii) had the intent to protect the civilian population, including Muslims, and to promote social cohesion and peace throughout the CAR.¹⁰¹⁰⁶

4365. The Chamber considers that Mr Yekatom's conduct in the context of the advance through and takeover of villages along the PK9-Mbaïki axis, and in Mbaïki thereafter was such that it can only have been intentional. In particular, the Chamber also recalls its findings that (i) Mr Yekatom, with Cœur de Lion and Alkanto, issued specific instructions to their elements; (ii) Mr Yekatom took part in the meeting at *St Jeanne d'Arc* Church in Mbaïki, at which time the removal of the Muslim civilian population from Mbaïki was a foregone conclusion; and (iii) Mr Yekatom and Cœur de Lion knew that elements of the group committed acts of violence in Mbaïki. The Chamber thus concludes that Mr Yekatom was aware that the implementation of his meeting of minds with Cœur de Lion and Alkanto would in the ordinary course of events result in the execution of the material elements of the crimes. On this basis, the Chamber finds that Mr Yekatom (i) intended for Muslim civilians to be dislocated; and (ii) intended for one of the last remaining Muslim civilians in Mbaïki to be killed.

4366. Turning to the specific knowledge requirements concerning the charged crimes, the Chamber recalls its finding that Mr Yekatom, Cœur de Lion and Alkanto instructed the elements of Mr Yekatom's group to kill all the Muslims in their area.¹⁰¹⁰⁷ The Chamber also recalls its finding that Mr Yekatom and his elements, by taking over checkpoints, aimed at searching and identifying Muslims in the area and raising money to finance the group and its needs.¹⁰¹⁰⁸ The Chamber recalls its finding that Mr Yekatom took part in the meeting at *St Jeanne d'Arc*

¹⁰¹⁰⁶ [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 691-694.

¹⁰¹⁰⁷ See paragraph 114 above.

¹⁰¹⁰⁸ See paragraph 117 above.

Church, at which the removal of the Muslim civilian population from Mbaïki, already a foregone conclusion at that time, was decided.¹⁰¹⁰⁹ Further, the Chamber recalls its finding that Mr Yekatom and Cœur de Lion knew that elements of the group committed acts of violence in Mbaïki, and that efforts and measures to prevent these acts were taken only after the removal of the Muslim civilian population from Mbaïki had been decided and/or carried out.¹⁰¹¹⁰ The Chamber recalls its finding that following the death of Djido Saleh, Mr Yekatom said it was ‘an accident’ and that he would pay for the burial, which he never did.¹⁰¹¹¹

4367. On this basis, the Chamber finds that the following specific knowledge requirements are met: (i) that the perpetrator was aware of the factual circumstances establishing the lawfulness of presence in the area, applicable to forcible transfer and deportation as a crime against humanity, pursuant to Article 7(1)(d) of the Statute; and (ii) that the perpetrator was aware of the victims being either *hors de combat*, or civilians, medical personnel or religious personnel taking no active part in hostilities, applicable to murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute.

4368. The Chamber further recalls its findings that Mr Yekatom, Cœur de Lion and Alkanto instructed their elements to kill the Muslims in their areas,¹⁰¹¹² and that Mr Yekatom knew that his elements perceived, and himself perceived, the Muslims in the CAR as collectively responsible for, complicit in, or supportive of the violence and abuses committed by the Seleka and that the Anti-Balaka targeted the Muslim civilian population, specifically in the west of the CAR, on this basis.¹⁰¹¹³ On this basis, the Chamber concludes that Mr Yekatom meant for the Muslim civilian population along the PK9-Mbaïki axis to be severely deprived of its rights on the basis of their religious commonalities with the Seleka. Accordingly, the specific intent requirement applicable to the crime against humanity of persecution, pursuant to Article 7(1)(h) of the Statute, is also met.

¹⁰¹⁰⁹ See paragraph 120 above.

¹⁰¹¹⁰ See paragraph 121 above.

¹⁰¹¹¹ See paragraph 125 above.

¹⁰¹¹² See paragraph 114 above.

¹⁰¹¹³ See paragraph 48 above.

Conclusion

4369. On the basis of the above, the Chamber finds that Mr Yekatom committed jointly with and through others, within the meaning of Article 25(3)(a) of the Statute: (i) forcible transfer and deportation as a crime against humanity, pursuant to Article 7(1)(d) of the Statute (Count 24); (ii) displacement as a war crime, pursuant to Article 8(2)(e)(viii) of the Statute (Count 25); (iii) murder as a crime against humanity, pursuant to Article 7(1)(a) of the Statute (Count 26); (iv) murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute (Count 27); and (v) persecution as a crime against humanity, pursuant to Article 7(1)(h) of the Statute (Count 28).

ii. Mr Ngaïssona

4370. The Chamber now turns to Mr Ngaïssona's responsibility under Counts 24 to 28. Mr Ngaïssona is alleged to have committed the aforementioned crimes by facilitating the commission of the crimes as set out in the confirmed charges by aiding, abetting or otherwise assisting in their commission under Article 25(3)(c) of the Statute.

Recalling of factual findings

4371. The Chamber refers to the factual findings as recalled above.¹⁰¹¹⁴

4372. Moreover, the Chamber found that between the coordinated attacks on Bangui and Bossangoa of 5 December 2013 and his return to Bangui on 14 January 2014, Mr Ngaïssona remained informed of the continued activities related to the Anti-Balaka, and continued liaising with various individuals in this regard.¹⁰¹¹⁵ The Chamber found that immediately following his return to Bangui on 14 January 2014, Mr Ngaïssona was installed as general coordinator of the Anti-Balaka and that, as such, he represented the entirety of the Anti-Balaka towards the CAR transition government and international authorities.¹⁰¹¹⁶ With a view to engaging with the transition government and international authorities, the Anti-Balaka structure started being further formalised with the return of Mr Ngaïssona and his

¹⁰¹¹⁴ See paragraphs 4028-4031 above.

¹⁰¹¹⁵ See paragraph 57 above.

¹⁰¹¹⁶ See paragraphs 60-61 above.

appointment as general coordinator.¹⁰¹¹⁷ Mr Ngaïssona continued to provide financial assistance to the Anti-Balaka and actively engaged in formalising the structure of the Anti-Balaka.¹⁰¹¹⁸ The Chamber also found that despite evolution of its structure and leadership tussles, the Anti-Balaka remained represented towards the national and international authorities as one entity through Mr Ngaïssona.¹⁰¹¹⁹

Aiding, abetting or otherwise assisting

4373. In light of the above, the Chamber finds that Mr Ngaïssona, by funding and supporting the Anti-Balaka in 2013 and continuing to do so in 2014, in addition to taking steps to further formalise the Anti-Balaka's structure, aided, abetted or otherwise assisted in the commission of the aforementioned crimes in the context of the Anti-Balaka's advance through and takeover of villages along the PK9-Mbaïki axis.

Mental elements

4374. As regards Mr Ngaïssona's *mens rea*, the Chamber recalls its finding that Mr Ngaïssona made his contributions throughout the period of the charges fully aware that the Anti-Balaka would violently target the Muslim civilian population in the west of the CAR, committing the widespread attack that ultimately took place from September 2013 through at least February 2014, including the seminal coordinated Anti-Balaka attacks of Bangui and Bossangoa on 5 December 2013.¹⁰¹²⁰ Mr Ngaïssona knew that the Anti-Balaka perceived, and himself perceived, the Muslims in the CAR as collectively responsible for, complicit in, or supportive of the violence and abuses committed by the Seleka and that the Anti-Balaka targeted the Muslim civilian population, specifically in the west of the CAR, on this basis.¹⁰¹²¹ The Chamber further considered that Mr Ngaïssona provided his financial aid, organisational assistance and psychological support to the Anti-Balaka in the context of anti-foreign sentiments and inflammatory rhetoric openly expressed by François Bozizé and

¹⁰¹¹⁷ See paragraph 62 above.

¹⁰¹¹⁸ See paragraph 62 above.

¹⁰¹¹⁹ See paragraph 64 above.

¹⁰¹²⁰ See paragraph 49 above.

¹⁰¹²¹ See paragraph 49 above.

others, which incited vigilance against those perceived to support the Seleka, in particular Muslim civilians.¹⁰¹²²

4375. Having regard to the above, and recalling that according to Article 30(2)(b) of the Statute, a person has intent where, in relation to a consequence, the person means to cause that consequence or is aware that it will occur in the ordinary course of events, the Chamber thus finds that Mr Ngaïssona: (i) intended for Muslim civilians to be dislocated and (ii) intended for one of the last remaining Muslim civilians in Mbaïki to be killed.

4376. Turning to the special intent requirement that Mr Ngaïssona's assistance was made with the aim of facilitating the commission of the charged crimes, the Chamber recalls its considerations above.¹⁰¹²³ Recalling its findings that Mr Ngaïssona provided financial, organisational and psychological support to the Anti-Balaka with the knowledge of the crimes that the Anti-Balaka were committing during their advance towards Bangui, the Chamber finds that Mr Ngaïssona's assistance was such that it could only have been provided intentionally with the aim of facilitating the concerned crimes.

4377. Having regard to the above, the Chamber finds that Mr Ngaïssona provided his financial contributions and support to the Anti-Balaka for the purpose of facilitating the crimes against the Muslim civilian population, including killings and dislocation of Muslims. In particular, the Chamber notes that Mr Ngaïssona knew and was informed of the hostilities committed by the Anti-Balaka during their advance towards Bangui. These included the killings and dislocation of Muslims in seven different locations in and around Bossangoa prior to the Bangui Attack and Bossangoa Attack,¹⁰¹²⁴ committed by the Anti-Balaka groups coordinating with each other.¹⁰¹²⁵ Despite this, Mr Ngaïssona continued to provide funds to the Anti-Balaka.¹⁰¹²⁶ Moreover, he also took the role as general coordinator of the Anti-Balaka upon his return to Bangui, within which he represented the movement, as one entity, towards national and international authorities.¹⁰¹²⁷

¹⁰¹²² See paragraph 46 above.

¹⁰¹²³ See paragraphs 4037-4041 above.

¹⁰¹²⁴ See paragraphs 50-53 above.

¹⁰¹²⁵ See paragraph 51 above.

¹⁰¹²⁶ See paragraph 70 above.

¹⁰¹²⁷ See paragraphs 60-61 above.

4378. Accordingly, the Chamber finds that the only reasonable conclusion in these circumstances is that Mr Ngaïssona was not only aware that the Anti-Balaka would commit these crimes in the ordinary course of events, but intended for them to commit these crimes in the context of Mr Yekatom's group's advance through and takeover of villages along the PK9-Mbaïki axis, and lent his assistance with the aim of facilitating such crimes.

4379. Turning to the specific knowledge requirements concerning the charged crimes, the Chamber recalls its finding that Mr Yekatom, Cœur de Lion and Alkanto instructed the elements of Mr Yekatom's group to kill all the Muslims in their area.¹⁰¹²⁸ The Chamber further found that Mr Ngaïssona knew and was informed of the advance of the Anti-Balaka groups towards Bangui as well as of the hostilities during this advance, including the killings and dislocation of Muslim civilians from the locations mentioned.¹⁰¹²⁹

4380. On this basis, the Chamber finds that the following specific knowledge requirements are met: (i) that the perpetrator was aware of the factual circumstances establishing the lawfulness of presence in the area, applicable to forcible transfer and deportation as a crime against humanity, pursuant to Article 7(1)(d) of the Statute; and (ii) that the perpetrator was aware of the victims being either *hors de combat*, or civilians, medical personnel or religious personnel taking no active part in hostilities, applicable to murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute.

4381. Further, the Chamber recalls its finding that Mr Ngaïssona knew that the Anti-Balaka perceived, and himself perceived, the Muslims in the CAR as collectively responsible for, complicit in, or supportive of the violence and abuses committed by the Seleka and that the Anti-Balaka targeted the Muslim civilian population, specifically in the west of the CAR, on this basis.¹⁰¹³⁰

4382. On this basis, the Chamber concludes that Mr Ngaïssona intended for the Muslim civilian population to be discriminated against on the basis of their religious commonalities with the

¹⁰¹²⁸ See paragraph 114 above.

¹⁰¹²⁹ See paragraph 56 above.

¹⁰¹³⁰ See paragraph 49 above.

Seleka. Accordingly, the specific intent requirement applicable to the crime against humanity of persecution, pursuant to Article 7(1)(h) of the Statute, is also met.

Conclusion

4383. On the basis of the above, the Chamber therefore finds that, within the context of the Anti-Balaka's advance through and takeover of villages along the PK9-Mbaïki axis, Mr Ngaïssona aided, abetted or otherwise assisted, within the meaning of Article 25(3)(c) of the Statute, the commission of the following crimes: (i) forcible transfer and deportation as a crime against humanity, pursuant to Article 7(1)(d) of the Statute (Count 24); (ii) displacement as a war crime, pursuant to Article 8(2)(e)(viii) of the Statute (Count 25); (iii) murder as a crime against humanity, pursuant to Article 7(1)(a) of the Statute (Count 26); (iv) murder as a war crime, pursuant to Article 8(2)(c)(i) of the Statute (Count 27); and (v) persecution as a crime against humanity, pursuant to Article 7(1)(h) of the Statute (Count 28).

v. Recruitment of children under the age of 15 into the Anti-Balaka and their use (Count 29)

4384. Under Count 29, Mr Yekatom is charged with conscription, enlistment and use of children under the age of fifteen years to participate actively in hostilities as a war crime pursuant to Article 8(2)(e)(vii) of the Statute, for the conscription and/or enlistment of children into his group at various locations, including Boeing, Sekia and Pissa along the PK9-Mbaïki axis and in Batalimo along the Pissa-Mongoumba axis, and the assignment of a variety of tasks to them, such as, *inter alia*, participating in hostilities, including the Bangui Attack, between at least December 2013 and August 2014. Mr Yekatom is alleged to have committed the aforementioned crimes 'jointly with' or 'through' others under Article 25(3)(a) of the Statute.

4385. The Chamber recalls that, considering the evidence before it, the Chamber, by majority, Judge Chung dissenting, was unable to conclude on the age or presence of children in Mr Yekatom's group.¹⁰¹³¹

4386. Judge Chung would have concluded on Mr Yekatom's responsibility for the enlistment, conscription and use of children under the age of 15 in his group based on P-2476's account. Judge Chung is of the view that Mr Yekatom, through Cœur de Lion, enlisted P-2476, who was under 15 years at the relevant time, in his group in February 2014 for a period of one week. Judge Chung considers that Mr Yekatom, through his elements, used P-2476 for activities such as guarding the Mbaïki base, buying provisions, and cooking for the elements. Accordingly, Judge Chung would have found that Mr Yekatom committed through others, within the meaning of Article 25(3)(a) of the Statute, the enlistment and use of children under the age of fifteen years to participate actively in hostilities as a war crime pursuant to Article 8(2)(e)(vii) of the Statute (Count 29).

VI. SENTENCE

4387. Having determined that the accused are responsible for the above-mentioned crimes, the Chamber now turns to the determination of the appropriate sentences. In doing so, the Chamber takes into account the findings set out above, as well as the participants' additional submissions and evidence relevant to sentencing.

A. Submissions

4388. The Prosecution requests a joint sentence of imprisonment of not less than 22 years for Mr Yekatom and not less than 20 years for Mr Ngaïssona.¹⁰¹³² It submits that the crimes for which the accused bear criminal responsibility are extremely serious, causing long-lasting and extensive harm to the Muslim community in the CAR, as well as to the CAR as a

¹⁰¹³¹ See paragraph 3765 above.

¹⁰¹³² [Prosecution Sentencing Brief](#), ICC-01/14-01/18-2747-Red, paras 1, 27; Prosecution Oral Sentencing Submissions: T-310, p. 6, lines 3-13.

whole.¹⁰¹³³ According to the Prosecution, each accused ‘made important contributions’ to the charged crimes.¹⁰¹³⁴

4389. With regard to Mr Ngaïssona, the Prosecution submits that while he is only charged as an accessory, his contributions go to a broad crime base and were pervasive. Notably, he contributed to the crimes committed by Mr Yekatom and his group as well as by the Anti-Balaka in Bossangoa, and his contributions impacted upon every aspect of the commission of the crimes.¹⁰¹³⁵ With respect to Mr Yekatom, the Prosecution submits that he played a close, personal role in the commission of the crimes he is charged with, warranting a higher sentence than Mr Ngaïssona.¹⁰¹³⁶

4390. In addition, the Prosecution submits that the crimes were aggravated by various factors, including: (i) the discriminatory and violent targeting of Muslims or persons (perceived to be) associated with them because of their real or presumed ethnic or religious identity and/or political association; (ii) the commission of crimes against particularly defenceless and vulnerable victims; (iii) the commission of crimes with particular cruelty; and (iv) the multiplicity of victims.¹⁰¹³⁷ Regarding Mr Yekatom specifically, it submits that his criminal conduct is further aggravated by the fact that as the leader of his Anti-Balaka group and career soldier, he abused his position of authority to order his elements to commit crimes violating the protections afforded to persons not taking part in hostilities under international humanitarian law.¹⁰¹³⁸ It finally submits that there are no mitigating factors for either of the accused.¹⁰¹³⁹

¹⁰¹³³ [Prosecution Sentencing Brief](#), ICC-01/14-01/18-2747-Red, paras 3, 8-9, 11-17; Prosecution Oral Sentencing Submissions: T-310, p. 6, line 14 – p. 8, line 4, p. 36, line 8 – p. 38, line 14.

¹⁰¹³⁴ [Prosecution Sentencing Brief](#), ICC-01/14-01/18-2747-Red, para. 10. *See also* Prosecution Oral Sentencing Submissions: T-310, p. 7, lines 9-10.

¹⁰¹³⁵ [Prosecution Sentencing Brief](#), ICC-01/14-01/18-2747-Red, paras 4, 10, 20-21; Prosecution Oral Sentencing Submissions: T-310, p. 8, line 13 – p. 9, line 8, p. 20, line 14 – p. 35, line 20.

¹⁰¹³⁶ [Prosecution Sentencing Brief](#), ICC-01/14-01/18-2747-Red, paras 10, 22; Prosecution Oral Sentencing Submissions: T-310, p. 8, lines 10-13, p. 10, line 3 – p. 14, line 23.

¹⁰¹³⁷ [Prosecution Sentencing Brief](#), ICC-01/14-01/18-2747-Red, paras 23-25; Prosecution Oral Sentencing Submissions: T-310, p. 39, line 1 – p. 40, line 14.

¹⁰¹³⁸ [Prosecution Sentencing Brief](#), ICC-01/14-01/18-2747-Red, para. 25; Prosecution Oral Sentencing Submissions: T-310, p. 19, line 11 – p. 20, line 12.

¹⁰¹³⁹ [Prosecution Sentencing Brief](#), ICC-01/14-01/18-2747-Red, para. 26; Prosecution Oral Sentencing Submissions: T-310, p. 40, line 15 – p. 42, line 23.

4391. The Yekatom Defence considers the Prosecution's proposal to impose a joint sentence of 22 years 'unreasonable'.¹⁰¹⁴⁰ It submits that the Chamber should consider Mr Yekatom's individual circumstances, in particular his background, family responsibilities – being the primary salary earner for his family including his fourteen children and the carer of his elderly mother –, and reintegration prospects, as well as the impact of his detention on himself and his family.¹⁰¹⁴¹ It further asks the Chamber to consider the conflict between the Seleka and the Anti-Balaka, the dissolution and targeting of the FACA after March 2013, and Mr Yekatom's ongoing commitment to military values as providing the relevant framework for assessing his conduct during the charged period.¹⁰¹⁴²

4392. In addition, the Yekatom Defence submits the following mitigating circumstances: (i) Mr Yekatom's efforts to minimise the harm caused to the victims;¹⁰¹⁴³ (ii) his efforts to assist victims of the charged crimes;¹⁰¹⁴⁴ (iii) his efforts to promote peace and reconciliation;¹⁰¹⁴⁵ and (iv) various alleged institutional violations of his rights, which resulted in a significant delay of the proceedings, including his ineffective legal representation, the joinder of his case with Mr Ngaïssona's which was subsequently compounded by the restrictions implemented in response to the Covid-19 pandemic, disclosure violations by the Prosecution, and the alleged fabrication of evidence in relation to Count 29.¹⁰¹⁴⁶ According to the Yekatom Defence, no aggravating circumstances should be considered.¹⁰¹⁴⁷

¹⁰¹⁴⁰ Yekatom Defence Oral Sentencing Submissions: T-311, p. 7, lines 13-14.

¹⁰¹⁴¹ [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, paras 40-41; Yekatom Defence Oral Sentencing Submissions: T-311, p. 8, line 9 – p. 14, line 23, p. 35, line 14 – p. 39, line 19.

¹⁰¹⁴² [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, paras 1, 14-16, 25; Yekatom Defence Oral Sentencing Submissions: T-311, p. 15, line 11 – p. 18, line 14.

¹⁰¹⁴³ [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, paras 33-34; Yekatom Defence Oral Sentencing Submissions: T-311, p. 18, line 15 – p. 20, line 4.

¹⁰¹⁴⁴ [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, paras 35-37; Yekatom Defence Oral Sentencing Submissions: T-311, p. 20, line 5 – p. 22, line 10.

¹⁰¹⁴⁵ [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, p. 17; Yekatom Defence Oral Sentencing Submissions: T-311, p. 22, line 11 – p. 24, line 19.

¹⁰¹⁴⁶ [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, para. 38; Yekatom Defence Oral Sentencing Submissions: T-311, p. 5, line 2 – p. 7, line 8, p. 35, line 14 – p. 39, line 19.

¹⁰¹⁴⁷ [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, paras 27-31; Yekatom Defence Oral Sentencing Submissions: T-311, p. 29, lines 21-25.

4393. The Ngaïssona Defence submits on the one hand that Mr Ngaïssona's maximum sentence should be time served in detention,¹⁰¹⁴⁸ and on the other hand that Mr Ngaïssona's responsibility for all charged counts is based on the same underlying acts and conduct and any joint sentence should thus be 'equal to the highest individual sentence pronounced'.¹⁰¹⁴⁹ According to the Ngaïssona Defence, only such a potential sentence would be proportionate to Mr Ngaïssona's 'minimal degree of participation and intent and the powerful mitigating circumstances'.¹⁰¹⁵⁰

4394. The Ngaïssona Defence further submits that there are no aggravating factors in Mr Ngaïssona's case.¹⁰¹⁵¹ Contrarily, it avers that Mr Ngaïssona's individual circumstances and positive prospects for rehabilitation should be taken into consideration.¹⁰¹⁵² It also refers to the following mitigating factors: (i) Mr Ngaïssona's actions to promote peace and reconciliation;¹⁰¹⁵³ (ii) his respectful behaviour and cooperation during court proceedings and with the investigations in the case;¹⁰¹⁵⁴ (iii) his detention conditions, in particular the undue prolongation of his detention by virtue of the Covid-19 pandemic, the joinder of his case with Mr Yekatom's and the 'hardship experienced in pre-trial custody';¹⁰¹⁵⁵ and (iv) his unique family circumstances, namely that he has been unable to fulfil his role as the main provider for his large family, who has been negatively impacted by his detention.¹⁰¹⁵⁶ It further notes that considering Mr Ngaïssona's indigency, it did not make any submissions regarding a potential fine pursuant to Article 77 of the Statute.¹⁰¹⁵⁷

¹⁰¹⁴⁸ [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, paras 2, 44; Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 98, lines 4-7.

¹⁰¹⁴⁹ [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 21.

¹⁰¹⁵⁰ [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 2; Ngaïssona Defence Oral Sentencing Submissions: T-311.

¹⁰¹⁵¹ [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, paras 42-43. See Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 72, lines 4-15, p. 73, line 7 – p. 75, line 6.

¹⁰¹⁵² [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, paras 27, 37-38; Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 80, line 1 – p. 81, line 9.

¹⁰¹⁵³ [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, paras 28-36; Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 85, line 21 – p. 98, line 2.

¹⁰¹⁵⁴ [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 39; Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 81, line 13 – p. 82, line 18.

¹⁰¹⁵⁵ [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, paras 27, 39-40; Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 82, line 19 – p. 85, line 8.

¹⁰¹⁵⁶ [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, paras 27, 41; Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 84, lines 7-16.

¹⁰¹⁵⁷ [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 2.

4395. The CLRV1, representing 292 victims, requests that Mr Yekatom be sentenced to no less than 20 years of imprisonment for the war crime of conscription and/or enlistment and use of children under the age of 15 into his group pursuant to Count 29 and defers to the Prosecution regarding the overall sentence to be imposed.¹⁰¹⁵⁸

4396. The CLRV2, representing 1,673 victims, submit that, despite the different modes of liability under which the accused are charged, their essential contributions to the crimes should lead to the imposition of the same sentence. Accordingly, they request that Mr Yekatom and Mr Ngaïssona be each sentenced to 30 years of imprisonment.¹⁰¹⁵⁹ The CLRV2 justify their request by reference to the extreme gravity of the crimes and the culpable conduct of the accused, underscoring the cruelty and brutality with which certain crimes were committed. They further refer to the extent and magnitude of harm suffered by the victims, their families, and the Muslim community as a whole.¹⁰¹⁶⁰ In the CLRV2's submission, several aggravating circumstances exist, including the particular defencelessness and high number of victims, the abuse of power and/or the official capacity of Mr Yekatom and Mr Ngaïssona in committing the crimes, and the discrimination of victims on ethnic, religious and/or political grounds.¹⁰¹⁶¹ Finally, the CLRV2 submit that there are no mitigating circumstances and that the accused's individual circumstances should not lead to a reduction of the sentences.¹⁰¹⁶²

B. Determination of the Chamber

1. Applicable law

4397. The principal legal provisions applicable to sentencing are Articles 76 to 78 of the Statute and Rules 145 to 147 of the Rules.¹⁰¹⁶³ The Appeals Chamber has found that these

¹⁰¹⁵⁸ [CLRV1 Sentencing Brief](#), ICC-01/14-01/18-2744-Red, paras 2-3, 52, 54; CLRV1 Oral Sentencing Submissions: T-310, p. 65, lines 1-3.

¹⁰¹⁵⁹ [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, paras 1-2, 46, 75; CLRV2 Oral Sentencing Submissions: T-310, p. 55, lines 7-13. *See also* [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, paras 71-74; CLRV2 Oral Sentencing Submissions: T-310, p. 54, line 8 – p. 55, line 6.

¹⁰¹⁶⁰ [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, paras 3, 5, 20-53.

¹⁰¹⁶¹ [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, paras 4, 54-66.

¹⁰¹⁶² [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, paras 4, 67-70.

¹⁰¹⁶³ *See further* Articles 21(1), 23 and 81(2)(a) of the Statute and Rules 143 and 144 of the Rules.

provisions, when read together with the underlying objectives contained in the Preamble to the Statute, establish a comprehensive scheme for the determination of a sentence.¹⁰¹⁶⁴

i. Sentencing principles and factors

4398. At the outset, the Chamber recalls that the Statute¹⁰¹⁶⁵ and the Rules envisage a sentencing regime aimed primarily at retribution and deterrence. Rehabilitation of the sentenced person may also constitute a relevant consideration in this context, but should not be given undue weight in the context of cases of international criminal law.¹⁰¹⁶⁶

4399. The Court's legal framework does not prescribe mandatory minimum or maximum sentences, or sentence ranges for specific crimes, and thus, the Chamber has broad discretion in determining a sentence.¹⁰¹⁶⁷ However, in its determination of the sentence under Article 78(1) of the Statute, and noting that retribution is a central tenet of sentencing, the totality of

¹⁰¹⁶⁴ Appeals Chamber, *The Prosecutor v. Thomas Lubanga Dyilo*, Judgment on the appeals of the Prosecutor and Mr Thomas Lubanga Dyilo against the "Decision on Sentence pursuant to Article 76 of the Statute", 1 December 2014, ICC-01/04-01/06-3122 (A4 A6) (the '[Lubanga Sentencing Appeals Judgment](#)'), paras 32-35. See also Trial Chamber X, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, Sentencing Judgment, 20 November 2024, ICC-01/12-01/18-2662 (with public [Annex A](#)) (the '[Al Hassan Sentencing Judgment](#)'), para. 15; Trial Chamber IX, *The Prosecutor v. Dominic Ongwen*, Sentence, 6 May 2021, ICC-02/04-01/15-1819-Conf (public redacted version notified the same day, ICC-02/04-01/15-1819-Red) (the '[Ongwen Sentencing Judgment](#)'), para. 50; [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, para. 8; [Al Mahdi Trial Judgment](#), ICC-01/12-01/15-171, para. 68; Trial Chamber III, *The Prosecutor v. Jean-Pierre Bemba Gombo*, Decision on Sentence pursuant to Article 76 of the Statute, 21 June 2016, ICC-01/05-01/08-3399 (with public Annexes I and II) (the '[Bemba Sentencing Judgment](#)'), para. 12.

¹⁰¹⁶⁵ The Preamble of the Statute states that 'the most serious crimes of concern to the international community as a whole must not go unpunished' and the Court seeks to 'contribute to the prevention of such crimes'.

¹⁰¹⁶⁶ Appeals Chamber, *The Prosecutor v. Jean-Pierre Bemba et al.*, Judgment on the appeals of the Prosecutor, Mr Jean-Pierre Bemba Gombo, Mr Fidèle Babala Wandu and Mr Narcisse Arido against the decision of Trial Chamber VII entitled "Decision on Sentence pursuant to Article 76 of the Statute", 8 March 2018, ICC-01/05-01/13-2276-Conf-Exp (A6 A7 A8 A9), confidential *ex parte*, only available to the Prosecutor and Mr Bemba (public redacted version notified the same day, ICC-01/05-01/13-2276-Red) (the '[Bemba et al. Sentencing Appeals Judgment](#)'), para. 205; [Al Hassan Sentencing Judgment](#), ICC-01/12-01/18-2662, para. 16; [Ongwen Sentencing Judgment](#), ICC-02/04-01/15-1819-Red, para. 60; [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, para. 10; [Al Mahdi Trial Judgment](#), ICC-01/12-01/15-171, paras 66-67; [Bemba Sentencing Judgment](#), ICC-01/05-01/08-2312, paras 10-11; Trial Chamber II, *The Prosecutor v. Germain Katanga*, Corrigendum of Translation to Decision on Sentence pursuant to article 76 of the Statute, 23 May 2014, ICC-01/04-01/07-3484-tENG-Corr (the '[Katanga Sentencing Judgment](#)'), paras 37-38.

¹⁰¹⁶⁷ [Bemba et al. Sentencing Appeals Judgment](#), ICC-01/05-01/13-2276-Red, para. 283; [Lubanga Sentencing Appeals Judgment](#), ICC-01/04-01/06-3122, para. 40; [Al Hassan Sentencing Judgment](#), ICC-01/12-01/18-2662, paras 17, 50; [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, para. 11; Trial Chamber VII, *The Prosecutor v. Jean-Pierre Bemba et al.*, Decision on Sentence pursuant to Article 76 of the Statute, 22 March 2017, ICC-01/05-01/13-2123-Corr (with public [annex](#)) (the '[Bemba et al. Sentencing Judgment](#)'), para. 36; [Al Mahdi Trial Judgment](#), ICC-01/12-01/15-171, para. 68; [Bemba Sentencing Judgment](#), ICC-01/05-01/08-3399, para. 12.

the sentence must be proportionate¹⁰¹⁶⁸ and reflect the culpability of the convicted person.¹⁰¹⁶⁹ Accordingly, any penalties must be tailored to the gravity of the crimes.¹⁰¹⁷⁰

4400. Therefore, in accordance with Article 78(1) of the Statute, the Chamber must identify and assess ‘such factors as the gravity of the crime and the individual circumstances of the convicted person’. Rule 145(1)(c) of the Rules further mandates the Chamber to consider, *inter alia*, the extent of the damage caused, in particular the harm caused to the victims and their families, the nature of the unlawful behaviour and the means employed to execute the crime, the degree of participation of the convicted person, the degree of intent, the circumstances of manner, time and location, and the age, education, social and economic condition of the convicted person. Rule 145(2) of the Rules further stipulates that the Chamber shall also take into account any mitigating and aggravating circumstances, as appropriate.

¹⁰¹⁶⁸ See also Articles 81(2)(a) and 83(3) of the Statute.

¹⁰¹⁶⁹ Rule 145(1)(a) of the Rules. See also [Bemba et al. Sentencing Appeals Judgment](#), ICC-01/05-01/13-2276-Red, para. 113; [Lubanga Sentencing Appeals Judgment](#), ICC-01/04-01/06-3122, paras 34, 39-40; [Al Hassan Sentencing Judgment](#), ICC-01/12-01/18-2662, para. 17; [Ongwen Sentencing Judgment](#), ICC-02/04-01/15-1819-Red, paras 51, 57; [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, para. 11; [Bemba et al. Sentencing Judgment](#), ICC-01/05-01/13-2123-Corr, para. 36; [Bemba Sentencing Judgment](#), ICC-01/05-01/08-3399, para. 11; Trial Chamber I, *The Prosecutor v. Thomas Lubanga Dyilo*, Decision on Sentence Pursuant to Article 76 of the Statute, 10 July 2012, ICC-01/04-01/06-2901 (the ‘[Lubanga Sentencing Judgment](#)’), para. 26.

¹⁰¹⁷⁰ Article 78(1) of the Statute. See also [Al Hassan Sentencing Judgment](#), ICC-01/12-01/18-2662, para. 17; [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, para. 11; [Bemba Sentencing Judgment](#), ICC-01/05-01/08-3399, para. 12; [Katanqa Sentencing Judgment](#), ICC-01/04-01/07-3484-tENG-Corr, para. 39.

ii. Gravity

4401. Gravity is one of the principal factors to be considered in the determination of a sentence.¹⁰¹⁷¹

Gravity is measured both *in abstracto*, by assessing the constitutive elements of the crime,¹⁰¹⁷² and *in concreto*, by assessing the particular circumstances of the case.¹⁰¹⁷³

4402. The Chamber's *in concreto* assessment is made quantitatively and qualitatively.¹⁰¹⁷⁴ It must take into account: (i) the gravity of the crime, including the particular acts which constitute the elements of the crime; as well as (ii) the gravity of the accused's culpable conduct, particularly the conduct constituting the elements of the relevant mode of liability. It is worth noting in this context that the Court's legal framework does not foresee that principal perpetrators necessarily deserve a higher sentence. Whether this is the case depends on the individual circumstances of a case.¹⁰¹⁷⁵

4403. Beyond the factors listed in Rule 145(1)(c) of the Rules, the Chamber has discretion to consider other relevant factors for the purpose of determining the gravity of the crime.¹⁰¹⁷⁶

4404. The consequences of a crime in relation to which a person has been convicted may be taken into account to determine the sentence as long as they were, at least, objectively foreseeable

¹⁰¹⁷¹ [Al Hassan Sentencing Judgment](#), ICC-01/12-01/18-2662, para. 20, [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, para. 14; [Bemba Sentencing Judgment](#), ICC-01/05-01/08-3399, para. 15; [Lubanga Sentencing Judgment](#), ICC-01/04-01/06-2901, para. 36.

¹⁰¹⁷² Whilst the Court's Statute pertains to the most serious crimes of concern to the international community (see Preamble of the Statute), not all crimes under its jurisdiction are necessarily of equivalent gravity. Therefore, pursuant to Article 78(1) of the Statute, the Chamber must assess *in abstracto* the gravity of each one of them. See [Al Hassan Sentencing Judgment](#), ICC-01/12-01/18-2662, para. 20; [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, para. 14; [Al Mahdi Trial Judgment](#), ICC-01/12-01/15-171, para. 72; [Katanga Sentencing Judgment](#), ICC-01/04-01/07-3484-tENG-Corr, para. 43.

¹⁰¹⁷³ [Lubanga Sentencing Appeals Judgment](#), ICC-01/04-01/06-3122, paras 40, 62, 76-77; [Al Hassan Sentencing Judgment](#), ICC-01/12-01/18-2662, paras 17-18; [Ongwen Sentencing Judgment](#), ICC-02/04-01/15-1819-Red, para. 52; [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, paras 11-12; [Bemba et al. Sentencing Judgment](#), ICC-01/05-01/13-2123-Corr, para. 36; [Bemba Sentencing Judgment](#), ICC-01/05-01/08-3399, para. 92.

¹⁰¹⁷⁴ [Al Hassan Sentencing Judgment](#), ICC-01/12-01/18-2662, para. 22, [Ongwen Sentencing Judgment](#), ICC-02/04-01/15-1819-Red, para. 52; [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, para. 16; [Katanga Sentencing Judgment](#), ICC-01/04-01/07-3484-tENG-Corr, para. 43.

¹⁰¹⁷⁵ [Bemba et al. Sentencing Appeals Judgment](#), ICC-01/05-01/13-2276-Red, para. 60; [Al Hassan Sentencing Judgment](#), ICC-01/12-01/18-2662, para. 21, [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, para. 15; [Bemba Sentencing Judgment](#), ICC-01/05-01/08-3399, paras 16-17; [Katanga Sentencing Judgment](#), ICC-01/04-01/07-3484-tENG-Corr, para. 61.

¹⁰¹⁷⁶ [Al Hassan Sentencing Judgment](#), ICC-01/12-01/18-2662, para. 22; [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, para. 16.

to the convicted person. This applies both to the assessment of a heightened gravity of the crime and to potential aggravating circumstances.¹⁰¹⁷⁷

iii. *Aggravating circumstances*

4405. Aggravating circumstances must relate to the crimes of which a person is convicted or to the convicted person themselves.¹⁰¹⁷⁸ Furthermore, there must be a sufficiently proximate link between this circumstance and the crime(s) that form the basis for the conviction.¹⁰¹⁷⁹ A legal element of the crime or the mode of liability cannot be considered as an aggravating circumstance.¹⁰¹⁸⁰

4406. Rule 145(2)(b) of the Rules provides a non-exhaustive list of such aggravating circumstances.¹⁰¹⁸¹ Circumstances other than those listed may only be considered if they are similar ‘by virtue of their nature’.¹⁰¹⁸² As stated above, chambers may also consider the consequences of a crime or offence in relation to which a conviction was entered as long as these consequences were, at least, objectively foreseeable to the convicted person.¹⁰¹⁸³

¹⁰¹⁷⁷ Appeals Chamber, *The Prosecutor v. Bosco Ntaganda*, Judgment on the appeal of Mr Bosco Ntaganda against the decision of Trial Chamber VI of 7 November 2019 entitled ‘Sentencing judgment’, 30 March 2021, ICC-01/04-02/06-2667-Conf (A3) (public redacted version notified the same day, ICC-01/04-02/06-2667-Red) (the ‘[Ntaganda Sentencing Appeals Judgment](#)’), paras 100-104; [Bemba et al. Sentencing Appeals Judgment](#), ICC-01/05-01/13-2276-Red, paras 5, 263, 334. See also [Al Hassan Sentencing Judgment](#), ICC-01/12-01/18-2662, para. 24; [Onqwen Sentencing Judgment](#), ICC-02/04-01/15-1819-Red, paras 58, 165, 189, 227, 231, 262-63, 266, 313.

¹⁰¹⁷⁸ [Al Hassan Sentencing Judgment](#), ICC-01/12-01/18-2662, para. 24; [Onqwen Sentencing Judgment](#), ICC-02/04-01/15-1819-Red, para. 57; [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, para. 18; [Bemba et al. Sentencing Judgment](#), ICC-01/05-01/13-2123-Corr, para. 25; [Al Mahdi Trial Judgment](#), ICC-01/12-01/15-171, para. 73; [Bemba Sentencing Judgment](#), ICC-01/05-01/08-3399, para. 18. See also [Bemba et al. Sentencing Appeals Judgment](#), ICC-01/05-01/13-2276-Red, para. 113.

¹⁰¹⁷⁹ [Bemba et al. Sentencing Appeals Judgment](#), ICC-01/05-01/13-2276-Red, paras 115, 151; [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, para. 18; Trial Chamber VII, *The Prosecutor v. Jean-Pierre Bemba et al.*, Decision Re-sentencing Mr Jean-Pierre Bemba Gombo, Mr Aimé Kilolo Musamba and Mr Jean-Jacques Mangenda Kabongo, 17 September 2018, ICC-01/05-01/13-2312 (the ‘[Bemba et al. Re-sentencing Judgment](#)’), para. 18 (iv).

¹⁰¹⁸⁰ [Bemba et al. Sentencing Appeals Judgment](#), ICC-01/05-01/13-2276-Red, para. 129; [Al Hassan Sentencing Judgment](#), ICC-01/12-01/18-2662, para. 25; [Onqwen Sentencing Judgment](#), ICC-02/04-01/15-1819-Red, para. 53; [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, para. 20; [Bemba et al. Sentencing Judgment](#), ICC-01/05-01/13-2123-Corr, para. 25; [Bemba Sentencing Judgment](#), ICC-01/05-01/08-3399, para. 14.

¹⁰¹⁸¹ [Al Hassan Sentencing Judgment](#), ICC-01/12-01/18-2662, para. 23; [Onqwen Sentencing Judgment](#), ICC-02/04-01/15-1819-Red, para. 53; [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, para. 17.

¹⁰¹⁸² [Bemba et al. Sentencing Appeals Judgment](#), ICC-01/05-01/13-2276-Red, para. 156.

¹⁰¹⁸³ See paragraph 4404 above.

4407. The Chamber may consider aggravating circumstances where it is convinced of their existence beyond reasonable doubt.¹⁰¹⁸⁴

iv. Mitigating circumstances

4408. Rule 145(2)(a) of the Rules provides a non-exhaustive list of circumstances which may be considered in mitigation when determining a sentence. This includes ‘circumstances falling short of constituting grounds for exclusion of criminal responsibility’ and the ‘convicted person’s conduct after the act’.

4409. The Chamber may consider other circumstances and determine the weight to be afforded to them, if any, within its discretion.¹⁰¹⁸⁵ Such circumstances must be related to the convicted person, but not necessarily to the crimes they are convicted of.¹⁰¹⁸⁶ Moreover, they are not limited by the scope of the confirmed charges or findings in the judgment.¹⁰¹⁸⁷

4410. The Chamber must be convinced of mitigating circumstances on a balance of probabilities.¹⁰¹⁸⁸

¹⁰¹⁸⁴ [Al Hassan Sentencing Judgment](#), ICC-01/12-01/18-2662, para. 23; [Ongwen Sentencing Judgment](#), ICC-02/04-01/15-1819-Red, para. 53; [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, para. 17; [Bemba et al. Sentencing Judgment](#), ICC-01/05-01/13-2123-Corr, para. 25; [Al Mahdi Trial Judgment](#), ICC-01/12-01/15-171, para. 73; [Bemba Sentencing Judgment](#), ICC-01/05-01/08-3399, para. 18; [Katanga Sentencing Judgment](#), ICC-01/04-01/07-3484-tENG-Corr, para. 34; [Lubanga Sentencing Judgment](#), ICC-01/04-01/06-2901, para. 33.

¹⁰¹⁸⁵ [Ntaganda Sentencing Appeals Judgment](#), ICC-01/04-02/06-2667-Red, para. 5; [Al Hassan Sentencing Judgment](#), ICC-01/12-01/18-2662, para. 27; [Ongwen Sentencing Judgment](#), ICC-02/04-01/15-1819-Red, para. 54; [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, para. 22; [Al Mahdi Trial Judgment](#), ICC-01/12-01/15-171, para. 74; [Bemba Sentencing Judgment](#), ICC-01/05-01/08-3399, para. 19.

¹⁰¹⁸⁶ [Al Hassan Sentencing Judgment](#), ICC-01/12-01/18-2662, para. 28; [Ongwen Sentencing Judgment](#), ICC-02/04-01/15-1819-Red, para. 54; [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, para. 24; [Bemba et al. Sentencing Judgment](#), ICC-01/05-01/13-2123-Corr, para. 24; [Al Mahdi Trial Judgment](#), ICC-01/12-01/15-171, para. 74; [Bemba Sentencing Judgment](#), ICC-01/05-01/08-3399, para. 19.

¹⁰¹⁸⁷ [Al Hassan Sentencing Judgment](#), ICC-01/12-01/18-2662, para. 28; [Ongwen Sentencing Judgment](#), ICC-02/04-01/15-1819-Red, para. 54; [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, para. 24; [Bemba et al. Sentencing Judgment](#), ICC-01/05-01/13-2123-Corr, para. 24; [Bemba Sentencing Judgment](#), ICC-01/05-01/08-3399, para. 19.

¹⁰¹⁸⁸ [Al Hassan Sentencing Judgment](#), ICC-01/12-01/18-2662, para. 28; [Ongwen Sentencing Judgment](#), ICC-02/04-01/15-1819-Red, para. 54; [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, para. 24; [Al Mahdi Trial Judgment](#), ICC-01/12-01/15-171, para. 74; [Bemba et al. Sentencing Judgment](#), ICC-01/05-01/13-2123-Corr, para. 24; [Bemba Sentencing Judgment](#), ICC-01/05-01/08-3399, para. 19; [Katanga Sentencing Judgment](#), ICC-01/04-01/07-3484-tENG-Corr, para. 34; [Lubanga Sentencing Judgment](#), ICC-01/04-01/06-2901, para. 34.

v. *Determination of the appropriate sentence*

4411. First, the Chamber is required to weigh and balance all abovementioned factors in accordance with Rule 145(1)(b) of the Rules and pronounce a sentence for each crime for which a conviction has been entered.

4412. When considering an individual sentence, certain facts may be assessed under more than one of the categories listed in Article 78 of the Statute and Rule 145 of the Rules, which are neither neatly distinguishable nor mutually exclusive.¹⁰¹⁸⁹ The category in which such a fact is placed is of limited relevance. Rather, what is of importance is that the Chamber identifies all relevant factors, attaches appropriate weight to them¹⁰¹⁹⁰ and does not ‘double-count’ them.¹⁰¹⁹¹ Notably, any factors assessed in relation to the gravity of the crime should not be considered as aggravating circumstances, and *vice versa*.¹⁰¹⁹²

4413. Second, if the person is convicted of multiple crimes, the Chamber must pronounce ‘a joint sentence specifying the total period of imprisonment’ pursuant to Article 78(3) of the Statute. This joint sentence ‘shall be no less than the highest individual sentence pronounced’.

4414. While there may be overlaps in the facts underlying several charged crimes, each individual sentence must be calculated separately, with reference to all relevant facts and circumstances applicable to the crime concerned. It is only in the context of determining the joint sentence

¹⁰¹⁸⁹ [Bemba et al. Sentencing Appeals Judgment](#), ICC-01/05-01/13-2276-Red, paras 4, 112. See also [Lubanga Sentencing Appeals Judgment](#), ICC-01/04-01/06-3122, para. 85; [Al Hassan Sentencing Judgment](#), ICC-01/12-01/18-2662, para. 19; [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, para. 13; [Katanga Sentencing Judgment](#), ICC-01/04-01/07-3484-tENG-Corr, para. 71.

¹⁰¹⁹⁰ [Bemba et al. Sentencing Appeals Judgment](#), ICC-01/05-01/13-2276-Red, para. 112; [Al Hassan Sentencing Judgment](#), ICC-01/12-01/18-2662, para. 19; [Ongwen Sentencing Judgment](#), ICC-02/04-01/15-1819-Red, para. 55; [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, para. 13. See also [Lubanga Sentencing Appeals Judgment](#), ICC-01/04-01/06-3122, paras 61-66.

¹⁰¹⁹¹ [Bemba et al. Sentencing Appeals Judgment](#), ICC-01/05-01/13-2276-Red, para. 112. See also [Al Hassan Sentencing Judgment](#), ICC-01/12-01/18-2662, para. 19; [Ongwen Sentencing Judgment](#), ICC-02/04-01/15-1819-Red, para. 56; [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, para. 13; [Bemba et al. Re-sentencing Judgment](#), ICC-01/05-01/13-2312, para. 18(iii).

¹⁰¹⁹² [Al Hassan Sentencing Judgment](#), ICC-01/12-01/18-2662, para. 19; [Ongwen Sentencing Judgment](#), ICC-02/04-01/15-1819-Red, para. 55; [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, para. 13; [Bemba et al. Sentencing Judgment](#), ICC-01/05-01/13-2123-Corr, para. 23; [Al Mahdi Trial Judgment](#), ICC-01/12-01/15-171, para. 70; [Bemba Sentencing Judgment](#), ICC-01/05-01/08-3399, para. 14; [Katanga Sentencing Judgment](#), ICC-01/04-01/07-3484-tENG-Corr, para. 35; [Lubanga Sentencing Judgment](#), ICC-01/04-01/06-2901, para. 35.

that any relevant factual overlap is accounted for so that the convicted person is not punished beyond their real culpability.¹⁰¹⁹³

4415. Third, and finally, Article 78(2) of the Statute requires the Chamber to deduct from the sentence any time that the convicted person spent in detention upon an order of the Court.

2. *Factors and circumstances applicable to both accused*

4416. As stated above, the Statute requires the Chamber to determine, for each accused, an individual sentence for each crime before determining a joint sentence. However, certain factors and circumstances relate to the convicted person as such and are thus applicable to several, or even all crimes, and the individual sentences to be determined for an accused. In this respect, the Chamber recalls that in accordance with Article 78(1) of the Statute, it shall take into account, *inter alia*, the ‘individual circumstances of the convicted person’.¹⁰¹⁹⁴ Similarly, Rule 145(1)(b) of the Rules mandates the Court to ‘balance all the relevant factors, including any mitigating and aggravating factors’ and to consider the ‘circumstances [...] of the convicted person’. Subparagraph (c) further mandates it to take into consideration, *inter alia*, the ‘age, education, social and economic condition of the convicted person’.

4417. Moreover, the Chamber notes that in the context of a multi-accused case, there may be factors and circumstances which are of relevance to all the accused.

4418. Accordingly, and in light of the relevant submissions by the participants, the Chamber first addresses factors and circumstances applicable to both accused before turning to those specific to either Mr Yekatom or Mr Ngaïssona. The Chamber clarifies that the conclusions in the following section have been drawn at this juncture merely for the clarity of written reasoning and efficiency. Nonetheless, the Chamber, in accordance with the applicable law set out above, recalls and duly considers them in the context of determining each individual

¹⁰¹⁹³ [Ntaganda Sentencing Appeals Judgment](#), ICC-01/04-02/06-2667-Red, paras 129-130; [Ongwen Sentencing Judgment](#), ICC-02/04-01/15-1819-Red, paras 59, 136, 145.

¹⁰¹⁹⁴ See further Article 77(1)(b) of the Statute, which stipulates that the Court may impose a term of life imprisonment ‘when justified by the extreme gravity and the individual circumstances of the convicted person’.

sentence for the crimes of which Mr Yekatom or Mr Ngaïssona, respectively, are found guilty.

i. Aggravating factors

a. Commission of the crimes for any motive involving discrimination

4419. The Chamber notes that Rule 145(2)(b)(v) of the Rules provides that the '[c]ommission of the crime for any motive involving discrimination on any of the grounds referred to in article 21, paragraph 3' constitutes an aggravating factor. The latter explicitly lists 'religion or belief', 'political or other opinion', and 'ethnic [...] origin'.

4420. The Yekatom Defence submits that any alleged discrimination against the Muslim population cannot be considered an aggravating circumstance as it coincides with the underlying conduct for the 'alleged common purpose, criminal policy and, in relation to Counts 8, 17 and 28, the elements of the crime of persecution'.¹⁰¹⁹⁵

4421. The Ngaïssona Defence argues, *inter alia*, that Mr Ngaïssona 'never harboured or expressed anti-Muslim animus',¹⁰¹⁹⁶ and that 'considering discriminatory intent for all of the charged crimes which already underlie the charge of persecution, would amount to double counting'.¹⁰¹⁹⁷

4422. To the extent that the Defence argue that the accused did not act with discriminatory intent, the Chamber recalls that the evidence establishes the contrary. First, it recalls its finding that the Anti-Balaka perceived Muslims in the CAR, due to religious and ethnic commonalities, as collectively responsible for, complicit in, or supportive of the violence and abuses committed by the Seleka, and on this basis violently targeted the Muslim civilian population, specifically in the west of the CAR.¹⁰¹⁹⁸ In that context, the crimes the accused are convicted

¹⁰¹⁹⁵ [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, para. 29. *See also* Yekatom Defence Oral Sentencing Submissions: T-311, p. 44, lines 17-19, p. 44, line 24 – p. 45, line 3.

¹⁰¹⁹⁶ [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 17. *See also* [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 43; Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 66, line 23 – p. 67, line 1.

¹⁰¹⁹⁷ Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 75, lines 4-6.

¹⁰¹⁹⁸ *See* paragraph 45 above.

of were all committed for discriminatory motives, in that the Muslim civilian population was targeted because of its perceived religious and ethnic commonalities with the Seleka.¹⁰¹⁹⁹

4423. Most importantly, it recalls its findings that Mr Yekatom and Mr Ngaïssona knew about and shared the Anti-Balaka's perception of Muslims in the CAR and knew about their ensuing targeting of the Muslim civilian population, and that Mr Ngaïssona made his contributions fully aware that the Anti-Balaka would violently target the Muslim civilian population in the west of the CAR.¹⁰²⁰⁰ The Chamber further recalls that it established that Mr Yekatom and Mr Ngaïssona themselves intended the Muslim civilian population to be targeted in relation to the crimes that took place in the context of all charged incidents.¹⁰²⁰¹

4424. Considering the central character of this discriminatory dimension to the conviction of both accused, the Chamber finds it appropriate to assess the commission for motives involving discrimination as an aggravating factor for all crimes,¹⁰²⁰² except for the crime against humanity of persecution under Article 7(1)(h) of the Statute and the war crime of torture under Article 8(2)(c)(i) of the Statute. Specific considerations in relation to the discriminatory dimension of individual crimes are addressed in the relevant sections below.

4425. Regarding the Defence's submissions on the prohibition of double-counting,¹⁰²⁰³ the Chamber notes that it is not prohibited from considering the discriminatory aspect of the crimes that 'underlie' the crime of persecution, noting that this factor does not form part of the legal elements of almost all other crimes the accused are convicted of,¹⁰²⁰⁴ nor of the relevant modes of liability. It recalls in that regard that the prohibition against double-counting does not extend to factors that do not constitute legal elements of the crimes or

¹⁰¹⁹⁹ See also sections V.B.3.i.a.v, V.B.3.ii.a.vii, V.B.3.iii.a.vi, V.B.3.iv.a.iii above.

¹⁰²⁰⁰ See paragraphs 48-49 above.

¹⁰²⁰¹ See notably sections V.B.3.i.b, V.B.3.ii.b, V.B.3.iii.b, V.B.3.iv.b above, in particular paragraphs 4024, 4047, 4124, 4253, 4297, 4368, 4382.

¹⁰²⁰² See [Prosecution Sentencing Brief](#), ICC-01/14-01/18-2747-Red, paras 23, 25; Prosecution Oral Sentencing Submissions: T-310, p. 39, lines 3-19; [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, paras 65-66. See also [Prosecution Sentencing Brief](#), ICC-01/14-01/18-2747-Red, paras 8-9.

¹⁰²⁰³ See [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, para. 29; Yekatom Defence Oral Sentencing Submissions: T-311, p. 44, lines 17-19, p. 44, line 24 – p. 45, line 3; Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 75, lines 4-6.

¹⁰²⁰⁴ The exception is torture as a war crime (Count 13), for which the Chamber will not consider the discriminatory aspect.

modes of liability but rather serve to prove them.¹⁰²⁰⁵ The Chamber further emphasises that it does not consider this aggravating factor in the context of the crime against humanity of persecution, and the war crime of torture, which include this ‘discriminatory dimension’ as one of their constitutive elements. Finally, it recalls that it considers any overlaps in the underlying conduct between different crimes in its determination of the joint sentence for each of the accused.

b. Overall impact of the crimes

4426. The Chamber notes the Prosecution’s and the CLRV2’s submissions regarding the multiplicity of victims directly and indirectly impacted by the charged crimes and the extent of the harm they suffered from,¹⁰²⁰⁶ as well as the Defence’s responses thereto.¹⁰²⁰⁷

4427. The Chamber acknowledges the impact of the crimes committed by the Anti-Balaka on the CAR as a whole, as well as the damage caused to the nation’s social fabric.¹⁰²⁰⁸ It nonetheless considers it appropriate to only assess the purported impact and harm caused by the crimes committed by the accused, to the extent it considers them relevant, as part of its below individual assessments of the gravity and the accused’s culpability for each crime.

ii. *Mitigating factors*

a. Circumstances related to the joinder of the cases of the accused and the Covid-19 pandemic

4428. The Defence submit that the joinder of the cases against the accused and the Covid-19 pandemic restrictions caused delays and prolonged the accused’s detention, and thus

¹⁰²⁰⁵ See Appeals Chamber, *The Prosecutor v. Dominic Ongwen*, Judgment on the appeal of Mr Dominic Ongwen against the decision of Trial Chamber IX of 6 May 2021 entitled “Sentence”, 15 December 2022, ICC-02/04-01/15-2023 (A2) (the ‘[Ongwen Sentencing Appeals Judgment](#)’), para. 319; [Bemba et al. Sentencing Appeals Judgment](#), ICC-01/05-01/13-2276-Red, para. 128; [Al Hassan Sentencing Judgment](#), ICC-01/12-01/18-2662, para. 25; [Ongwen Sentencing Judgment](#), ICC-02/04-01/15-1819-Red, para. 53. See also [Ongwen Sentencing Appeals Judgment](#), ICC-02/04-01/15-2023, paras 341-344.

¹⁰²⁰⁶ See [Prosecution Sentencing Brief](#), ICC-01/14-01/18-2747-Red, paras 9, 12-17, 23-24; Prosecution Oral Sentencing Submissions: T-310, p. 36, line 8 – p. 38, line 14, p. 40, lines 7-14; [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, paras 3-5, 47-49, 59-61.

¹⁰²⁰⁷ See Yekatom Defence Oral Sentencing Submissions: T-311, p. 52, lines 1-7; Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 70, line 8 – p. 73, line 6, p. 74, lines 2-7.

¹⁰²⁰⁸ See also [Prosecution Sentencing Brief](#), ICC-01/14-01/18-2747-Red, para. 17.

constitute mitigating factors.¹⁰²⁰⁹ The CLRV2 argue that even though some delays were caused due to the joinder, these were minimal and do not justify a reduction in the sentence, and ultimately joinders serve the proper administration of justice.¹⁰²¹⁰

4429. The Chamber acknowledges that Mr Yekatom and Mr Ngaïssona have each been in detention for over six and a half years.¹⁰²¹¹ Contrary to the Defence's submissions, it is however not convinced that the factors alleged, that is the joinder of the cases of the accused and the Covid-19 pandemic, resulted in delays warranting any mitigation of sentence.

4430. First, the Chamber notes that joinders promote the efficacy and expeditiousness of the proceedings.¹⁰²¹² In that regard, it recalls that the cases against Mr Yekatom and Mr Ngaïssona were joined at the pre-trial stage in order 'to enhance the fairness and expeditiousness of the proceedings by avoiding the duplication of evidence, inconsistency in the presentation and assessment of evidence, undue impact on witnesses and victims and unnecessary expense'.¹⁰²¹³ Regarding the pre-trial stage, the Chamber notes that the date of the confirmation hearing was initially set to 30 April 2019 for Mr Yekatom and re-scheduled to 18 June 2019 following the joinder of the accused's cases.¹⁰²¹⁴ The Chamber considers that regarding Mr Yekatom, this delay was minor and ultimately contributed to the efficiency of the proceedings. Further, while the confirmation hearing was later postponed to 19 September 2019 for both accused, the Chamber notes that the Pre-Trial Chamber granted

¹⁰²⁰⁹ [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, para. 38; [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 39; Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 82, line 19 – p. 83, line 6.

¹⁰²¹⁰ CLRV2 Oral Sentencing Submissions: T-310, p. 53, line 10 – p. 54, line 7.

¹⁰²¹¹ The Chamber recalls that Mr Yekatom was surrendered to the Court by the authorities of the CAR on 17 November 2018, and Mr Ngaïssona was arrested by the authorities of the Republic of France on 12 December 2018 and transferred to the Court on 23 January 2019. See Report on Mr Yekatom's Arrest and Surrender, ICC-01/14-01/18-17-US-Exp-Red2; Rapport du Greffe sur l'arrestation de Patrice-Edouard Ngaïssona par les autorités françaises, 21 December 2018, ICC-01/14-01/18-96-US-Exp (redacted version notified on 18 February 2021, ICC-01/14-01/18-96-US-Exp-Red) (the 'Report on Mr Ngaïssona's Arrest by the French Authorities'); Report on Mr Ngaïssona's Arrest and Surrender, ICC-01/14-01/18-101-US-Exp. See also [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, para. 9; [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, n. 2.

¹⁰²¹² See Appeals Chamber, *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, [Judgment on the Appeal Against the Decision on Joinder rendered on 10 March 2008 by the Pre-Trial Chamber in the Germain Katanga and Mathieu Ngudjolo Chui Cases](#), 9 June 2008, ICC-01/04-01/07-573 (OA6), para. 8.

¹⁰²¹³ [Decision on Joinder](#), ICC-01/14-01/18-87, para. 13.

¹⁰²¹⁴ [Decision on Joinder](#), ICC-01/14-01/18-87, paras 16-18.

such postponement based on considerations relating to the protection of witnesses and victims, as well as third parties, and not to the joinder as such.¹⁰²¹⁵

4431. Regarding the trial stage, the Chamber recognises that the joinder may have entailed that some evidence mainly relevant to only one accused was presented during the trial.¹⁰²¹⁶ However, the Chamber considers that such evidence was helpful in understanding the context in which to place the conduct of both accused, ultimately leading to more efficient evidentiary hearings. Consequently, the Chamber considers that overall the joinder served the administration of justice and did not result in undue delays to the proceedings that ought to be considered in mitigation.¹⁰²¹⁷

4432. Second, the Chamber acknowledges that the Covid-19 pandemic made it necessary to amend the hearing schedule on a number of occasions, prior to and during the trial, in light of the extraordinary situation arising from the global public health situation.¹⁰²¹⁸ However, it recalls that any such amendments were required in light of the Host State's and Court's procedures set in place in response to the Covid-19 pandemic and thus beyond the Chamber's control. In any event, mindful of its duty to ensure an expeditious trial, the Chamber sought to keep adjustments to the schedule to a minimum and finds that it has not been demonstrated that delays warranting mitigation occurred in the circumstances.

4433. The Chamber further notes the Defence's arguments regarding the impact of the Covid-19 pandemic on the detention conditions of the accused and their well-being.¹⁰²¹⁹ In this respect, it particularly recalls that, from 19 March 2020 until 14 July 2021, the Registry implemented

¹⁰²¹⁵ See Pre-Trial Chamber II, [Decision on the 'Prosecution's Request to Postpone the Confirmation Hearing and all Related Disclosure Deadlines'](#), 15 May 2019, ICC-01/14-01/18-199, paras 29-39.

¹⁰²¹⁶ See [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 39.

¹⁰²¹⁷ See also Trial Chamber I, *The Prosecutor v. Laurent Gbagbo and The Prosecutor v. Charles Blé Goudé*, [Decision on Prosecution requests to join the cases of The Prosecutor v. Laurent Gbagbo and The Prosecutor v. Charles Blé Goudé and related matters](#), 11 March 2015, ICC-02/11-02/11-222, paras 60-61, and the references cited therein; ICTR, Appeals Chamber, *The Prosecutor v. Pauline Nyiramasuhuko et al.*, [Judgement](#), 14 December 2015, ICTR-98-42-A, paras 108, 365.

¹⁰²¹⁸ See e.g. [Order Deferring the First Status Conference](#), 26 March 2020, ICC-01/14-01/18-464; [Order Rescheduling the Commencement Date of the Trial](#), 8 February 2021, ICC-01/14-01/18-875; emails from the Chamber, 17 January 2022, at 12:25; 23 January 2022, at 12:42; 24 January 2022, at 12:15; 16 October 2022, at 14:06; P-1847: T-022, p. 4, line 23 – p. 6, line 6.

¹⁰²¹⁹ See [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, para. 41; Yekatom Defence Oral Sentencing Submissions: T-311: p. 35, line 23 – p. 37, line 14; [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 40; Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 84, lines 4-6.

several measures at the Detention Centre to protect detainees against the spread of Covid-19, which included the suspension of all in-person visits, notably legal and non-privileged visits (the ‘Detention Centre Measures’).¹⁰²²⁰ The Chamber observes that the Detention Centre Measures were enacted by the Registrar following advice by the medical officer of the Detention Centre owing to the exceptional circumstances caused by the Covid-19 pandemic. This unprecedented situation beyond anyone’s control affected not only the Detention Centre, but the Court as a whole, the Host State and numerous other countries world-wide.¹⁰²²¹

4434. The Chamber recognises that as a result of the measures, the accused were unable to meet with their families for over 16 months, their interactions with others were extremely limited, and their day-to-day life particularly isolated. This was further compounded by the significant physical distance from their home country, including from the majority of their friends and relatives, and increased anxiety and uncertainty about the outside world and

¹⁰²²⁰ The Chamber notes that, while they varied over time, the Detention Centre Measures also included, *inter alia*, the suspension of the import of external material; the suspension of in-person spiritual visits and in-person recreational activities; and the suspension of non-acute medical appointments. See Annex to the Registry Observations on “Defence Request to Grant Privileged Status to Medical Expert and to Allow In-Person Visits”, 17 June 2020, ICC-01/14-01/18-557-Conf-Anx; [Registry Update on COVID-19 Detention Centre Measures](#), 3 July 2020, ICC-01/14-01/18-578; [Registry Second Update on Detention Centre COVID-19 Measures](#), 23 July 2020, ICC-01/14-01/18-597; [Registry Third Update on Detention Centre COVID-19 Measures](#), 26 August 2020, ICC-01/14-01/18-632-Conf (public redacted version notified on 5 February 2021, ICC-01/14-01/18-632-Red); [Fourth Registry Update on Detention Centre COVID-19 Measures](#), 23 September 2020, ICC-01/14-01/18-665; [Fifth Registry Update on Detention Centre COVID-19 Measures](#), 23 October 2020, ICC-01/14-01/18-696; Addendum to “Fifth Registry Update on Detention Centre COVID-19 Measures”, 29 October 2020, ICC-01/14-01/18-702-Conf; [Sixth Registry Update on Detention Centre COVID-19 Measures](#), 25 November 2020, ICC-01/14-01/18-741; [Seventh Registry Update on Detention Centre COVID-19 Measures](#), 21 December 2020, ICC-01/14-01/18-788; Eighth Registry Update on Detention Centre COVID-19 Measures, 19 January 2021, ICC-01/14-01/18-841-Conf; [Ninth Registry Update on Detention Centre COVID-19 Measures](#), 23 February 2021, ICC-01/14-01/18-890; [Tenth Registry Update on Detention Centre COVID-19 Measures](#), 19 March 2021, ICC-01/14-01/18-922; [Eleventh Registry Update on Detention Centre COVID-19 Measures](#), 20 April 2021, ICC-01/14-01/18-961; [Twelfth Registry Update on Detention Centre COVID-19 Measures](#), 19 May 2021, ICC-01/14-01/18-999; [Thirteenth Registry Update on Detention Centre COVID-19 Measures](#), 24 June 2021, ICC-01/14-01/18-1036.

¹⁰²²¹ See Decision on Mr Ngaïssona’s Restrictions on Contacts and Communications in Detention, 17 April 2020, ICC-01/14-01/18-484-Conf-Exp, confidential *ex parte*, only available to the Ngaïssona Defence and the Registry (confidential redacted version notified the same day, ICC-01/14-01/18-484-Conf-Red; public redacted version notified on 16 February 2021, ICC-01/14-01/18-484-Red2) (the ‘[First Decision on Mr Ngaïssona’s Restrictions](#)’), para. 28; Decision on Mr Yekatom’s Restrictions on Contacts and Communications in Detention, 17 April 2020, ICC-01/14-01/18-485-Conf (public redacted version notified on 16 February 2021, ICC-01/14-01/18-485-Red) (the ‘[First Decision on Mr Yekatom’s Restrictions](#)’), para. 26. The Chamber notes that ensuring the health and safety of detained persons generally falls within the purview of the Registrar, pursuant to Regulation 103 of the Regulations of the Court.

developments.¹⁰²²² In the Chamber's view, all this rendered the detention conditions of the accused significantly more onerous than would otherwise have been the case.

4435. Nonetheless, the Chamber observes that the Registry tried to limit the Detention Centre Measures and mitigate their impact to the extent possible, notably by putting additional means of communication into place.¹⁰²²³ The Chamber encouraged the Registry's efforts and, where possible, itself took measures to alleviate the impact of the Detention Centre Measures. In particular, it exceptionally allowed deviation from them in specific circumstances.¹⁰²²⁴

4436. Taking all of the above considerations into account, and considering the specific circumstances of the case, the Chamber finds it appropriate to consider the impact of the Covid-19 pandemic on the detention conditions of the accused and their well-being as mitigating, albeit with limited weight.

b. Context in which the crimes took place

4437. The Yekatom Defence argues that the context in which the charged crimes occurred, namely the conflict between the Seleka and Anti-Balaka, should be taken into account by the Chamber. In this context, it notably refers to the chaos and atrocities that took place in 2013 in the CAR, including the dissolution and systematic targeting of the FACA shortly after the Seleka's takeover of Bangui in March 2013. It further mentions the presence and criminal conduct of the Seleka, the violent tensions amongst the local communities, and the absence

¹⁰²²² See also [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 40; Yekatom Defence Oral Sentencing Submissions: T-311: p. 35, line 23 – p. 36, line 3, p. 36, lines 18-21.

¹⁰²²³ See e.g. Decision on the Defence Request for In-Person Visit to Mr Ngaïssona to Prepare for First Status Conference, 29 June 2020, ICC-01/14-01/18-575-Conf (public redacted version notified on 26 January 2021, ICC-01/14-01/18-575-Red) (the '[Decision on Defence Request for an In-Person Visit](#)'), para. 15; Decision on Non-Privileged Video-Conferencing at the Detention Centre, 3 February 2021, ICC-01/14-01/18-869-Conf (public redacted version notified the same day, ICC-01/14-01/18-869-Red) (the '[Decision on Non-Privileged Video-Conferencing](#)'), paras 3, 7.

¹⁰²²⁴ See [Decision on Defence Request for an In-Person Visit](#), ICC-01/14-01/18-575-Red, paras 26-28; Third Decision on Mr Ngaïssona's Restrictions on Contacts and Communications in Detention, 5 October 2020, ICC-01/14-01/18-672 (the '[Third Decision on Mr Ngaïssona's Restrictions](#)'), paras 18-21; Third Decision on Mr Yekatom's Restrictions on Contacts and Communications in Detention, 11 November 2020, ICC-01/14-01/18-727 (the '[Third Decision on Mr Yekatom's Restrictions](#)'), para. 25; [Decision on the Defence Requests for In-Person Legal Visits at the Detention Centre](#), 26 January 2021, ICC-01/14-01/18-853, paras 12-14; [Decision on Non-Privileged Video-Conferencing](#), ICC-01/14-01/18-869-Red, paras 11-16; emails from the Chamber, 23 February 2021, at 17:25; 25 February 2021, at 11:25; 7 April 2021, at 10:55 and 10:58; 30 April 2021, at 16:22 and 16:23; 15 June 2021, at 10:25.

of any effective security apparatus in the localities.¹⁰²²⁵ The Chamber also notes the Ngaïssona Defence's submissions in this respect, in particular regarding the Seleka regime causing 'havoc and devastation on CAR civilians, including Mr Ngaïssona'.¹⁰²²⁶

4438. The Chamber recalls that the charged crimes were committed in the context of an armed conflict in the CAR between the Seleka and the Anti-Balaka, with the initial formation of self-defence groups in various localities across the CAR aimed at defending against the abuses and violence committed by the Seleka,¹⁰²²⁷ and finds that the accused's conduct must be understood in this context and against this background. The Chamber nonetheless considers that these factors do not diminish in any way the accused's culpable conduct as such.¹⁰²²⁸

4439. Consequently, while it finds it appropriate to consider this factor in mitigation for both accused, it attributes it minimal weight in its assessment of their individual sentences.

3. *Mr Yekatom*

i. Factors and circumstances applicable to all crimes

4440. The Chamber recalls its findings at paragraph 4416 above.

4441. Accordingly, and in light of the relevant submissions by the participants, the Chamber first addresses factors and circumstances applicable to all crimes for which Mr Yekatom is convicted at this juncture, before turning to its considerations specific to each crime in section VI.B.3.ii.¹⁰²²⁹ The Chamber clarifies that the conclusions in this section have been drawn at this juncture merely for the clarity of written reasoning and efficiency. Nonetheless, the Chamber, in accordance with the applicable law set out above,¹⁰²³⁰ recalls and duly

¹⁰²²⁵ See [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, paras 14, 25; Yekatom Defence Oral Sentencing Submissions: T-311, p. 15, line 11 – p. 18, line 14, p. 30, line 12 – p. 31, line 2.

¹⁰²²⁶ See [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, paras 17-18.

¹⁰²²⁷ See section II.A above, in particular paragraphs 29, 31, 40-45, 50.

¹⁰²²⁸ See for instance ICTY, Appeals Chamber, *The Prosecutor v. Milan Martić*, [Judgement](#), 8 October 2008, IT-95-11-A, para. 111. See also CLRV2 Oral Sentencing Submissions: T-310, p. 48, line 20 – p. 49, line 7.

¹⁰²²⁹ See also [Ongwen Sentencing Judgment](#), ICC-02/04-01/15-1819-Red, paras 61-63.

¹⁰²³⁰ See section VI.B.1 above.

considers them in the context of determining each individual sentence for which Mr Yekatom is found guilty of.

a. *Individual circumstances*

4442. The Yekatom Defence submits that Mr Yekatom grew up in a modest family and his education was interrupted due to several political crises in the CAR. As the eldest of his siblings, he reportedly left school and started working when his father died, in order to improve his family's financial situation. It describes him as a 'courageous' and 'generous' person who was 'close to the underprivileged'.¹⁰²³¹ It further submits that today, Mr Yekatom is the father of 14 children, two of whom have lost their mothers and eight of whom are minors, and that foregoing his responsibilities as the 'primary salary earner' has had a 'detrimental impact on the quality of his children's education and the state of medical care provided to [Mr Yekatom's] mother'.¹⁰²³² The Chamber takes note of Mr Yekatom's social and economic conditions but considers that they are common to many convicted persons and not exceptional. Accordingly, it does not consider them mitigating as such.¹⁰²³³

4443. Similarly, the Chamber does not consider the mere fact that Mr Yekatom has no prior convictions¹⁰²³⁴ mitigating. In this respect, it echoes the jurisprudence of other chambers that the absence of prior convictions is a fairly common feature among individuals convicted by international tribunals.¹⁰²³⁵ That said, it accepts that it constitutes a relevant individual circumstance of an accused,¹⁰²³⁶ and is thus taken into account in determining the appropriate sentences for Mr Yekatom.

¹⁰²³¹ Yekatom Defence Oral Sentencing Submissions: T-311, p. 8, line 10 – p. 9, line 15.

¹⁰²³² [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, paras 40-41. *See also* Yekatom Defence Oral Sentencing Submissions: T-311, p. 12, line 16 – p. 13, line 3; [Second Yekatom Defence Request to Present Additional Evidence for Potential Sentencing](#), 4 October 2024, ICC-01/14-01/18-2718-Conf (public redacted version notified on 21 November 2024, ICC-01/14-01/18-2718-Red), paras 32-34, 37-38, *referring, inter alia, to* D29-8024 Statement, CAR-D29-0009-0909-R01 and D29-8026 Statement, CAR-D29-0009-0916-R01.

¹⁰²³³ The Chamber also takes note of the [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, para. 70. *See similar* [Al Hassan Sentencing Judgment](#), ICC-01/12-01/18-2662, paras 86-87; [Bemba Sentencing Judgment](#), ICC-01/05-01/08-3399, paras 77-78.

¹⁰²³⁴ [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, para. 27.

¹⁰²³⁵ [Al Mahdi Trial Judgment](#), ICC-01/12-01/15-171, para. 96; [Bemba et al. Sentencing Judgment](#), ICC-01/05-01/13-2123-Corr, paras 61, 89, 137, 184. *See also* CLRV2 Oral Sentencing Submissions: T-310, p. 52, line 24 – p. 53, line 9.

¹⁰²³⁶ *See* [Bemba et al. Sentencing Judgment](#), ICC-01/05-01/13-2123-Corr, paras 61, 66, 89, 96, 137, 184 with reference to Rule 145(1)(b) of the Rules.

4444. Contrarily, the Chamber does not give any weight to Mr Yekatom's alleged 'propensity for violence' for all crimes in the abstract. While taking note of the Prosecution's examples of his violent behaviour in addition to the charged crimes,¹⁰²³⁷ it considers it sufficient to consider his purported propensity for violence in the context of assessing Mr Yekatom's degree and participation in the individual crimes below.

4445. The Chamber also fails to see how Mr Yekatom's previous positions within the FACA and as a member of parliament, his reported opposition to corruption and nepotism within the FACA and the parliament, or his commitment to military values¹⁰²³⁸ would weigh in Mr Yekatom's favour in the context of determining his sentence. If anything, these factors, combined with his purported awareness of the basic tenets of international humanitarian law as a FACA member¹⁰²³⁹ and the rule of law, serve to demonstrate that Mr Yekatom was in fact in a position to differentiate between criminal and non-criminal conduct. Yet, he chose to commit the crimes he is convicted of.¹⁰²⁴⁰

b. *Mitigating factors*

i. *Specific context and causes for Mr Yekatom's acts*

4446. The Yekatom Defence asks the Chamber to consider the specific context and causes for Mr Yekatom's acts as a mitigating factor.¹⁰²⁴¹ Notably, it refers to the dissolution and systematic targeting of the FACA shortly after the Seleka's takeover of Bangui in March 2013, which resulted in Mr Yekatom's abduction and detention,¹⁰²⁴² as well as his military

¹⁰²³⁷ Prosecution Oral Sentencing Submissions: T-310, p. 15, line 18 – p. 17, line 13, *referring in particular to* Video, CAR-OTP-2093-0830 concerning an incident at the National Assembly in November 2018, and the 'Seda incident', which the Chamber addressed at paragraph 3349 above. *Contra* [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, para. 27; Yekatom Defence Oral Sentencing Submissions: T-311, p. 24, lines 8-14.

¹⁰²³⁸ [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, paras 15-16. *See further* D29-8014 Statement, CAR-D29-0009-0855-R01, at 0858-0859, paras 19-26; D29-8019 Statement, CAR-D29-0009-0881-R01, at 0884, paras 28-30, 34-35; D-8027 Statement, CAR-D29-0009-0934-R01, at 0937-38, paras 17-26. *Contra* Prosecution Oral Sentencing Submissions: T-310, p. 14, line 13 – p. 15, line 4.

¹⁰²³⁹ The Chamber notes the Yekatom Defence's submission that all FACA members were trained in international humanitarian law and its application (*see* [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 299-300).

¹⁰²⁴⁰ *See also* Prosecution Oral Sentencing Submissions: T-310, p. 14, line 13 – p. 15, line 4.

¹⁰²⁴¹ Yekatom Defence Oral Sentencing Submissions: T-311, p. 15, lines 8-13.

¹⁰²⁴² D29-8014 Statement, CAR-D29-0009-0855-R01, at 0858, para. 24.

duty to his country compelling him to ‘fight to save his country, drive out the Seleka and President Djotodia’.¹⁰²⁴³ According to the Yekatom Defence, ‘Mr Yekatom was in a difficult situation that he did not choose’.¹⁰²⁴⁴

4447. The Chamber recalls that it already considered the context in which both accused committed the crimes they are respectively convicted of and attributed it mitigating effect, albeit minimal.¹⁰²⁴⁵ It cannot discern any circumstances which would warrant additional mitigation for Mr Yekatom specifically. Notably, the Chamber considers that, irrespective of who initiated the armed conflict in the CAR,¹⁰²⁴⁶ what is of relevance is that Mr Yekatom, on his own will, returned to the CAR from Zongo in 2013, started forming a group, together with others, over which he assumed control, with a view to planning a response to the Seleka violence¹⁰²⁴⁷ and carried out the crimes he is convicted of. Further to this, the Chamber sees substantial differences between the facts in this case and the facts in the ICTY case-law cited by the Yekatom Defence¹⁰²⁴⁸ and therefore does not consider these submissions in mitigation of Mr Yekatom’s sentence.

ii. *Specific hardship in detention*

4448. The Yekatom Defence submits that Mr Yekatom’s conditions of detention had a severe effect on him and his family. In particular, it asks the Chamber to take into account the impact of the ‘abnormally harsh circumstances’ during the Covid-19 pandemic on Mr Yekatom,¹⁰²⁴⁹ notably the Detention Centre Measures. Furthermore, it argues that

¹⁰²⁴³ Yekatom Defence Oral Sentencing Submissions: T-311, p. 15, line 11 – p. 18, line 14. See also [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, paras 14, 16.

¹⁰²⁴⁴ Yekatom Defence Oral Sentencing Submissions: T-311, p. 16, lines 4-5.

¹⁰²⁴⁵ See section VI.B.2.ii.b above.

¹⁰²⁴⁶ See section II.A.1 above.

¹⁰²⁴⁷ See paragraph 36. See further paragraphs 978-988 above.

¹⁰²⁴⁸ Yekatom Defence Oral Sentencing Submissions: T-311, p. 15, line 14 – p. 16, line 6, referring in particular to the sentencing of Mr Esad Landžo, see ICTY, Trial Chamber, *The Prosecutor v. Mucić et al.*, [Trial Judgment](#), 16 November 1998, IT-96-21-T, para. 1284. In this respect it is worth noting that the relevant trial chamber found that Mr Landžo, *inter alia*, had – contrary to Mr Yekatom – ‘no proper military training’ and a ‘immature and fragile personality’, which had been attested by ‘several expert witnesses’ (see para. 1283).

¹⁰²⁴⁹ Yekatom Defence Oral Sentencing Submissions: T-311, p. 11, line 8 – p. 14, line 23, p. 35, line 14 – p. 37, line 22. See also [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, para. 41.

Mr Yekatom's rights were not respected at the Detention Centre, notably his right to receive culturally appropriate food.¹⁰²⁵⁰

4449. The Chamber acknowledges that Mr Yekatom has been detained thousands of kilometres away from his family¹⁰²⁵¹ and culture.¹⁰²⁵² It is also conscious of the fact that Mr Yekatom missed important family events such as the birth of his youngest son as a result of his detention.¹⁰²⁵³ Undoubtedly, this situation impacted on Mr Yekatom's family life and well-being. However, the Chamber considers the remoteness from one's culture and family to be a common feature of an accused before this Court, which, by itself, is not mitigating. That said, the Chamber recalls that it already gave weight to this circumstance in the context of affording mitigating effect to the impact of the Covid-19 pandemic on the detention conditions of the accused and their well-being.¹⁰²⁵⁴

4450. The Chamber is further mindful that visits and contacts were restricted during Mr Yekatom's detention and takes note of the Yekatom Defence's submission that phone calls were, at times, difficult due to, *inter alia*, the CAR's limited phone network.¹⁰²⁵⁵ While the Court has no control over the latter, it recalls that the restrictions and limitations on Mr Yekatom's contacts and visits were warranted and continuously evaluated by the Chamber.

¹⁰²⁵⁰ Yekatom Defence Oral Sentencing Submissions: T-311, p. 38, lines 10-25.

¹⁰²⁵¹ Yekatom Defence Oral Sentencing Submissions: T-311, p. 12, lines 18-20, p. 13, lines 9-12, p. 35, lines 15-19.

¹⁰²⁵² [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, para. 41; Yekatom Defence Oral Sentencing Submissions: T-311, p. 35, lines 15-19.

¹⁰²⁵³ [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, para. 40; Yekatom Defence Oral Sentencing Submissions: T-311, p. 12, lines 21-25.

¹⁰²⁵⁴ See paragraph 4436 above.

¹⁰²⁵⁵ Yekatom Defence Oral Sentencing Submissions: T-311, p. 13, lines 16-19.

4451. First, the contact restrictions were put in place partly as a result of Mr Yekatom's own actions.¹⁰²⁵⁶ They were periodically reviewed throughout the trial, with due consideration being given to Mr Yekatom's right to family life, and eased whenever permissible.¹⁰²⁵⁷

4452. Second, and as stated above,¹⁰²⁵⁸ the Detention Centre Measures were taken in response to the global pandemic in order to protect, *inter alia*, Mr Yekatom's own health. Beyond the mitigating effect already afforded to both accused in this respect,¹⁰²⁵⁹ the Chamber cannot discern any specific hardship on Mr Yekatom resulting from them which requires further mitigation.

4453. Third, and with respect to the Yekatom Defence's critique that Mr Yekatom's requests for family visits were 'turned down' several times,¹⁰²⁶⁰ the Chamber recalls that the Court's funding for the facilitation of family visits is limited.¹⁰²⁶¹ While acknowledging that Mr Yekatom has a right to family visits, the Chamber recalls that resource constraints are

¹⁰²⁵⁶ See e.g. [First Decision on Mr Yekatom's Restrictions](#), ICC-01/14-01/18-485-Red, para. 22; [Second Decision on Mr Yekatom's Restrictions on Contacts and Communications in Detention](#), 21 August 2020, ICC-01/14-01/18-627 (the '[Second Decision on Mr Yekatom's Restrictions](#)'); [Third Decision on Mr Yekatom's Restrictions](#), ICC-01/14-01/18-727, para. 18; [Fifth Decision on Mr Yekatom's Restrictions on Contacts and Communications in Detention](#), 27 October 2021, ICC-01/14-01/18-1148-Conf (public redacted version notified on 17 June 2022, ICC-01/14-01/18-1148-Red) (the '[Fifth Decision on Mr Yekatom's Restrictions](#)'), para. 9; Twelfth Decision on Mr Yekatom's Restrictions on Contacts and Communications in Detention, 26 March 2025, ICC-01/14-01/18-2767 (the '[Twelfth Decision on Mr Yekatom's Restrictions](#)'), para. 6. See similar [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, para. 243.

¹⁰²⁵⁷ See [Decision on the Yekatom Defence Request to Amend Mr Yekatom's Contact Restrictions based on a Proposed Agreement with the Prosecution](#), 18 October 2022, ICC-01/14-01/18-1622-Conf-Exp, confidential *ex parte*, only available to the Prosecution, the Yekatom Defence, and the Registry (public redacted version notified the same day, ICC-01/14-01/18-1622-Red), paras 7-9; [Decision on the Second Yekatom Defence Request to Amend Mr Yekatom's Contact Restrictions based on a Proposed Agreement with the Prosecution](#), 8 February 2023, ICC-01/14-01/18-1745-Conf-Exp, confidential *ex parte*, only available to the Prosecution, the Yekatom Defence, and the Registry (public redacted version notified the same day, ICC-01/14-01/18-1745-Red), paras 4-6; [Eighth Decision on Mr Yekatom's Restrictions on Contacts and Communications in Detention](#), 5 April 2023, ICC-01/14-01/18-1830-Conf-Exp, confidential *ex parte*, only available to the Prosecution, the Yekatom Defence, and the Registry (public redacted version notified the same day, ICC-01/14-01/18-1830-Red) (the 'Eighth Decision on Mr Yekatom's Restrictions'), paras 11-13; Ninth Decision on Mr Yekatom's Restrictions on Contacts and Communications in Detention, 25 October 2023, ICC-01/14-01/18-2165 (the '[Ninth Decision on Mr Yekatom's Restrictions](#)'), paras 13-18.

¹⁰²⁵⁸ See paragraphs 4432-4433 above.

¹⁰²⁵⁹ See paragraph 4436 above.

¹⁰²⁶⁰ Yekatom Defence Oral Sentencing Submissions: T-311, p. 13, lines 22-24.

¹⁰²⁶¹ Family visits are financed through the 'Trust Fund for Family Visits' for indigent persons. This fund aims to cover costs for visits of the nuclear family of indigent detainees who lack independent means to visits, but depends on voluntary contributions from States, organisations and individuals. See <https://www.icc-cpi.int/get-involved/trust-fund-for-family-visits>.

appropriate factors to consider in the context of determining visiting arrangements.¹⁰²⁶² Further noting that Mr Yekatom has in fact received family visits while in detention,¹⁰²⁶³ albeit not from all of his family members,¹⁰²⁶⁴ the Chamber considers that this circumstance need not be considered any further in mitigation.

4454. Finally, in relation to the alleged absence of serving culturally appropriate food, the Chamber recalls that this matter falls exclusively within the purview of the Registrar and is subject to the Presidency's judicial review and has been addressed by them. Notably, the Presidency, by majority, held that it was inconsistent with Regulation 199(1) of the Regulations of the Court (the 'Regulations') that '[t]he only means offered to Mr Yekatom to ensure the cultural requirements of his medical meals is to purchase ingredients from the Africa Shop List and prepare his own food, either to supplement or *in lieu* of the provided meals'. The Presidency urged the Registrar to explore other options, in order to provide *prepared* food which takes into account Mr Yekatom's health *and* cultural requirements, without requiring him to cook himself.¹⁰²⁶⁵ The Chamber neither has any oversight regarding the implementation of the Presidency's decision, nor does it, in any event, consider the purported lack of culturally appropriate food to be a relevant mitigating factor in this instance.

4455. In light of the above considerations, the Chamber considers there to be no specific hardship in Mr Yekatom's detention which would warrant mitigation of his sentence beyond the mitigating weight afforded to the hardship caused by the Detention Centre Measures.

¹⁰²⁶² See Presidency, *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, [Decision on "Mr Mathieu Ngudjolo's Complaint Under Regulation 221\(1\) of the Regulations of the Registry Against the Registrar's Decision of 18 November 2008"](#), 10 March 2009, ICC-RoR217-02/08-8, para. 49. See also [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, para. 243.

¹⁰²⁶³ As acknowledged by the Yekatom Defence, see *for instance* Yekatom Defence Oral Sentencing Submissions: T-311, p. 11, lines 4-5.

¹⁰²⁶⁴ Yekatom Defence Oral Sentencing Submissions: T-311, p. 12, lines 19-20.

¹⁰²⁶⁵ See Regulation 220 of the Regulations of the Registry; Presidency, [Public redacted version of "Decision on the 'Application for Judicial Review of Registrar's Decision of 2 September 2022', dated 12 September 2022 \(ICC-RoR220-03/22-1-Conf-Exp\)" dated 17 February 2023 \(ICC-RoR220-03/22-5-Conf-Exp\)](#), 26 May 2023, ICC-RoR220-03/22-5-Red (original version notified on 17 February 2023), in particular paras 22-25, 28.

iii. *Cooperation with the Court*

4456. The Yekatom Defence submits that Mr Yekatom remained respectful and cooperative with the Court throughout the proceedings and displayed good behaviour in detention.¹⁰²⁶⁶

Contrarily, the Prosecution submits that Mr Yekatom failed to cooperate.¹⁰²⁶⁷

4457. The Chamber acknowledges that overall, Mr Yekatom has been cooperative during the trial hearings. Notably, he attended all court hearings in person, unless health reasons prevented him from doing so, in which case he agreed to follow via video link or waive his right to be present.¹⁰²⁶⁸ He acted respectfully in the courtroom and never disrupted the proceedings. Moreover, almost no inappropriate behaviour in the Detention Centre towards Registry staff or other detainees has been reported to the Chamber.¹⁰²⁶⁹

4458. However, the Chamber recalls that good behaviour and cooperation is expected of any accused and cannot, by itself, be considered as a mitigating factor, unless the behaviour is ‘exceptional’ in nature.¹⁰²⁷⁰ The Chamber cannot discern any such exceptional behaviour with respect to Mr Yekatom. In addition, the Chamber recalls that Mr Yekatom’s compliance with the Chamber’s orders has not been flawless. Notably, it recalls that Mr Yekatom violated the imposed contact restrictions on a number of occasions.¹⁰²⁷¹

¹⁰²⁶⁶ [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, para. 38; Yekatom Defence Oral Sentencing Submissions: T-311, p. 5, lines 2-10, p. 37, line 23 – p. 38, line 9, p. 39, lines 1-11.

¹⁰²⁶⁷ Prosecution Oral Sentencing Submissions: T-310, p. 42, lines 7-15.

¹⁰²⁶⁸ See also Yekatom Defence Oral Sentencing Submissions: T-311, p. 38, lines 2-9.

¹⁰²⁶⁹ The Chamber takes note of an incident reported in the Eighth Registry Report on the Implementation of the Restrictions on Contact for Mr Alfred Yekatom Ordered by Trial Chamber V, 14 August 2023, ICC-01/14-01/18-2027-Conf-Exp, confidential *ex parte*, only available to the Yekatom Defence and the Registry (with confidential *ex parte* Annexes I-II, only available to the Yekatom Defence and the Registry) (confidential redacted version notified the next day, ICC-01/14-01/18-2027-Conf-Red, public redacted version notified on 31 October 2023, [ICC-01/14-01/18-2027-Red](#)), paras 7-9, which the Chamber addressed in its [Eighth Decision on Mr Yekatom’s Restrictions](#), ICC-01/14-01/18-1830-Red, para. 9 and [Ninth Decision on Mr Yekatom’s Restrictions](#), ICC-01/14-01/18-2165, para. 7. Considering that this was the only incident reported concerning Registry staff and that it was of limited nature, in particular noting that the behaviour criticised by the Registry consisted merely of opinions voiced about the Registry staff in a conversation between Mr Yekatom and his relative, the Chamber does not consider this incident to impact on its assessment in this respect.

¹⁰²⁷⁰ See [Ntaganda Sentencing Appeals Judgment](#), ICC-01/04-02/06-2667-Red, paras 6, 260. See also [Al Hassan Sentencing Judgment](#), ICC-01/12-01/18-2662, para. 124; [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, paras 229-30.

¹⁰²⁷¹ See e.g. [First Decision on Mr Yekatom’s Restrictions](#), ICC-01/14-01/18-485-Red, para. 22; [Second Decision on Mr Yekatom’s Restrictions](#), ICC-01/14-01/18-627; [Third Decision on Mr Yekatom’s Restrictions](#), ICC-01/14-01/18-727, para. 18; [Fifth Decision on Mr Yekatom’s Restrictions](#), ICC-01/14-01/18-1148-Red, para. 9; [Twelfth Decision on Mr Yekatom’s Restrictions](#), ICC-01/14-01/18-2767, para. 6.

4459. In light of the above, the Chamber does not afford the factor of cooperation any mitigating effect.

iv. *Institutional violations*

4460. The Yekatom Defence submits that the serious and repeated institutional violations of Mr Yekatom's rights, which it argues caused significant delays to the proceedings, warrant a mitigation of his sentence.¹⁰²⁷² Notably, and in addition to the alleged delays by virtue of the Covid-19 pandemic and the joinder addressed above,¹⁰²⁷³ the Yekatom Defence refers to the following violations: (i) the ineffective legal representation during Mr Yekatom's arrest and transfer to the Court by two lawyers who were subject to a conflict of interest as they previously represented Prosecution witnesses in the Prosecution's investigation against Mr Yekatom; (ii) the Prosecution's disclosure violations, including in relation to exculpatory material and to Count 29, which delayed the Yekatom Defence's preparation of its defence; and (iii) the fabrication of evidence concerning Count 29, which placed additional burdens on the Yekatom Defence and impacted the preparation of its defence, in addition to the [REDACTED].¹⁰²⁷⁴

4461. The Chamber is not persuaded that any of the alleged violations should be considered in mitigation. First, the Chamber notes that the Yekatom Defence has not substantiated why the conflict of interests which affected the two counsel who represented Mr Yekatom during his arrest and transfer amounted to 'ineffective representation', particularly considering the extremely short duration of their appointment.¹⁰²⁷⁵ Moreover, the Chamber recalls that Mr Yekatom received effective and continuous representation throughout the pre-trial and

¹⁰²⁷² [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, para. 38; Yekatom Defence Oral Sentencing Submissions: T-311, p. 5, line 2 – p. 7, line 5.

¹⁰²⁷³ See paragraphs 4428-4432 above.

¹⁰²⁷⁴ [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Conf, para. 38; Yekatom Defence Oral Sentencing Submissions: T-311, p. 5, line 2 – p. 7, line 12.

¹⁰²⁷⁵ In this respect, the Chamber recalls that Ms Christine Priso Ouamballo assisted Mr Yekatom only within the context of his surrender to the Court (see Report on Mr Yekatom's Arrest and Surrender, ICC-01/14-01/18-17-US-Exp-Red2), as acknowledged by the Yekatom Defence (see [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, para. 38). Furthermore, it recalls that Mr Mathias Barthelemy Morouba was appointed on 19 November 2018 (see [Notification of the Appointment of Mr Mathias Barthelemy Morouba as Counsel for Mr Alfred Yekatom](#), 19 November 2018, ICC-01/14-01/18-13 (with confidential Annex III and public Annexes I, II and IV) and his appointment suspended the day after (see Pre-Trial Chamber II, [Decision concerning the legal representation of Alfred Yekatom](#), 20 November 2018, ICC-01/14-01/18-16).

trial proceedings before this Court. Notably, shortly after his transfer, on 26 November 2018, Mr Stéphane Bourgon was appointed as Lead Counsel for Mr Yekatom.¹⁰²⁷⁶ Ms Mylène Dimitri, who had already served as Associate Counsel in Mr Bourgon's team, succeeded him as Lead Counsel on 7 August 2019¹⁰²⁷⁷ and has represented Mr Yekatom's interests continuously until today.

4462. Second, and with respect to the Prosecution's disclosure violations, the Chamber recalls that the Chamber has taken appropriate measures to remedy these violations throughout the trial proceedings.¹⁰²⁷⁸ It does not consider that any additional consideration must be given to these circumstances in the context of determining the appropriate individual sentences for Mr Yekatom.

4463. Third, and regarding the alleged additional burden placed on the Yekatom Defence's preparation of its defence by virtue of the alleged fabrication of evidence regarding Count 29, the Chamber notes that it lies within the nature of the defence's work to dedicate resources to investigate and prepare its case. Further recalling that the Chamber did not find any violation of the Statute or internationally recognised human rights in the Prosecution's investigation or prosecution of Mr Yekatom,¹⁰²⁷⁹ it cannot discern any mitigating circumstance in this respect.

¹⁰²⁷⁶ [Transmission by the Registry of the Acceptance of Appointment by Mr Stéphane Bourgon as Counsel for Alfred Yekatom before the International Criminal Court](#), 27 November 2018, ICC-01/14-01/18-20 (with one confidential annex). Between 20 and 26 November 2018, prior to Mr Bourgon's appointment, the Office of Public Counsel for the Defence represented Mr Yekatom's interests.

¹⁰²⁷⁷ [Notification of the Appointment of Ms Mylène Dimitri as Counsel for Mr Alfred Yekatom](#), 8 August 2019, ICC-01/14-01/18-266 (with public Annexes IIII).

¹⁰²⁷⁸ See for instance [Decision on the Yekatom Defence Motion for Finding of Disclosure Violation and Additional Remedies](#), 7 December 2021, ICC-01/14-01/18-1202-Conf (public redacted version notified the same day, ICC-01/14-01/18-1202-Red), paras 15, 22 finding that the Prosecution violated its disclosure obligations and ordering it to 'review the evidence in its possession, and confirm on the record that all documents falling within its disclosure obligations have indeed been disclosed, within one week [...]. Should items falling within its disclosure obligations not have been disclosed, [...] to disclose them immediately, and latest by the same deadline'.

¹⁰²⁷⁹ [Decision on the Yekatom Defence Request for the Exclusion of Allegedly Fabricated Evidence](#), 23 April 2024, ICC-01/14-01/18-2460-Conf (public redacted version notified the same day, ICC-01/14-01/18-2460-Red), para. 54.

v. *Efforts to promote peace, reconciliation
and social cohesion*

4464. The Yekatom Defence argues that Mr Yekatom made genuine and sustained personal efforts to promote peace and reconciliation across the CAR, both before and after the period relevant to the charges,¹⁰²⁸⁰ particularly highlighting his activities as a member of parliament.¹⁰²⁸¹ It further submits that Mr Yekatom took concrete steps to restore social cohesion across the CAR and particularly in the Lobaye prefecture, referring to his efforts to allow for the return of Muslims to their homes, the reopening of mosques and cemeteries, and that he played a significant role in providing educational and economic opportunities for the youth in Lobaye.¹⁰²⁸²

4465. The Prosecution and CLRV2 submit that the suggestion that Mr Yekatom worked towards the promotion of peace is ‘an affront to the enumerable victims of the crimes committed by his own Anti-Balaka group’ and does not conform with the evidence.¹⁰²⁸³

4466. At the outset, the Chamber recalls its findings above addressing Mr Yekatom’s purported activities aimed at peace and reconciliation.¹⁰²⁸⁴ Furthermore, the Chamber takes note of all of the Yekatom Defence’s submissions¹⁰²⁸⁵ and evidence submitted for the purposes of sentencing in this regard¹⁰²⁸⁶ and addresses them below to the extent that it considers them relevant to its assessment of this mitigating factor.

¹⁰²⁸⁰ [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, p. 17. *See further* Yekatom Defence Closing Brief, ICC-01/14-0118-2737-Conf-Corr, paras 351-54; Yekatom Defence Oral Sentencing Submissions: T-311, p. 25, line 2 – p. 29, line 17 *referring to* Videos CAR-OTP-2065-1989 and CAR-OTP-2065-5196.

¹⁰²⁸¹ Yekatom Defence Oral Sentencing Submissions: T-311, p. 23, line 12 – p. 24, line 5.

¹⁰²⁸² [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, para. 36, p. 17; Yekatom Defence Oral Sentencing Submissions: T-311, p. 22, line 2 – p. 24, line 19.

¹⁰²⁸³ Prosecution Oral Sentencing Submissions: T-310, p. 15, lines 5-17; CLRV2 Oral Sentencing Submissions: T-310, p. 49, line 24 – p. 50, line 8.

¹⁰²⁸⁴ *See in particular* paragraphs 120, 1853-1893, 1911-1921, 2114 above.

¹⁰²⁸⁵ [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, paras 1, 31, 36, p. 17 *referring to* Yekatom Defence Closing Brief, ICC-01/14-0118-2737-Conf-Corr, in particular paras 351-54; Yekatom Defence Oral Sentencing Submissions: T-311, p. 19, lines 3-21; p. 22, line 11 – p. 24, line 19.

¹⁰²⁸⁶ In particular, the Chamber notes D29-3010 Statement, CAR-D29-0009-0832-R01; D29-1317 Statement, CAR-D29-0009-0838-R01; D29-8017 Statement, CAR-D29-0009-0845-R01; D29-8019 Statement, CAR-D29-0009-0881-R01; D29-8023 Statement, CAR-D29-0009-0921-R01; D29-8024 Statement, CAR-D29-0009-0909-R01; D29-8026 Statement, CAR-D29-0009-0916-R01.

4467. The Chamber considers that efforts to promote peace, reconciliation and social cohesion may only constitute a mitigating circumstance if they are genuine and concrete.¹⁰²⁸⁷ They are not genuine if they are accompanied by conduct which undermines them or perpetuates the group's criminal activities,¹⁰²⁸⁸ or if they are mainly motivated by ulterior motives.¹⁰²⁸⁹

4468. Bearing the above in mind, the Chamber does not consider Mr Yekatom's efforts *during* the period relevant to the charges in mitigation as they were inconcrete and disingenuous. In this respect, the Chamber recalls that throughout the period relevant to the charges and with respect to most of the charged crimes, Mr Yekatom did not intervene or condemn his elements' actions, including violent acts and abuses committed by them against Muslims, nor did he sanction individuals for their actions.¹⁰²⁹⁰ On the contrary, the Chamber heard evidence of Mr Yekatom even rewarding an element for their criminal acts.¹⁰²⁹¹ This conduct clearly perpetuated the group's criminal purpose and undermined any purported peace efforts. Moreover, Mr Yekatom committed all crimes of which he is convicted with discriminatory intent against Muslims.¹⁰²⁹²

4469. Additionally, the Chamber notes that Mr Yekatom, contrary to the Yekatom Defence's submission,¹⁰²⁹³ did not entertain any special relations with the Sangaris with a view to re-establishing peace.¹⁰²⁹⁴ Similarly, the Chamber is not persuaded that the evidence cited by the Yekatom Defence supports its argument that Mr Yekatom generally and actively worked and cooperated with other international organisations, governmental authorities, civil society actors and religious leaders.¹⁰²⁹⁵

¹⁰²⁸⁷ See [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, para. 218; [Bemba Sentencing Judgment](#), ICC-01/04-02/06-2442, para. 72; [Katanga Sentencing Judgment](#), ICC-01/04-01/07-3484-tENG-Corr, para. 91.

¹⁰²⁸⁸ See similar [Lubanga Sentencing Judgment](#), ICC-01/04-01/06-2901, para. 87.

¹⁰²⁸⁹ See also Prosecution Oral Sentencing Submissions: T-310, p. 40, line 22 – p. 41, line 1, lines 21-22.

¹⁰²⁹⁰ See e.g. paragraph 1857 above.

¹⁰²⁹¹ See paragraph 103 above.

¹⁰²⁹² See paragraphs 4024, 4253, 4368 above.

¹⁰²⁹³ [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, p. 17.

¹⁰²⁹⁴ See paragraph 1884 above.

¹⁰²⁹⁵ See [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, p. 17 referring to [Yekatom Defence Closing Brief](#), ICC-01/14-01/18-2737-Corr-Red, paras 351 and 353 and the references cited therein. The Chamber notes that it has duly considered this evidence, where appropriate, and refers in particular to paragraphs 67, 1638-1639, 1719, 1886, 1912, 3902, 4471.

4470. Specifically regarding Mr Yekatom's purported efforts along the PK9-Mbaïki axis – which are at the core of the Yekatom Defence's submissions – the Chamber notes that they were motivated by ulterior motives, as well as undermined by Mr Yekatom's conduct and that of his elements during this period. Notably, it recalls that it was the presence of the Sangaris and other international actors in Mbaïki at the time which compelled Mr Yekatom to bring his 'peace message' to Mbaïki¹⁰²⁹⁶ and prevent attacks of his group¹⁰²⁹⁷ against the Muslim civilian population.¹⁰²⁹⁸ Moreover, Mr Yekatom delivered his 'peace message' only once he arrived to Mbaïki and attended the meeting at the *St Jeanne d'Arc* Church, in which the removal of the Muslim population from Mbaïki, which was a foregone conclusion at that point, was decided.¹⁰²⁹⁹ The Chamber also notes that Raymond Mongbandi, the mayor of Mbaïki at the time, did not confirm that Mr Yekatom cooperated with the MISCA/MINUSCA to ensure security in Mbaïki.¹⁰³⁰⁰ Importantly, the Chamber also found that during this timeframe, Mr Yekatom's elements, with his knowledge, threatened and harassed Muslim civilians in Mbaïki, telling them to leave the area.¹⁰³⁰¹ The Anti-Balaka also attacked a gendarme patrol in Mbaïki which was there to protect the civilian population.¹⁰³⁰² Any measures to prevent these acts, and all instances of 'cooperation' between Mr Yekatom and the authorities, were taken only after Mr Yekatom had gained effective control of the PK9-Mbaïki axis and the removal of the Muslim civilian population from Mbaïki had been decided and/or carried out.¹⁰³⁰³

4471. Contrarily, the Chamber acknowledges that Mr Yekatom undertook certain actions *after* the period relevant to the charges, which are given some weight in assessing this mitigating factor. In particular, it recalls that Mr Yekatom attended the reconciliation ceremony at the

¹⁰²⁹⁶ The Chamber recalls that Mr Yekatom addressed the crowds outside the *St Jeanne d'Arc* Church in Mbaïki and subsequently at Mbaïki's bus station, where he delivered 'peace messages' similar to those he had expressed at the meeting, *see* paragraph 120 above.

¹⁰²⁹⁷ The Chamber recalls that the evidence shows that Mr Yekatom made certain efforts to control his elements, not only by providing his phone number but also by meeting the MISCA/MINUSCA when it reported incidents of 'misbehaviour by the Anti-Balaka', and by asking the ComZone and deputy ComZone of Mbaïki to identify 'fake Anti-Balaka', *see* paragraph 3558 above. *See also* [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, p. 17.

¹⁰²⁹⁸ *See in particular* paragraphs 120, 3513-3515, 3518-3519 above.

¹⁰²⁹⁹ *See* paragraph 120 above.

¹⁰³⁰⁰ *See* paragraphs 3555, 3560. *Contra* [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, p. 17.

¹⁰³⁰¹ *See* paragraph 121 above.

¹⁰³⁰² *See* paragraph 121 above.

¹⁰³⁰³ *See* paragraphs 121, 3393 above.

Omnisport arena on 29 March 2014¹⁰³⁰⁴ and the Brazzaville Forum in July 2014,¹⁰³⁰⁵ and that he was involved in peace initiatives in Boda in March and July 2014.¹⁰³⁰⁶

4472. The Chamber also notes that Deleris Ahamat, a Muslim who held functions as the president of the ‘*Conseil Supérieur Islamique de Centrafrique*’ and vice-president of the ‘*Comité Islamique Centrafricain*’, stated that Mr Yekatom undertook efforts to reopen mosques between the end of 2014 and 2016.¹⁰³⁰⁷ Ibrahim Balla, a Muslim merchant and *chef de quartier*, stated that Mr Yekatom attended a meeting in Bimbo in April or May 2015 in the context of social cohesion and peace building and took steps to enable Muslims to circulate freely.¹⁰³⁰⁸ Furthermore, Thierry Georges Vackat, a Christian member of the ‘*Conseil national de transition*’ between 2013 and 2016, and Deleris Ahamat stated that Mr Yekatom participated in the Bangui Forum on 30 March 2016.¹⁰³⁰⁹

4473. While acknowledging these efforts, the Chamber also stresses that they must be put into perspective. Notably, they occurred in the context of broader peace negotiations with the CAR government and international authorities¹⁰³¹⁰ and were thus not primarily driven by Mr Yekatom. Furthermore, it is important to consider that these efforts were made when no more large-scale active hostilities took place, the Seleka had mostly retreated or was billeted, and many Muslim civilians had been forced to flee their localities.¹⁰³¹¹

4474. The Chamber is further not persuaded that the other alleged efforts, such as Mr Yekatom’s involvement in organising football games, building schools and a health centre, or starting his company ‘Koya security’ in which he purportedly created employment opportunities for the youth,¹⁰³¹² are of relevance to its assessment of Mr Yekatom’s efforts towards the

¹⁰³⁰⁴ See paragraph 1886 above. See also D29-3010 Statement, CAR-D29-0009-0832-R01, at 0835, para. 20.

¹⁰³⁰⁵ See e.g. paragraph 1914 above. See also D29-8019 Statement, CAR-D29-0009-0881-R01, at 0884, paras 22-25.

¹⁰³⁰⁶ See paragraph 2114 above.

¹⁰³⁰⁷ D29-3010 Statement, CAR-D29-0009-0832-R01, at 0835-36, paras 17, 19, 21-22.

¹⁰³⁰⁸ D29-1317 Statement, CAR-D29-0009-0838-R01, at 0841-42, paras 27-31.

¹⁰³⁰⁹ D29-8019 Statement, CAR-D29-0009-0881-R01, at 0884, paras 26-27; D29-3010 Statement, CAR-D29-0009-0832-R01, at 0836, para. 24.

¹⁰³¹⁰ See paragraph 1893 above.

¹⁰³¹¹ See paragraphs 1856, 1893 above. The Chamber recalls in this respect that the non-international armed conflict ended in February 2014, see paragraphs 66, 3904 above.

¹⁰³¹² [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, para. 36. See further D29-8017 Statement, CAR-D29-0009-0845-R01, at 0847-48, para. 20, at 0848, paras 23-24; D29-8019 Statement, CAR-D29-0009-0881-R01, at 0886, paras 39-42; D29-8023 Statement, CAR-D29-0009-0921-R01, at 0923, para. 21.

establishment of peace and reconciliation. Notably, the Chamber is of the view that at least some of these actions seem to primarily have been motivated by Mr Yekatom's personal economic and political interests, considering, in particular, that he was running to be elected as a parliamentarian in the 2016 elections.¹⁰³¹³ Relatedly, the Chamber also considers Mr Yekatom's actions as a member of parliament¹⁰³¹⁴ to be predominantly politically motivated and of no interest to the present assessment.

4475. In conclusion, the Chamber accepts that Mr Yekatom may have wished for peace to return to the CAR once the Anti-Balaka's objectives had been accomplished and that he took certain efforts towards this goal. Nonetheless, taking all of the above considerations into account, the Chamber only considers the abovementioned peace and reconciliation activities which were made *after* the period relevant to the charges and only affords them limited weight in mitigating Mr Yekatom's sentence.

vi. Efforts to assist victims

4476. The Yekatom Defence submits that Mr Yekatom undertook genuine and non-selective efforts to assist victims during the period relevant to the charges and thereafter, in particular the Muslim population and direct victims of the charged crimes.¹⁰³¹⁵ It adds that the genuineness of these efforts is demonstrated by the fact that Muslim civilians directly sought his help during the period relevant to the charges, and have testified on his behalf in these proceedings.¹⁰³¹⁶

4477. The CLVR2 challenge these arguments and submit that, even if the accused made gestures of assistance to the victims, these were intended to make the situation appear better rather than truly providing assistance, and do not lessen the seriousness of the crimes.¹⁰³¹⁷

¹⁰³¹³ See e.g. D29-8017 Statement, CAR-D29-0009-0845-R01, at 0848, para. 23, who stated that Mr Yekatom 'souhaitait la construire parce que ses électeurs souhaitaient obtenir une école à KAPOU'.

¹⁰³¹⁴ See in particular D29-8019 Statement, CAR-D29-0009-0881-R01, at 0885, paras 34-35; D29-8017 Statement, CAR-D29-0009-0845-R01, at 0848, para. 21; D-8027 Statement, CAR-D29-0009-0934-R01, at 0937-38, paras 17-26.

¹⁰³¹⁵ [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, paras 35-37; Yekatom Defence Oral Sentencing Submissions: T-311, p. 20, line 5 – p. 22, line 1, p. 43, lines 24-25.

¹⁰³¹⁶ [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, para. 37. See also Yekatom Defence Oral Sentencing Submissions: T-311, p. 20, line 5 – p. 22, line 1.

¹⁰³¹⁷ CLVR2 Oral Sentencing Submissions: T-310, p. 52, lines 7-13.

4478. Similar to its findings above in relation to Mr Yekatom's efforts towards peace and reconciliation, the Chamber notes that Mr Yekatom's alleged efforts *during* the period relevant to the charges to assist the Muslim population are disingenuous as they stand in stark contrast to his criminal conduct against this group.

4479. Furthermore, it does not transpire from the evidence that Mr Yekatom generally assisted victims during or after the period relevant to the charges. Rather, the Yekatom Defence's arguments are limited to highlighting isolated and selective acts,¹⁰³¹⁸ which at times seem to be mainly motivated by ulterior reasons. In this regard, the Chamber particularly notes that Mr Yekatom's involvement in assisting D29-5014's Muslim family, who were subjected to violence in the PK9 area towards the end of January or early February 2014,¹⁰³¹⁹ must be viewed in light of the fact that the witness had a relationship with the Beina family.¹⁰³²⁰ Noting that Habib Beina was a high-level element in Mr Yekatom's group¹⁰³²¹ and personally close to him, it is clear that Mr Yekatom had a personal interest in their protection.

4480. In light of the above, and in accordance with the jurisprudence of this Court,¹⁰³²² the Chamber does not consider it appropriate to consider these sporadic and selective efforts generally mitigating, particularly considering the large number of crimes Mr Yekatom committed in parallel to these alleged acts of kindness, as well as their heinous nature. However, to the extent that the judgment discusses specific instances of Mr Yekatom's purported efforts to assist victims of the specific crimes he is convicted of, the Chamber assesses them in the context of determining the individual sentences below.¹⁰³²³

¹⁰³¹⁸ The Chamber notes the specific incidents referred to in the [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, paras 35-37 and Yekatom Defence Oral Sentencing Submissions: T-311, p. 20, line 5 – p. 22, line 1.

¹⁰³¹⁹ See paragraphs 1638-1639 above. See also Yekatom Defence Oral Sentencing Submissions: T-311, p. 20, lines 5-17.

¹⁰³²⁰ See paragraph 1639 above.

¹⁰³²¹ See paragraph 1639 above.

¹⁰³²² See [Al Hassan Sentencing Judgment](#), ICC-01/12-01/18-2662, paras 115-17; [Ongwen Sentencing Judgment](#), ICC-02/04-01/15-1819-Red, para. 130; [Bemba Sentencing Judgment](#), ICC-01/05-01/08-3399, paras 72, 76. See further [Kvočka et al. Appeals Judgment](#), IT-98-30/1-A, para. 693; ICTY, Trial Chamber, *The Prosecutor v. Blaškić*, Trial Judgment, 3 March 2000, IT-95-14-T (the '[Blaškić Trial Judgment](#)'), para. 781.

¹⁰³²³ See in particular paragraphs 4554, 4638 below.

vii. *Efforts to minimise harm*

4481. The Yekatom Defence submits that Mr Yekatom concretely and genuinely sought to minimise the harm caused to the victims.¹⁰³²⁴ According to the Yekatom Defence, the evidence establishes that Mr Yekatom (i) personally undertook measures to ensure that the principle of distinction was respected; (ii) issued directives making clear that the Muslim population was not to be targeted; (iii) undertook enquiries and instigated appropriate measures when violations against the Muslim population or their property occurred, or attempted to prevent further violations; (iv) undertook efforts to restore the security apparatus across the Lobaye prefecture and collaborated with local actors to prevent harm to the Muslim population; and (v) implemented measures to alleviate fear amongst the civilian population in relation to the RFACPP's activities, including conducting military training exercises without firing live ammunition or blanks, and taking particular routes so as 'not to unnecessarily frighten the civilian population'.¹⁰³²⁵

4482. With respect to points (i) and (ii), the Chamber recalls that the evidence establishes the opposite. Concretely, the Chamber found that Mr Yekatom expressly instructed the elements under his command to attack Muslim civilians, in the context of events relating to crimes as charged in this case and himself did not draw an appropriate distinction between Seleka members and Muslim civilians when giving instructions to his elements.¹⁰³²⁶

4483. The Chamber notes that in support of its point (iii), the Yekatom Defence presents two arguments. It refers, on the one hand, to Mr Yekatom's intervention during a disagreement between elements from Stéphane Chrisostome Dawili's group and a former FACA captain regarding the theft of his goats on 24 April 2014 at PK9.¹⁰³²⁷ In this regard, the Chamber recalls that Mr Yekatom's intervention during this incident consisted of shooting at the

¹⁰³²⁴ [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, paras 33-34 *referring to, inter alia*, Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, paras 233, 324, 326-46, 350-51, 484, 521-25, 656, 658 and the references cited therein; Yekatom Defence Oral Sentencing Submissions: T-311, p. 18, line 15 – p. 20, line 4. *Contra* CLRV2 Oral Sentencing Submissions: T-310, p. 50, line 16 – p. 52, line 13.

¹⁰³²⁵ [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, paras 33-34. *See also* Yekatom Defence Oral Sentencing Submissions: T-311, p. 18, line 15 – p. 20, line 4. *Contra* [Prosecution Sentencing Brief](#), ICC-01/14-01/18-2747-Red, para. 25.

¹⁰³²⁶ *See* paragraphs 114, 1299, 1305, 2447, 4016.

¹⁰³²⁷ [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, n. 69 *referring to* Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 324.

involved elements, leading to the death of two of them and injuring the other, who was hospitalised for two to three weeks.¹⁰³²⁸ Leaving aside that it has not been established for the purposes of sentencing that this incident concerned the return of looted goods, the Chamber finds it entirely inappropriate to consider such violent behaviour as an act of minimising harm for the purposes of sentencing.

4484. The Chamber also rejects the Yekatom Defence's second argument. Notably, it does not consider that the evidence establishes Mr Yekatom's purported continuous cooperation with the MISCA when operating along the PK9-Mbaïki axis, as alleged by the Yekatom Defence,¹⁰³²⁹ and recalls its findings above in this regard.¹⁰³³⁰

4485. Regarding point (iv), the Chamber also recalls its findings above.¹⁰³³¹ Finally, and with respect to point (v), the Chamber considers that even assuming that these efforts have all been established to the requisite standard,¹⁰³³² they are of such limited nature that they could not possibly be afforded any weight for the purposes of sentencing considering the heinous nature of the crimes Mr Yekatom is convicted of and the hostile environment he and his elements created.¹⁰³³³

4486. In light of the above, and recalling that it already affords limited mitigating effect to Mr Yekatom's peace efforts, the Chamber does not consider these arguments any further.

¹⁰³²⁸ See paragraph 3349 above.

¹⁰³²⁹ [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, n. 69 *referring to* Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 350.

¹⁰³³⁰ See *e.g.* paragraph 4470 above.

¹⁰³³¹ See *e.g.* paragraph 4470 above.

¹⁰³³² In this respect, the Chamber recalls the video footage of Cœur de Lion saying that 'they could not show them how to fire a weapon at Yamwara because it would scare the adjoining population into fleeing the village so they have to do it without showing them, and Stéphane Chrisostome Dawili agreed that this was indeed the case at Yamwara; they neither trained with live ammunition nor with blanks', see paragraph 3092 above.

¹⁰³³³ See *e.g.* paragraph 121 above.

c. *Aggravating factor: Abuse of power*

4487. The Prosecution¹⁰³³⁴ and CLRV2¹⁰³³⁵ ask the Chamber to consider Mr Yekatom's alleged abuse of power as an aggravating factor pursuant to Rule 145(2)(b)(ii) of the Rules.¹⁰³³⁶ Specifically, the Prosecution submits that, as the leader of his Anti-Balaka group and career soldier, Mr Yekatom abused his position of authority to order his elements to commit crimes.¹⁰³³⁷

4488. As held by the Appeals Chamber, a position of authority alone does not merit a harsher sentence. Rather, a chamber must look at this position in conjunction with the manner in which the authority is exercised.¹⁰³³⁸ The Chamber does not consider that Mr Yekatom, beyond holding a position of authority as an Anti-Balaka leader, exercised this authority in a way that would warrant further consideration as an aggravating factor within the meaning of Rule 145(2)(b)(ii) of the Rules.

4489. Considering the specific circumstances at hand, the Chamber is of the view that Mr Yekatom's role and acts are more appropriately assessed in the context of determining his degree of participation and intent in relation to the individual crimes below.¹⁰³³⁹ Consequently, it also does not address the Yekatom Defence's submissions regarding double-counting any further.¹⁰³⁴⁰

ii. *Determination of individual sentences for each crime*

4490. At the outset, the Chamber recalls that the facts underlying the crimes of which Mr Yekatom is convicted overlap to a certain degree. Accordingly, they need to be taken into consideration for more than one crime. The Chamber clarifies that this does not constitute

¹⁰³³⁴ [Prosecution Sentencing Brief](#), ICC-01/14-01/18-2747-Red, para. 25; Prosecution Oral Sentencing Submissions: T-310, p. 19, line 11 – p. 20, line 12.

¹⁰³³⁵ [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, paras 62, 64.

¹⁰³³⁶ The Chamber notes that the CLRV1 made similar submissions in relation to Count 29, see [CLRV1 Sentencing Brief](#), ICC-01/14-01/18-2744-Red, paras 4, 46-49. In light of the majority's decision to acquit Mr Yekatom from this charge, this is not addressed in this context.

¹⁰³³⁷ [Prosecution Sentencing Brief](#), ICC-01/14-01/18-2747-Red, para. 25; Prosecution Oral Sentencing Submissions: T-310, p. 19, line 11 – p. 20, line 12.

¹⁰³³⁸ [Lubanga Sentencing Appeals Judgment](#), ICC-01/04-01/06-3122, para. 82.

¹⁰³³⁹ See for a similar approach [Lubanga Sentencing Appeals Judgment](#), ICC-01/04-01/06-3122, para. 85 referring to [Lubanga Sentencing Judgment](#), ICC-01/04-01/06-2901, para. 51.

¹⁰³⁴⁰ [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, para. 28; Yekatom Defence Oral Sentencing Submissions: T-311, p. 44, lines 16-23.

‘double-counting’. In this respect, it notes the Appeals Chamber’s jurisprudence that ‘[t]he calculation of an individual sentence necessarily entails an assessment of all the circumstances relevant to a particular crime’, including those circumstances that may be relevant to the determination of more than one individual sentence. Indeed, ‘if the circumstances relevant to more than one individual sentence were to be excluded from the calculation of any of those individual sentences, the true culpability of a convicted person for a particular crime would be unclear’.¹⁰³⁴¹ However, as stated above,¹⁰³⁴² any relevant factual overlap is accounted for in the context of determining a joint sentence, to ensure reflecting the proper culpability of an accused.¹⁰³⁴³ With regard to the discriminatory dimension of all crimes, the Chamber additionally recalls its findings above.¹⁰³⁴⁴

4491. In the present section, the Chamber addresses crime-specific considerations in relation to each of the 20 crimes of which Mr Yekatom is convicted. The analysis is grouped by the following incidents, which feature the same or at least connected underlying facts: (a) the crimes committed in the context of the attack on Bangui, including Boeing and Cattin – the Bangui Attack (Counts 1 to 6 and 8); (b) the crimes committed in the context of the events at Yamwara on and around 24 December 2013 – the Yamwara Incident (Counts 11 to 17); and (c) the crimes committed in the context of the Anti-Balaka’s advance through and takeover of villages along the PK9-Mbaïki axis (Counts 24 to 28). Each section contains general considerations applying to all crimes of the relevant incident. This has been done merely for clarity and avoidance of duplication. However, the Chamber emphasises that it has taken each of these findings into account when determining the individual sentences below.

¹⁰³⁴¹ [Ntaganda Sentencing Appeals Judgment](#), ICC-01/04-02/06-2667-Red, paras 129-30.

¹⁰³⁴² See paragraph 4414.

¹⁰³⁴³ [Ntaganda Sentencing Appeals Judgment](#), ICC-01/04-02/06-2667-Red, paras 129-30; [Ongwen Sentencing Judgment](#), ICC-02/04-01/15-1819-Red, paras 59, 136, 145.

¹⁰³⁴⁴ See section VI.B.2.i.a.

a. *Crimes committed in the context of the attack on Bangui, including Boeing and Cattin (Counts 1 to 6 and 8)*

4492. The Chamber observes that the crimes committed in the context of the Bangui Attack share a number of features,¹⁰³⁴⁵ in particular as concerns Mr Yekatom's individual responsibility. In this respect, the Chamber recalls its findings above.¹⁰³⁴⁶ Notably, it recalls that Mr Yekatom is convicted of committing the crimes underlying Counts 1 to 6 and 8 jointly with, or through others, pursuant to Article 25(3)(a) of the Statute.

4493. In determining Mr Yekatom's degree of participation and intent for the purposes of sentencing, the Chamber finds the following circumstances of relevance, which in its view significantly heighten it.

4494. First, as stated above, Mr Yekatom was the founder and chief of the group that carried out the attack on Boeing and Cattin on 5 December 2013.¹⁰³⁴⁷ In this regard, he exercised a leading role and unlimited control over his group and the crimes committed by the elements in it.¹⁰³⁴⁸ Notably, on 4 December 2013, he chose some of his elements and instructed them to move towards Bangui, he provided instructions on how to carry out the attack, and it was pursuant to his instructions that his elements attacked the Boeing Market, the Boeing Mosque and Cattin.¹⁰³⁴⁹

4495. Second, the Chamber notes that the attack on Boeing and Cattin by Mr Yekatom's group was not spontaneous, it was planned in coordination with other Anti-Balaka groups as part of the larger Bangui Attack, with this coordination beginning well before November

¹⁰³⁴⁵ In this respect, the Chamber notes that these features are addressed jointly for all crimes merely for clarity and avoidance of duplication. However, it emphasises that it has taken each of these findings into account when determining the individual sentences below.

¹⁰³⁴⁶ See paragraphs 36, 48, 55, 63; section II.B, in particular paragraphs 73-78; paragraphs 1299, 1305; section V.B.3.i.b.i above.

¹⁰³⁴⁷ See paragraphs 3906, 4012 above. See also Prosecution Oral Sentencing Submissions: T-310, p. 11, line 18 – p. 12, line 10.

¹⁰³⁴⁸ See paragraphs 3906, 4012 above. See also [Prosecution Sentencing Brief](#), ICC-01/14-01/18-2747-Red, para. 22; Prosecution Oral Sentencing Submissions: T-310, p. 14, lines 6-12; [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, paras 42-43.

¹⁰³⁴⁹ See paragraphs 74-76, 3950 above.

2013.¹⁰³⁵⁰ In the months leading up to this attack, Mr Yekatom and his group armed and trained in the bush.¹⁰³⁵¹ The night before the attack, Mr Yekatom personally conducted reconnaissance at the Boeing Market with some of his elements.¹⁰³⁵² In the view of the Chamber, these acts show a high level of planning and involvement by Mr Yekatom in the execution of the crimes.

4496. Third, the Chamber notes that Mr Yekatom not only issued the instructions regarding the attack on Boeing and Cattin to the elements under his command, but he personally launched the attack and participated in it as an armed member of his group.¹⁰³⁵³

4497. Fourth, notwithstanding the fact that Mr Yekatom knew that elements of his group did not distinguish between Muslim civilians and the Seleka, he did not demand or emphasise the need for such distinction when instructing his elements during their preparations and in advance of the attack.¹⁰³⁵⁴ Contrarily, Mr Yekatom instructed the elements under his command to target sectors in Boeing and Cattin where ‘Muslims’ were to be found, aware that his instructions would be understood as also targeting Muslim civilians.¹⁰³⁵⁵

4498. The Chamber is mindful that certain factual findings on Mr Yekatom’s acts only pertain to specific crimes committed during the course of the Bangui Attack. Where this is the case, they are discussed in the context of the relevant crimes below. Nonetheless, these differences do not lead to different conclusions regarding Mr Yekatom’s degree of participation and intent for the individual crimes committed. On the contrary, taking all of the above as well as the below crime-specific considerations into account, the Chamber considers

¹⁰³⁵⁰ See paragraph 73 above. In this regard, the Chamber notes the Yekatom Defence’s submission that Mr Yekatom’s involvement in the Bangui Attack was a result of or at least linked to direct orders from his military superior, Ngremangou, and that he was not involved in the decision-making and planning of the attack. The Chamber recalls its conclusion that Ngremangou instructed Mr Yekatom and his group to advance to participate in the Bangui Attack. However, noting the high degree of Mr Yekatom’s participation and intent in the crimes committed in the context of the Bangui Attack, the Chamber does not consider that this factor is relevant to its determination on sentencing. See paragraphs 2520-2521 above. See also [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, para. 23; Yekatom Defence Oral Sentencing Submissions: T-311, p. 31, lines 3-17.

¹⁰³⁵¹ See paragraph 73 above.

¹⁰³⁵² See paragraph 75 above.

¹⁰³⁵³ See paragraphs 76, 4012 above.

¹⁰³⁵⁴ See paragraphs 1299, 1305 above. See also Prosecution Oral Sentencing Submissions: T-310, p. 14, lines 13-23.

¹⁰³⁵⁵ See paragraphs 74, 2446-2447, 3939. See also Prosecution Oral Sentencing Submissions: T-310, p. 12, line 23 – p. 13, line 2.

Mr Yekatom's degree of participation and intent to be high for each of the crimes underlying Counts 1 to 6 and 8.

4499. Another feature common to the crimes committed in the context of the Bangui Attack is their commission for motives involving discrimination. In this regard, the Chamber recalls that Mr Yekatom's elements targeted Muslim persons in Boeing and Cattin by reason of their perceived religious commonalities with the Seleka, as well as Mr Yekatom's intent in that regard.¹⁰³⁵⁶ As indicated above,¹⁰³⁵⁷ the Chamber considers this circumstance to be an aggravating factor within the meaning of Rule 145(2)(b)(v) of the Rules for the crimes underlying Counts 1 to 6.¹⁰³⁵⁸

*i. Attack against the civilian population as
such as a war crime (Count 1)*

4500. The war crime of attack against the civilian population as such violates the principle of distinction, which is at the core of international humanitarian law. The purpose of this principle, and of the incrimination of intentional attacks on civilians in the Statute, is to protect lives and to avoid the suffering of individuals not taking a direct part in hostilities during an armed conflict.¹⁰³⁵⁹

4501. The Chamber notes that the war crime of attacking the civilian population as such is a conduct crime which, for its commission, does not require a result in terms of infliction of an actual harm or death on civilians. The Chamber considers that generally, conduct crimes are *in abstracto* less serious than result crimes which do require an infliction of harm on the victim.¹⁰³⁶⁰ Nonetheless, considering the protected interests at stake, the Chamber deems this crime to be of high gravity *in abstracto*.

¹⁰³⁵⁶ See paragraphs 4004, 4024 above.

¹⁰³⁵⁷ See section VI.B.2.i.a above.

¹⁰³⁵⁸ With respect to Count 8, the Chamber recalls that the discriminatory dimension is a constitutive element of the crime against humanity of persecution. Accordingly, the Chamber does not consider it as an aggravating factor for this crime.

¹⁰³⁵⁹ See [Ongwen Sentencing Judgment](#), ICC-02/04-01/15-1819-Red, para. 148; [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, para. 53. See further [Galić Trial Judgment](#), IT-98-29-T, para. 27.

¹⁰³⁶⁰ See paragraph 3788 above. See also [Ongwen Sentencing Judgment](#), ICC-02/04-01/15-1819-Red, para. 149; [Ntaganda Sentencing Appeals Judgment](#), ICC-01/04-02/06-2667-Red, para. 101; [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, para. 53.

4502. The Chamber recalls, however, that it may consider harm arising as a consequence of a crime in the context of sentencing.¹⁰³⁶¹ In the present case, as set out in detail in the sections below, extensive harm was inflicted on the civilian population as a result of the attack on Boeing and Cattin.¹⁰³⁶² In the view of the Chamber, this heightens the gravity *in concreto* of Count 1. The Chamber recognises that these consequences constitute the relevant facts underlying the other crimes Mr Yekatom is convicted of in the context of the Bangui Attack. While all relevant circumstances must be considered in the context of the individual sentence under this count, these factual overlaps are duly taken into account in the determination of the joint sentence.¹⁰³⁶³

4503. On the basis of the concrete circumstances, the Chamber considers the gravity of the crime to be high *in concreto*. In addition to the considerations in relation to the extent of the harm caused, the Chamber considers the nature of the unlawful behaviour to be of particular relevance to the assessment of the gravity of the crime. It recalls the nature of the targets comprising the attack – a market, a mosque and unarmed civilians –, and that these were not legitimate military targets.¹⁰³⁶⁴ Specifically, upon Mr Yekatom's instructions,¹⁰³⁶⁵ Mr Yekatom's group attacked the Boeing Market where the Muslim traders were shot at.¹⁰³⁶⁶ Mr Yekatom's group also attacked the main mosque serving both the communities of Boeing and Cattin, as well as an unarmed man in Cattin.¹⁰³⁶⁷ Further, the Chamber notes that while it is unclear to what extent Mr Yekatom's group was armed during the attack, what is clear is that they possessed and used some firearms, as well as a rocket.¹⁰³⁶⁸ It also recalls that in the Boeing Market specifically, Mr Yekatom's elements shot in all directions.¹⁰³⁶⁹

4504. Regarding Mr Yekatom's participation and intent in relation to this crime, the Chamber recalls its findings above.¹⁰³⁷⁰ In particular, it recalls that the Chamber convicts Mr Yekatom

¹⁰³⁶¹ See paragraph 4404 above.

¹⁰³⁶² See sections VI.B.3.ii.a.ii-VI.B.3.ii.a.iv below. See also [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, para. 24.

¹⁰³⁶³ See paragraphs 4414, 4490 above.

¹⁰³⁶⁴ See paragraph 3957 above.

¹⁰³⁶⁵ See paragraphs 4494, 4497 above.

¹⁰³⁶⁶ See paragraphs 76-77 above.

¹⁰³⁶⁷ See paragraphs 78-79 above.

¹⁰³⁶⁸ See paragraphs 76, 78, 2537 above.

¹⁰³⁶⁹ See paragraph 76 above.

¹⁰³⁷⁰ See *in particular* paragraphs 4492-4498 above.

for Count 1 as a direct perpetrator pursuant to Article 25(3)(a) of the Statute, for having founded his group and himself launched and carried out the attack, as a chief of his group and an armed participant in it.¹⁰³⁷¹

4505. Finally noting the extent of the harm caused by this crime, the Chamber is not persuaded by the Yekatom Defence's argument that the conduct underlying the crime in question is of 'limited scope'.¹⁰³⁷²

4506. Having considered all of the above circumstances, as well as the factors relevant to all crimes,¹⁰³⁷³ in particular the aggravating circumstance of committing the crime for a discriminatory motive,¹⁰³⁷⁴ the Chamber sentences Mr Yekatom to a term of 10 years of imprisonment for the war crime of attack against the civilian population as such (Count 1).

ii. *Murder as a crime against humanity and as a war crime (Counts 2 and 3)*

4507. The crime of murder protects human life and as such, it is inherently one of the most serious crimes. Murder further causes harm to the relatives and dependants left behind, who not only lose the direct victim, but may also be directly injured as a result of the crime committed.¹⁰³⁷⁵ The gravity of this crime, both as a war crime and as a crime against humanity, must therefore be considered very high *in abstracto*.

4508. Turning to the assessment of the facts *in concreto*, the Chamber considers the gravity of Counts 2 and 3 to be particularly high. The Chamber has taken into account the extent of victimisation, notably that during the attack on Boeing and Cattin, elements of Mr Yekatom's group killed multiple civilians: (i) one Muslim trader – Hassan Mahamat, and

¹⁰³⁷¹ See paragraph 4013 above.

¹⁰³⁷² [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, para. 19.

¹⁰³⁷³ See section VI.B.2; section VI.B.3.i; paragraphs 4492-4499 above.

¹⁰³⁷⁴ See section VI.B.2.i.a above.

¹⁰³⁷⁵ See also [Ongwen Sentencing Judgment](#), ICC-02/04/01/15-1819-Red, para. 153; [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, para. 44; [Bemba Sentencing Judgment](#), ICC-01/05-01/08-3399, paras 29-30.

two unnamed Muslim traders at the Boeing Market; and (ii) one unnamed Muslim man in Cattin.¹⁰³⁷⁶

4509. The Chamber has taken into account the violent circumstances of and the means employed to commit the murders.¹⁰³⁷⁷ Notably, the Chamber recalls that elements of Mr Yekatom's group killed the unarmed Muslim man in Cattin, who eventually succumbed to his wounds, on the basis that he was an 'Arab'.¹⁰³⁷⁸ The Chamber notes the testimony of Salehou Ndiaye who described how the 'Anti-Balaka' chased the victim, who he heard 'pleading for help', and that he 'later' saw four 'Anti-Balaka elements' armed with a Kalashnikov and three machetes standing next to the victim's body which he later saw, lying on the road, with 'wounds' all over. Salehou Ndiaye further stated that a crowd of locals followed the 'Anti-Balaka' and were 'encouraging them'.¹⁰³⁷⁹

4510. As to the murders at the market in Boeing, the Chamber recalls that when Mr Yekatom's group reached the market, the armed elements in the front fired at the Muslim traders who were present there. During this time, Mr Yekatom's elements shot in all directions.¹⁰³⁸⁰ The Chamber further recalls that neither of the two unnamed Muslim traders who were killed were armed at the time of their murders.¹⁰³⁸¹ In relation to Hassan's death specifically, the Chamber recalls P-1339's evidence according to which, after Mr Yekatom fired a shot in the air and his elements 'launched the attack', Hassan received a bullet and died after he 'left his shop with [a] weapon to defend himself'.¹⁰³⁸² The Chamber considers that the violent nature of the crime is demonstrated by the weapons that were used – including a grenade which was thrown into 'the house' that propelled Hassan outside his shop – and the fact that Hassan was attacked whilst he was in his shop, on the basis that generally a person can reasonably expect less harm to occur when inside their own property.¹⁰³⁸³

¹⁰³⁷⁶ See paragraphs 77, 79, 3966-3971 above. See also [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, para. 60.

¹⁰³⁷⁷ See also [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, para. 51.

¹⁰³⁷⁸ See paragraph 79 above.

¹⁰³⁷⁹ See paragraphs 2658-2659 above.

¹⁰³⁸⁰ See paragraph 76 above.

¹⁰³⁸¹ See paragraphs 77, 2586 above.

¹⁰³⁸² See paragraphs 2547, 2568 above.

¹⁰³⁸³ See paragraph 2547 above.

4511. The Chamber notes the impact and harm Hassan Mahamat's murder caused to his family.

The Chamber first notes that in the intervening [REDACTED].¹⁰³⁸⁴ Compounding this uncertainty, was the fact that shortly after Hassan was murdered, [REDACTED].¹⁰³⁸⁵ Second, the Chamber notes the long-lasting harm Hassan's murder caused to his family. In [REDACTED], [REDACTED] described to the Chamber the profound physical, psychological, emotional and financial impact of losing [REDACTED]. [REDACTED] stated that

[REDACTED].¹⁰³⁸⁶

4512. The Chamber recalls that while [REDACTED], [REDACTED] and the [REDACTED].¹⁰³⁸⁷ [REDACTED].¹⁰³⁸⁸ As a result of the [REDACTED].¹⁰³⁸⁹ The Chamber recalls that [REDACTED], [REDACTED].¹⁰³⁹⁰

4513. The Chamber considers that the significant impact of the crimes on Hassan's family, as described above, is inherent to the violent nature of the crimes committed and is accordingly satisfied that this harm was also objectively foreseeable to Mr Yekatom.

4514. The Prosecution submits that the 'unarmed civilian victims' of the charged crimes were particularly 'vulnerable and defenceless' against the Anti-Balaka.¹⁰³⁹¹ Specifically, it argues that 'vulnerable Muslims traders were murdered by [Mr Yekatom]'s elements' during the Bangui Attack.¹⁰³⁹² The Chamber cannot discern a particular vulnerability or defencelessness within the sense of Rule 145(2)(b)(iii) of the Rules, which would warrant an aggravated sentence. It considers that the particular circumstances of the murders have already been accounted for in the Chamber's assessment of the circumstances of manner,

¹⁰³⁸⁴ See paragraphs [REDACTED] above.

¹⁰³⁸⁵ See paragraph [REDACTED] above.

¹⁰³⁸⁶ [REDACTED]. See also [Prosecution Sentencing Brief](#), ICC-01/14-01/18-2747-Red, para. 13; [REDACTED].

¹⁰³⁸⁷ See paragraphs [REDACTED] above.

¹⁰³⁸⁸ See paragraph [REDACTED] above.

¹⁰³⁸⁹ See paragraph [REDACTED] above.

¹⁰³⁹⁰ [REDACTED]. See also paragraph [REDACTED] above.

¹⁰³⁹¹ Prosecution Oral Sentencing Submissions: T-310, p. 6, lines 16-18, p. 39, line 20 – p. 40, line 6. See also [Prosecution Sentencing Brief](#), ICC-01/14-01/18-2747-Red, para. 23. *Contra* [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, para. 30; Yekatom Defence Oral Sentencing Submissions: T-311, p. 31, line 18 – p. 32, line 11; Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 73, line 7 – p. 74, line 1.

¹⁰³⁹² [Prosecution Sentencing Brief](#), ICC-01/14-01/18-2747-Red, para. 24.

location and means employed to execute the crimes pursuant to Rule 145(i)(c) of the Rules above.

4515. Regarding Mr Yekatom's participation and intent in relation to this crime, the Chamber recalls its above findings.¹⁰³⁹³ In particular, the Chamber recalls that before the Bangui Attack, Mr Yekatom instructed his elements to target sectors where 'Muslims' were to be found. He also instructed his elements on the night before the Bangui Attack to target Muslims traders at the Boeing Market. The Chamber found that Mr Yekatom's instructions were understood by the elements to accept that Muslim civilians would be killed as a result of the fighting,¹⁰³⁹⁴ and that Mr Yekatom intended his elements to murder Muslim traders at the Boeing Market and knew that his elements would kill Muslim civilians in Cattin.¹⁰³⁹⁵

4516. Having considered all of the above circumstances, as well as the factors relevant to all crimes,¹⁰³⁹⁶ in particular the aggravating circumstance of committing the crimes for a discriminatory motive,¹⁰³⁹⁷ the Chamber sentences Mr Yekatom to a term of 14 years of imprisonment for the crime against humanity of murder (Count 2) and 14 years of imprisonment for the war crime of murder (Count 3).

iii. Forcible transfer and deportation as a crime against humanity and displacement as a war crime (Counts 4 and 5)

4517. The prohibition of forcible transfer of population and deportation is intended to protect the right of individuals to remain in their homes and communities and not to be deprived of their property by being forcibly displaced to another location.¹⁰³⁹⁸ In this respect, it guards against the wholesale destruction of communities. It constitutes a serious crime due to the fact that people are illegally moved against their will or without having a genuine choice in the matter,

¹⁰³⁹³ See in particular paragraphs 4492-4498 above.

¹⁰³⁹⁴ See paragraphs 74-75 above.

¹⁰³⁹⁵ See paragraph 4015 above.

¹⁰³⁹⁶ See section VI.B.2; section VI.B.3.i; paragraphs 4492-4499 above.

¹⁰³⁹⁷ See section VI.B.2.i.a above.

¹⁰³⁹⁸ See paragraph 3801 and the references cited therein. See also [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, para. 158 referring to, *inter alia*, Y. Sandoz et al. (ed.) [Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949](#) (1986), Article 17, para. 4847.

from the area in which they are lawfully present, leading to their exclusion from and potential destruction of the economic and social life of their communities.¹⁰³⁹⁹ Accordingly, the Chamber deems this crime to be of high gravity *in abstracto*.

4518. Ordering the displacement of a civilian population as a war crime is also intended to protect the right of individuals to remain in their homes and communities and not to be displaced without justification during a non-international armed conflict. However, noting that ordering displacement does not require for displacement as such to actually occur, the Chamber considers the crime under Article 8(2)(e)(viii) of the Statute to be *in abstracto* less serious compared to forcible transfer of population or deportation under Article 7(1)(d) of the Statute, which requires the actual infliction of harm on the victims.¹⁰⁴⁰⁰ Accordingly, the Chamber deems this crime to be of substantial gravity *in abstracto*.

4519. Turning to the assessment of the facts *in concreto*, the Chamber considers the gravity of Counts 4 and 5 to be high.

4520. At the outset, the Chamber highlights the significant number of persons affected by the crimes underlying Counts 4 and 5. It recalls that, from 5 December 2013 onwards, the majority of Muslims of Boeing and Cattin fled to PK5, while some others fled to other parts of the CAR, in the context of the attack by Mr Yekatom's group on Boeing and Cattin.¹⁰⁴⁰¹ The Chamber further highlights that some Muslims endured forced displacement multiple times. It recalls that with the influx of Muslims fleeing the Bangui Attack, PK5 became overcrowded, uninhabitable, and unsafe. As a result, some Muslims fled to neighbouring countries, fearing for their safety.¹⁰⁴⁰²

4521. In this regard, the Chamber recalls the scale of the movement of Muslims outside of the CAR and emphasises that they had to leave their homes and were removed from their known surroundings. The Chamber notably received evidence from Anti-Balaka witnesses that

¹⁰³⁹⁹ See [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, para. 158; [Popović et al. Trial Judgment](#), IT-05-88-T, para. 900.

¹⁰⁴⁰⁰ See [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, para. 163.

¹⁰⁴⁰¹ See paragraphs 80, 2718-2732 above. See also [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, para. 60.

¹⁰⁴⁰² See paragraph 80 above.

Muslims were sent to Chad, Cameroon and Congo with the assistance of the international and MISCA forces.¹⁰⁴⁰³

4522. In relation to the war crime of displacement specifically, the Chamber recalls that this crime does not require for displacement as such to actually occur.¹⁰⁴⁰⁴ Considering this, the Chamber finds the fact that Muslim inhabitants were effectively displaced as a direct consequence of the actions of Mr Yekatom's group to heighten the gravity of the crime under Count 5.¹⁰⁴⁰⁵ The Chamber considers that this displacement was objectively foreseeable to Mr Yekatom, given that he knew that the launching of his attack and the instructions to his elements would cause the Muslims from Boeing and Cattin to flee.¹⁰⁴⁰⁶

4523. The Chamber further recalls the difficult circumstances and hardship which affected the people who were forcibly displaced from Boeing and Cattin. It notes that they endured the loss of their family members,¹⁰⁴⁰⁷ loss of their home, loss of their belongings, and sense of material and non-material unsafety for prolonged periods.¹⁰⁴⁰⁸ The displaced persons experienced fear and threats to physical security, a lack of freedom of movement, and a fear of being identified as a Muslim following the events.¹⁰⁴⁰⁹ Notably, Muslims who fled to PK5 continued to feel threatened by the Anti-Balaka's presence in and around PK5 and Bangui. This climate of fear contributed to the lack of freedom of movement within and outside of PK5. It made it almost impossible to leave PK5 safely.¹⁰⁴¹⁰ This is illustrated by P-2472 who explained that after the Bangui Attack, there were 'continuous attacks by the Anti-Balaka against the Muslim population in [Bangui] for approximately three months. The Muslims who were living in PK5 were encircled and could not go out. We spent many months unable to sleep and being in constant fear of being attacked'.¹⁰⁴¹¹

¹⁰⁴⁰³ See paragraph 2710 above.

¹⁰⁴⁰⁴ See [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, para. 163.

¹⁰⁴⁰⁵ See paragraphs 80, 4013 above.

¹⁰⁴⁰⁶ See paragraph 4015 above.

¹⁰⁴⁰⁷ See e.g. paragraphs 4511-4513 above.

¹⁰⁴⁰⁸ See paragraphs 80, 2733-2746, 2748 above.

¹⁰⁴⁰⁹ See e.g. paragraphs 2734-2739, 2742, 2745, 2746 above.

¹⁰⁴¹⁰ See e.g. paragraphs 80, 2734-2739 above.

¹⁰⁴¹¹ P-2472 Statement, CAR-OTP-2110-0355-R01, at 0362, para. 39.

4524. Compounding this was the fact that at PK5 the living conditions were difficult and dire – with a lack of food, medicines, basic sanitary conditions and rest, making the environment practically uninhabitable, in addition to being overcrowded and unsafe.¹⁰⁴¹² Catherine Samba-Panza explained that the enclaves such as the one at PK5, were ‘really not fit for [...] human life’.¹⁰⁴¹³

4525. The Chamber further recalls that it received evidence regarding the continuing animosity shown to Muslims during their displacement from the CAR to neighbouring countries, including by the Anti-Balaka. For example, P-2682 described how when she was ‘evacuated’ to Chad, she encountered the ‘Anti-Balaka’ who threatened them and made gestures with their hands, saying, ‘We’re going to kill you. We’re going to slit your throats’.¹⁰⁴¹⁴

4526. Finally, the Chamber notes the testimony of Salehou Ndiaye who indicated that whilst some Muslims who used to live in Boeing and Cattin were able to return to the places where they lived before ‘the events’, others were not.¹⁰⁴¹⁵ He also described how his family has been affected.¹⁰⁴¹⁶ Whilst he returned to the CAR, he lives in a one bedroom flat and does not have the financial resources to bring his family back to live with him – he tries ‘to survive, covering the expenses in both places, [REDACTED] and in Bangui’.¹⁰⁴¹⁷ He explained how this affected him emotionally, noting that ‘the fact that I’m far away from my family and my family is far away from me, this is very difficult’.¹⁰⁴¹⁸ He also explained the effects that the events had on him generally, that it is ‘very, very difficult to forget all that happened’, ‘it’s a source of pain’, and he avoids going to where he used to live because ‘all this comes flooding back’ causing him to ‘spend a sleepless night’.¹⁰⁴¹⁹

¹⁰⁴¹² See paragraphs 80, 2741-2744 above.

¹⁰⁴¹³ See paragraph 2743 above.

¹⁰⁴¹⁴ See paragraphs 2699-2700 above. See also paragraphs 2709, 2714 above.

¹⁰⁴¹⁵ See paragraph 2721 above. See also paragraph 2701 above.

¹⁰⁴¹⁶ See paragraphs 2689-2695 above.

¹⁰⁴¹⁷ P-1528: T-178, p. 51, lines 3-21.

¹⁰⁴¹⁸ See paragraph 2692 above.

¹⁰⁴¹⁹ See paragraph 2695 above. See also paragraph 2702 above. In this regard, the Chamber also notes the report of an expert in cross-cultural trauma psychiatry and the effects of trauma on human psychology (see Daryn Reicherter CV, CAR-OTP-2122-9975), on the trauma effects of displacement. See Daryn Reicherter Expert Report, CAR-OTP-2127-6805, at 6832-40. Regarding the Ngaïssona Defence’s submissions on Daryn Reicherter’s report (Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 71, lines 14-20), the Chamber finds no issue in relation to the report’s reliability or credibility, considering the qualifications of the expert, as well as the limited use of the report in the

4527. Noting the above, the Chamber considers that the consequences and harm of the commission of the crimes under Counts 4 and 5 were high, with the victims not only deprived of their property, but also effectively uprooted from their homes, communities, and in some cases, their country. Victims notably experienced physical and emotional suffering, considering in particular the difficult conditions at the time of their displacement or at the locations they were displaced to, particularly in PK5 which the Chamber found was practically uninhabitable.¹⁰⁴²⁰ This in turn led to the loss of social, occupational and economic stability, and material safety, and to the loss of communities, as most of the Muslim population had to flee from Boeing and Cattin and remained unable to return at least for some time following the events.¹⁰⁴²¹

4528. In this context, the Chamber notes the Yekatom Defence's submission that 'a proportion of displaced persons are alleged to have returned to their homes and/or returned to CAR in general'¹⁰⁴²² and that there has to be 'a cut-off point when assessing the gravity of offences'.¹⁰⁴²³ The Chamber understands this to mean that in the Yekatom Defence's view it should take into account the duration of the displacement, as well as the purported return of a proportion of the displaced persons. The Chamber also takes note of the Ngaïssona Defence's submission that the CLRV2's and Prosecution's arguments on the long-term impact of displacement beyond the initial transfer aim to impute harms unconnected to Mr Ngaïssona's conduct in 2013, and that the reasons cited by victims for not returning to their places of origin to this day are sometimes either not directly linked to the charges, or the link to the charges is insufficiently clear.¹⁰⁴²⁴ The Chamber notes that these submissions overlap with the Yekatom Defence's and, for clarity, addresses them together at this juncture.

context of this decision. See also [Decision on the Common Legal Representatives of Victims Requests for Leave to Present Evidence and Further Order on the Remainder of the Prosecution Presentation of Evidence](#), 3 August 2023, ICC-01/14-01/18-2016-Conf (public redacted version notified on 6 September 2023, ICC-01/14-01/18-2016-Red), paras 55-62.

¹⁰⁴²⁰ See paragraphs 4523-4526 above.

¹⁰⁴²¹ See also [Prosecution Sentencing Brief](#), ICC-01/14-01/18-2747-Red, para. 12; Prosecution Oral Sentencing Submissions: T-310, p. 36, lines 8-14; [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, paras 28, 47-49 referring to, *inter alia*, [CLRV2 Closing Brief](#), ICC-01/14-01/18-2734-Conf, paras 234-87.

¹⁰⁴²² [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, para. 20.

¹⁰⁴²³ Yekatom Defence Oral Sentencing Submissions: T-311, p. 44, lines 1-8. See also Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 71, lines 5-6. *Contra* Prosecution Oral Sentencing Submissions: T-310, p. 37, lines 18-21.

¹⁰⁴²⁴ Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 70, line 21 – p. 71, line 6.

4529. To the contrary, the CLRV2 submit, *inter alia*, that (i) the majority of victims are still unable, more than 10 years later, to return; (ii) returning to one's country of origin without being able to effectively return to one's own home with the same means as before cannot reasonably reduce the gravity of the crimes; and (iii) the people who returned experienced major difficulties in re-establishing themselves and finding employment, notably as their homes were occupied during their absence and/or looted or destroyed, and they lost everything when they left.¹⁰⁴²⁵

4530. The Chamber notes that the majority of the evidence cited by the Yekatom Defence relates to the return of peace to Mbaïki or the Lobaye prefecture, rather than the return of previously displaced Muslim civilians from Boeing or Cattin. While some Muslim inhabitants who fled in the context of the attack by Mr Yekatom's group on Boeing and Cattin may have eventually returned to their own homes after the period relevant to the charges, it is also clear to the Chamber that many others could not and some were not even able to return to the CAR.¹⁰⁴²⁶

4531. In this regard, the Chamber does not consider that the harm deriving from displacement necessarily ended by virtue of either (i) an eventual return to the CAR from abroad; or (ii) for those displaced within the CAR, settling elsewhere. The Chamber recalls that victims had to leave their houses and for some, their belongings behind, and thus emphasises that their return to the CAR or their place of origin does not mean that they were able to reach the same standards of living or live in the same conditions as before,¹⁰⁴²⁷ and does not reduce the gravity of the crimes as such.

4532. Turning to the arguments as to the necessity of a 'cut-off point', the Chamber recalls that it may consider any consequences arising from the crimes in the context of sentencing, as long as they were objectively foreseeable to the accused.¹⁰⁴²⁸ In this regard, the Chamber considers that the harm described above, including beyond the initial displacement of victims, is inherent to the nature of the crimes, derives from, and is sufficiently linked to

¹⁰⁴²⁵ CLRV2 Oral Sentencing Submissions: T-310, p. 47, lines 3-23. See also [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, para. 48.

¹⁰⁴²⁶ See e.g. paragraphs 2693, 2701, 2721 above.

¹⁰⁴²⁷ See e.g. paragraph 2693 above.

¹⁰⁴²⁸ See paragraph 4404 above.

them. It thus considers of limited relevance to its present assessment the fact that other factors may have played a role in some victims not returning to their places of origin following the events.

4533. Further considering the nature of Mr Yekatom's role in the context of his group's attack on Boeing and Cattin,¹⁰⁴²⁹ as well as the fact that he knew that the launching of his attack and the instructions to his elements would cause the Muslims from Boeing and Cattin to flee,¹⁰⁴³⁰ the Chamber is satisfied that the harm and consequences described above were objectively foreseeable to Mr Yekatom.

4534. Regarding the Prosecution's and the CLRV2's submissions on the vulnerability of victims of these crimes,¹⁰⁴³¹ the Chamber considers that while victims were placed in a vulnerable situation, it cannot discern a particular vulnerability or defencelessness within the sense of Rule 145(2)(b)(iii) of the Rules, which would warrant an aggravated sentence. It considers that the particular circumstances of their treatment have already been accounted for in the Chamber's assessment of the circumstances of manner, location and means employed to execute the crimes pursuant to Rule 145(i)(c) of the Rules above.

4535. Regarding Mr Yekatom's participation and intent in relation to these crimes, the Chamber recalls its findings above.¹⁰⁴³² In particular, it recalls that the Chamber convicts Mr Yekatom for Counts 4 and 5 as a direct perpetrator pursuant to Article 25(3)(a) of the Statute, for having founded his group and himself launching and carrying out the attack, as a chief of his group and an armed participant in it.¹⁰⁴³³ Notably, the Chamber emphasises that it was the entirety of Mr Yekatom's conduct that created the conditions, including an environment of fear of violence, as a result of which the Muslims in Boeing and Cattin fled.¹⁰⁴³⁴ Additionally, Mr Yekatom knew that his acts would cause the Muslims from Boeing and

¹⁰⁴²⁹ See paragraphs 4494-4497 above. See also section V.B.3.i.b.i above.

¹⁰⁴³⁰ See paragraph 4015 above.

¹⁰⁴³¹ [Prosecution Sentencing Brief](#), ICC-01/14-01/18-2747-Red, paras 23-24; Prosecution Oral Sentencing Submissions: T-310, p. 39, line 20 – p. 40, line 6; [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, para. 57. *Contra* [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, para. 30; Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 73, line 7 – p. 74, line 1.

¹⁰⁴³² See in particular paragraphs 4492-4498 above.

¹⁰⁴³³ See paragraph 4013 above.

¹⁰⁴³⁴ See in particular paragraphs 3975, 4013 above.

Cattin to flee.¹⁰⁴³⁵ Finally, the Chamber recalls that Mr Yekatom's conduct constituted an 'order' to displace the Muslim civilian population from Boeing and Cattin and that Mr Yekatom was in a position to affect the displacement by giving such an order.¹⁰⁴³⁶

4536. Having considered all of the above circumstances, as well as the factors relevant to all crimes,¹⁰⁴³⁷ in particular the aggravating circumstance of committing the crimes for a discriminatory motive,¹⁰⁴³⁸ the Chamber sentences Mr Yekatom to a term of 10 years of imprisonment for the crime against humanity of forcible transfer and deportation (Count 4) and 10 years of imprisonment for the war crime of displacement (Count 5).

iv. *Directing an attack against a building
dedicated to religion as a war crime (Count
6)*

4537. The Chamber considers that even if inherently grave, and mindful of the severe impact crimes against property may have on victims, such crimes are generally of lesser gravity than crimes against persons.¹⁰⁴³⁹ The Chamber also recalls that this crime is a conduct crime and that such crimes generally are *in abstracto* less serious than result crimes.¹⁰⁴⁴⁰ Further considering the protected interest at stake, the Chamber deems this crime to be of substantial gravity *in abstracto*.

4538. Turning to the assessment of the facts *in concreto*, the Chamber considers the gravity of Count 6 to be low.

4539. In this regard, the Chamber finds it relevant that while the Boeing Mosque was indeed damaged by Mr Yekatom's elements, it was the civilian population who destroyed it thereafter.¹⁰⁴⁴¹ Nonetheless, the Chamber considers that the nature of the unlawful behaviour

¹⁰⁴³⁵ See paragraph 4015 above.

¹⁰⁴³⁶ See *in particular* paragraphs 3985-3990 above.

¹⁰⁴³⁷ See section VI.B.2; section VI.B.3.i; paragraphs 4492-4499 above.

¹⁰⁴³⁸ See section VI.B.2.i.a above.

¹⁰⁴³⁹ [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, para. 14; [Al Mahdi Trial Judgment](#), ICC-01/12-01/15-171, para. 77; [Katanga Sentencing Judgment](#), ICC-01/04-01/07-3484-tENG-Corr, para. 43. See also [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, para. 18.

¹⁰⁴⁴⁰ See paragraph 4501 above.

¹⁰⁴⁴¹ See paragraphs 78, 2630-2638, 2641-2648 above.

and the means employed by Mr Yekatom's elements heighten the gravity of the crime. In particular, it recalls that on 5 December 2013, and following Mr Yekatom's instructions, Mr Yekatom's elements attacked the Boeing Mosque using a 'rocket', a destructive weapon, and torched it with gasoline – both of which had the potential to cause a significant amount of damage.¹⁰⁴⁴²

4540. The Chamber recalls that whilst there is no results requirement in the elements of this war crime, it may consider harm arising as a consequence of a crime in the context of sentencing.¹⁰⁴⁴³

4541. In addition to the physical damage caused to the Boeing Mosque, the Chamber notes the specific emotional and psychological impact caused to the local Muslim community. In this regard, the Chamber recalls the particular significance of the Boeing Mosque as the main mosque to the communities of Boeing and Cattin, where around 100 Muslim families lived at the time.¹⁰⁴⁴⁴ It notes the testimony of Salehou Ndiaye who explained that during a period of 'six or seven years' between the attack on the Boeing Mosque and the resumption of prayers at that location, the Muslim community had to find alternative places to pray and meet. Salehou Ndiaye stated that he believed that some Muslims started doing daily prayers at home and some would go to PK5 as it was the closest neighbourhood with mosques.¹⁰⁴⁴⁵ He also explained that religious buildings 'are places where people take refuge when there are problems', that 'it hurts' and he was 'sad' to see the Boeing Mosque destroyed.¹⁰⁴⁴⁶

4542. Considering the nature of Mr Yekatom's specific acts and conduct in the context of the Anti-Balaka's attack on Boeing and Cattin¹⁰⁴⁴⁷ and the means used by Mr Yekatom's elements to

¹⁰⁴⁴² See paragraph 78 above. See also [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, para. 51.

¹⁰⁴⁴³ See paragraphs 4404 above.

¹⁰⁴⁴⁴ See paragraph 2619 above.

¹⁰⁴⁴⁵ See paragraphs 2650-2651 above.

¹⁰⁴⁴⁶ See paragraph 2649 above. The Chamber also notes the expert report of Daryn Reicherter which concludes that the destruction of culturally significant property and religious sites has 'profound psychological effects' and has thus 'long been weaponised in war'. It notes that in the CAR specifically, 'civilians sought refuge in places of worship and cultural significance' and the targeting of such buildings 'would have led to an accumulation of stress and lack of a sense of safety'. See Daryn Reicherter Expert Report, CAR-OTP-2127-6805, at 6827-28. Regarding the Ngaïssona Defence's submissions on the alleged lack of probative value of Daryn Reicherter's report (Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 71, lines 14-20), the Chamber refers to its findings above (see footnote 10419 above). See also Prosecution Oral Sentencing Submissions: T-310, p. 37, lines 8-13; [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, paras 37-38; CLRV2 Oral Sentencing Submissions: T-310, p. 47, line 24 – p. 48, line 7.

¹⁰⁴⁴⁷ See e.g. paragraphs 4494-4497 above.

attack the Boeing Mosque, the Chamber is satisfied that it was entirely foreseeable to Mr Yekatom that the attack on the Boeing Mosque by his elements would lead to it being damaged and that such damage would cause harm to the Muslim communities of Boeing and Cattin. However, the Chamber does not consider that it was objectively foreseeable to Mr Yekatom for the purposes of sentencing that following the attack on the Boeing Mosque by his elements, it would be destroyed by the civilian population, resulting in further harm.

4543. Therefore, whilst the Chamber is mindful of the impact of the harm on the victims as described above,¹⁰⁴⁴⁸ the Chamber does not consider it appropriate in the circumstances to attribute the full extent of these consequences to Mr Yekatom. The Chamber accordingly only gives them limited weight in its determination of the individual sentence for this crime.

4544. The Chamber does not agree with the Yekatom Defence that the gravity of the crime is lessened because it concerns a crime against a single property, which was not the only mosque used by local residents and which was subsequently rebuilt and reopened in 2021.¹⁰⁴⁴⁹ Rather, the Chamber considers that the gravity of the crime is heightened given that the Boeing Mosque had a specific emotional and psychological value to the inhabitants of Boeing and Cattin.

4545. Regarding Mr Yekatom's participation and intent in relation to this crime, the Chamber recalls its above findings.¹⁰⁴⁵⁰ In particular, it recalls that it was upon Mr Yekatom's instructions that his elements carried out the attack on the Boeing Mosque.¹⁰⁴⁵¹

4546. Having considered all of the above circumstances, as well as the factors relevant to all crimes,¹⁰⁴⁵² in particular the aggravating circumstance of committing the crime for a discriminatory motive,¹⁰⁴⁵³ the Chamber sentences Mr Yekatom to a term of 8 years of

¹⁰⁴⁴⁸ See paragraphs 4539, 4541 above.

¹⁰⁴⁴⁹ [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, para. 18. *Contra* CLRV2 Oral Sentencing Submissions: T-310, p. 47, line 24 – p. 48, line 7.

¹⁰⁴⁵⁰ See in particular paragraphs 4492-4498 above.

¹⁰⁴⁵¹ See paragraph 78 above.

¹⁰⁴⁵² See section VI.B.2; section VI.B.3.i; paragraphs 4492-4499 above.

¹⁰⁴⁵³ See section VI.B.2.i.a above.

imprisonment for the war crime of directing an attack against a building dedicated to religion (Count 6).

v. *Persecution as a crime against humanity*
(Count 8)

4547. In relation to the crime against humanity of persecution, it is noted that persecution is essentially a crime against equality of all persons regardless of their political, racial, national, ethnic, cultural, religious or gender affiliation or identity, and regardless of any other ground of discrimination universally recognised as impermissible under international law. The blameworthiness of the crime lies in the deprivation of fundamental rights underlying it, and additionally – and crucially – in the discrimination by the perpetrator in selecting the target(s). Therefore, the Chamber considers that persecution is a particularly serious crime *in abstracto*.¹⁰⁴⁵⁴

4548. Turning to the assessment of the facts *in concreto*, the Chamber considers the gravity of Count 8 to be high. In this regard, the Chamber highlights that Mr Yekatom's elements targeted a substantial number of Muslim persons on religious grounds,¹⁰⁴⁵⁵ and violated numerous fundamental rights, namely, the right to liberty and security of person, right to liberty of movement, right against arbitrary or unlawful interference with their family, and home, right to property, right to freedom of religion, right not to be denied the right to practice their own religion in community with other members of their group, and in the case of four Muslim men, going as far as denying them their right to life.¹⁰⁴⁵⁶ Mr Yekatom specifically meant for the Muslim civilian population in Boeing and Cattin to be targeted because of their religious and ethnic commonalities with the Seleka.¹⁰⁴⁵⁷

4549. It further recalls its findings above regarding the crime-specific considerations made in relation to assessing the gravity of Counts 1 to 6, including the harm and consequences caused by these crimes and Mr Yekatom's degree of participation and intent. The Chamber

¹⁰⁴⁵⁴ See [Al Hassan Sentencing Judgment](#), ICC-01/12-01/18-2662, para. 70; [Ongwen Sentencing Judgment](#), ICC-02/04-01/15-1819-Red, para. 174; [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, para. 175.

¹⁰⁴⁵⁵ See paragraph 4004 above. See also paragraph 4520 above.

¹⁰⁴⁵⁶ See paragraph 4002 above. See also [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, para. 26.

¹⁰⁴⁵⁷ See paragraph 4024 above.

notes that the facts underlying his conviction under Count 8 are the same as those forming the basis of the convictions under Counts 1 to 6. In this respect, it stresses, once more, that these factual overlaps are duly taken into account in the context of determining the joint sentence.

4550. Having considered all of the above circumstances, as well as the factors relevant to all crimes,¹⁰⁴⁵⁸ with the exception of the aggravating factor of committing the crime for a discriminatory motive, the Chamber sentences Mr Yekatom to a term of 10 years of imprisonment for the crime against humanity of persecution (Count 8).

b. *Crimes committed within the context of the events at Yamwara on and around 24 December 2013 (Counts 11 to 17)*

4551. The Chamber observes that the crimes committed in the context of the events at Yamwara share a number of features,¹⁰⁴⁵⁹ in particular as concerns Mr Yekatom's individual responsibility. In this respect, the Chamber recalls its findings above.¹⁰⁴⁶⁰ Notably, it recalls that Mr Yekatom is convicted of committing the crimes underlying Counts 11 to 17 through others pursuant to Article 25(3)(a) of the Statute.

4552. In determining Mr Yekatom's degree of participation and intent for the purposes of sentencing, the Chamber notes that Mr Yekatom was not present when his elements took the seven persons to Yamwara and interrogated them.¹⁰⁴⁶¹ Mr Yekatom was also not present during the mistreatment of Saint Cyr, P-1704, P-1705, and P-1716 in front of Cœur de Lion's

¹⁰⁴⁵⁸ See section VI.B.2; section VI.B.3.i; paragraphs 4492-4499 above.

¹⁰⁴⁵⁹ In this respect, the Chamber notes that these features are addressed jointly for all crimes merely for clarity and avoidance of duplication. However, it emphasises that it has taken each of these findings into account when determining the individual sentences below.

¹⁰⁴⁶⁰ See paragraphs 36, 48, 55, 63; section II.D.3, in particular paragraphs 103-107, 110-111; paragraphs 1299, 1305; section V.B.3.iii.b.i above.

¹⁰⁴⁶¹ See paragraph 100 above. Recalling the Appeals Chamber's jurisprudence that physical proximity to the commission of crimes 'may be indicative of the degree of participation of an individual in certain circumstances' (see [Ntaganda Sentencing Appeals Judgment](#), ICC-01/04-02/06-2667-Red, paras 1, 45), the Chamber considers that the lack thereof may equally inform its determination in the present circumstances. See further [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, para. 22; Yekatom Defence Oral Sentencing Submissions: T-311, p. 32, lines 12-22; [Prosecution Sentencing Brief](#), ICC-01/14-01/18-2747-Red, para. 22.

house,¹⁰⁴⁶² nor when the Five Captives were made to walk from Yamwara to a location close to the M’Poko airport.¹⁰⁴⁶³

4553. However, the Chamber considers that multiple other circumstances significantly heighten Mr Yekatom’s degree of participation and show that he acted with a high degree of intent. First, the Chamber recalls that at Yamwara, Mr Yekatom was considered the chief, had unlimited control over his elements’ activities, and the elements involved in the Yamwara Incident reported to him.¹⁰⁴⁶⁴ As stated above, and specifically with regard to the Yamwara Incident, the Chamber finds that from the moment of the capture of the seven persons and at least until their respective death or release, Mr Yekatom retained full control over the actions of his elements and of their will.¹⁰⁴⁶⁵ Second, Mr Yekatom was not only aware that his elements committed crimes against the seven persons, but was present at Yamwara during the evening of 24 December 2013; and interacted with the Five Captives, Saint Cyr’s father and P-1839.¹⁰⁴⁶⁶ Third, he not only failed to discipline or sanction his elements’ criminal behaviour, but even approved of it.¹⁰⁴⁶⁷ His approval, participation in, and power over the execution of the crimes can further be deduced from his use of the phrase ‘*eforolo tonga na papai*’ after the events, meaning that they ‘peeled the papaya’, a term equally used by his elements at Yamwara on multiple occasions during this incident.¹⁰⁴⁶⁸ In light of his supreme role at Yamwara, the Chamber considers that Mr Yekatom’s aforementioned behaviour endorsed his elements’ criminal conduct and encouraged them to continue in the commission of crimes.

4554. Turning to the Yekatom Defence’s submission that Mr Yekatom undertook genuine and non-selective efforts to assist the victims by securing the release and transfer of the ‘Lapo

¹⁰⁴⁶² See paragraph 103 above.

¹⁰⁴⁶³ See paragraph 109 above.

¹⁰⁴⁶⁴ See paragraphs 92, 3183 above.

¹⁰⁴⁶⁵ See paragraph 4242 above.

¹⁰⁴⁶⁶ See paragraphs 103-105, 110, 4241 above.

¹⁰⁴⁶⁷ See paragraphs 103, 111, 3273-3274; 4237, 4249 above. See also Prosecution Oral Sentencing Submissions: T-310, p. 12, line 23 – p. 14, line 5.

¹⁰⁴⁶⁸ See paragraphs 103, 4247 above.

family’,¹⁰⁴⁶⁹ the Chamber notes that this has not been established by the evidence. In this respect, it refers to its findings above.¹⁰⁴⁷⁰

4555. The Chamber is mindful that certain factual findings on Mr Yekatom’s acts only pertain to specific crimes committed at Yamwara. Where this is the case, they are discussed in the context of the relevant crimes below. Nonetheless, these differences do not lead to different conclusions regarding Mr Yekatom’s degree of participation and intent for the individual crimes committed. On the contrary, taking all of the above as well as the below crime-specific considerations into account, the Chamber considers Mr Yekatom’s degree of participation to be significant and his intent high for each of the crimes underlying Counts 11 to 17.

4556. Another feature common to all crimes committed at Yamwara is their commission for motives involving discrimination. In this regard, the Chamber recalls that the seven persons were targeted by Mr Yekatom’s group on the basis that they were perceived to be Muslims, as well as Mr Yekatom’s intent in that regard.¹⁰⁴⁷¹ Alkanto, who led the checkpoint at which the seven persons were apprehended, and over whom Mr Yekatom had undisputed authority, identified the female captives as being related to Michel Djotodia and Mamour as well as being Muslims, and ordered their transfer to Yamwara. This identification marked the beginning of various death threats expressed by his group against all seven persons.¹⁰⁴⁷² Mr Yekatom’s and his elements’ discriminatory approach is further demonstrated by virtue of their interrogating of the six persons, as well as P-1654, about their ethnicity and demanding the male captives to speak in the dialect associated therewith.¹⁰⁴⁷³ As indicated

¹⁰⁴⁶⁹ [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, para. 35 *referring to* Yekatom Defence Closing Brief, ICC-01/14-01/18-2737-Conf-Corr, para. 463 *and the references cited therein*. *See also* Yekatom Defence Oral Sentencing Submissions: T-311, p. 34, lines 5-23. *Contra* CLRV2 Oral Sentencing Submissions: T-310, p. 51, lines 14-22, p. 52, lines 7-13.

¹⁰⁴⁷⁰ *See* paragraphs 3229, 4216 above. *See also* paragraphs 3228, 3272 above.

¹⁰⁴⁷¹ *See* paragraphs 48, 4230-4231, 4253 above.

¹⁰⁴⁷² *See* paragraphs 96-97 above.

¹⁰⁴⁷³ The Chamber recalls that elements in Mr Yekatom’s group interrogated the four men individually on their identity, ethnicity, and reasons for being there with the women, also demanding the captive men to speak in the dialect associated with their respective ethnicities. Moreover, it recalls that Mr Yekatom himself interrogated the female captives about their ethnicities and family background and, together with other elements, questioned P-1654 about his family, including about his ethnicity. *See* paragraphs 100, 104-105 above.

above,¹⁰⁴⁷⁴ the Chamber considers this circumstance to be an aggravating factor within the meaning of Rule 145(2)(b)(v) of the Rules for the crimes underlying Counts 11 to 17.¹⁰⁴⁷⁵

4557. Contrarily, the Chamber cannot discern a particular vulnerability or defencelessness of the seven persons within the sense of Rule 145(2)(b)(iii) of the Rules,¹⁰⁴⁷⁶ which would warrant an aggravated sentence for all crimes committed during the Yamwara Incident. It considers that the particular circumstances of their treatment are more appropriately accounted for in the Chamber's assessment of the circumstances of manner, location and means employed to execute the crime pursuant to Rule 145(i)(c) of the Rules below.

4558. Lastly, the Chamber considers that the following circumstances should be taken into account in assessing Counts 11 to 17, as they concern the nature of the unlawful behaviour and the means employed, as well as the impact of the crimes.

4559. First, the Chamber finds that the environment set up by the Anti-Balaka at Yamwara was deliberately vicious and chosen to increase the suffering of the seven persons.¹⁰⁴⁷⁷ Notably, it recalls that Yamwara was a base with approximately 1,000 Anti-Balaka elements present¹⁰⁴⁷⁸ and that the captives were brought there only a few weeks after the Bangui Attack, during which Mr Yekatom's elements had killed Muslim civilians.¹⁰⁴⁷⁹ The Chamber also considers it relevant that some of Mr Yekatom's elements, who kept the seven persons captive, were armed and continuously demonstrated their willingness to use their weapons against the captives.¹⁰⁴⁸⁰ For instance, when the three women were being kept inside Cœur de Lion's house, an element at the main entrance had a weapon pointed in their direction.¹⁰⁴⁸¹

¹⁰⁴⁷⁴ See section VI.B.2.i.a above.

¹⁰⁴⁷⁵ With respect to Count 17, the Chamber recalls that the discriminatory dimension is a constitutive element of the crime against humanity of persecution. Accordingly, the Chamber does not consider it as an aggravating factor for this crime.

¹⁰⁴⁷⁶ [Prosecution Sentencing Brief](#), ICC-01/14-01/18-2747-Red, paras 23-24; Prosecution Oral Sentencing Submissions: T-310, p. 39, line 20 – p. 40, line 6. *Contra* [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, para. 30; Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 73, line 7 – p. 74, line 1.

¹⁰⁴⁷⁷ See also [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, para. 52.

¹⁰⁴⁷⁸ See paragraph 3048 above.

¹⁰⁴⁷⁹ In this regard, the Chamber recalls that P-1705 stated that on 5 December 2013, 'when there were shots fired' in Boeing, some people took refuge in Kilometre 5 and others took shelter in their own homes and were killed by the Anti-Balaka, the houses and the mosque were destroyed. P-1705 specified that he knew it was the Anti-Balaka who killed them because 'those who went to see what was going on' told him about the events. See paragraph 2724 above.

¹⁰⁴⁸⁰ See paragraphs 104, 3203, 3217, 3219 above.

¹⁰⁴⁸¹ See paragraph 3219 above.

Further, Mr Yekatom's elements holding the women captive inside the second house were also armed, with at least a machete and a firearm.¹⁰⁴⁸² P-1811 recalled that an element grazed the wall with a machete, surprising P-0967 by raising it towards her and calling her a 'chicken'.¹⁰⁴⁸³

4560. Furthermore, the captives were continuously threatened to be killed by Mr Yekatom's elements and treated as 'traitors'.¹⁰⁴⁸⁴ From the moment they were apprehended at the checkpoint until being brought to the location behind the airport, or in Saint Cyr's case until his death, they were confronted with graphic death threats such as to be 'skinned like a papaya'.¹⁰⁴⁸⁵ In particular, at the checkpoint, they were told that 'today we are going to sow some seeds', which P-1811 understood to mean that 'since the soil is wet, it would open and they would bury them there'.¹⁰⁴⁸⁶ P-0967 explained that when hearing such language '[i]t was quite clear to [them] that it meant that [they] would be buried that day'.¹⁰⁴⁸⁷

4561. Additionally, the Chamber considers the fact that one of the seven persons died as a result of their captivity by the Anti-Balaka indicative of the high level of brutality employed.

4562. The seven persons' state of uncertainty was further aggravated by regrouping them multiple times into sub-groups throughout their captivity,¹⁰⁴⁸⁸ and moving them to different locations,¹⁰⁴⁸⁹ with no clarity as to the reasons for this procedure, the fate of each group or the duration of their captivity. Moreover, the Chamber notes that the Anti-Balaka elements further intensified the captives' vulnerable situation and stripped them of their dignity by searching them on two occasions¹⁰⁴⁹⁰ and forcing them to undress, which in the case of the female captives included removing their veils.¹⁰⁴⁹¹

¹⁰⁴⁸² See paragraph 3255 above.

¹⁰⁴⁸³ See paragraph 3255 above.

¹⁰⁴⁸⁴ See e.g. paragraphs 97, 99, 101-102, 104, 107-108 above.

¹⁰⁴⁸⁵ See paragraphs 97, 4247 above. See also [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, para. 52.

¹⁰⁴⁸⁶ See paragraph 3144 above.

¹⁰⁴⁸⁷ See paragraph 3144 above.

¹⁰⁴⁸⁸ See paragraphs 100, 107-108 above.

¹⁰⁴⁸⁹ See paragraph 109 above.

¹⁰⁴⁹⁰ See paragraphs 98, 101, 104 above.

¹⁰⁴⁹¹ See paragraphs 101, 104, 3227 above.

4563. Second, the Chamber also finds it noteworthy that the Yamwara Incident took place on the day of Saint Cyr's brother's funeral,¹⁰⁴⁹² a period of grief for all captives. This fact was known to Mr Yekatom and his elements.¹⁰⁴⁹³ In this respect, the Chamber recalls in particular that the deceased was Saint Cyr's [REDACTED] older brother and that the six persons, who were family members or friends of the Lapo N'Gomat family, were apprehended by Mr Yekatom's group only hours after some of them had transported his dead body from the hospital to his family home.¹⁰⁴⁹⁴

4564. Third, the Chamber is mindful of the impact of the crimes committed at Yamwara and the Anti-Balaka's continued presence in its vicinity. Notably, these crimes caused multiple harms to the surviving captives, in particular Saint Cyr's family members, as further discussed below. Furthermore, these crimes and their continued presence created an environment of fear, which forced at least [REDACTED], [REDACTED] and P-1654 and his family to flee.¹⁰⁴⁹⁵

4565. The Chamber considers that all of these harms were objectively foreseeable to Mr Yekatom. In this respect, it recalls that Mr Yekatom, fully aware of the Anti-Balaka's objectives and policy, set up a base at Yamwara together with his group, as well as checkpoints along its perimeter to monitor the passage of vehicles and people.¹⁰⁴⁹⁶ He was aware that FACA members of his group, who also trained civilian elements, bore strong anti-Muslim sentiments and feelings of vengeance against the Seleka and that his elements would not distinguish between Seleka and Muslim civilians during combat.¹⁰⁴⁹⁷ Moreover, the resulting harms caused to the surviving captives of the Yamwara Incident by virtue of their mistreatment, as well as the impact on Saint Cyr's family and friends as a result of his torture

¹⁰⁴⁹² See paragraph 98 above.

¹⁰⁴⁹³ See paragraphs 106, 3160-3161 above.

¹⁰⁴⁹⁴ See paragraphs 3131-3132 above.

¹⁰⁴⁹⁵ See P-1654 Statement, CAR-OTP-2053-0112-R04, at 0118, paras 44-45; [REDACTED], p. 62, line 18 – p. 63, line 9; [REDACTED], p. 8, lines 18-23. See also paragraphs 105, 3235, 3243, 3250 above.

¹⁰⁴⁹⁶ See paragraphs 63, 91 above.

¹⁰⁴⁹⁷ See paragraphs 74, 2452. The Chamber notes that while this discussion is situated in the Chamber's evidentiary analysis of the Bangui attack, it is equally relevant to the setting up of the Yamwara base and the Yamwara Incident which occurred only shortly after 5 December 2013, in particular bearing in mind that elements such as Cœur de Lion, at least until his death, and Habib Beina were elements of the group throughout events during the Bangui Attack, Yamwara and along the PK9-Mbaïki axis.

and murder, were inherent to the nature of the crimes committed during the Yamwara Incident.

i. Imprisonment and other forms of severe deprivation of physical liberty as a crime against humanity (Count 14)

4566. The crime of imprisonment and other forms of severe deprivation of physical liberty as a crime against humanity protects the liberty of physical movement, thus making it a crime of substantial gravity in the abstract.¹⁰⁴⁹⁸

4567. Turning to the assessment of the facts *in concreto*, the Chamber considers the gravity of Count 14 to be high. It recalls its findings above regarding the circumstances of and the means employed to execute all crimes committed at Yamwara, in particular the enormous brutality exercised.¹⁰⁴⁹⁹ In this context, the Chamber takes into account that during their captivity, the seven persons not only had to endure the deprivation of their own liberty, but were also exposed to parts of Saint Cyr's mistreatment. Notably, the female captives were put in a situation where they had no choice but to listen and guess about his fate,¹⁰⁵⁰⁰ the men witnessed his mistreatment first-hand.¹⁰⁵⁰¹

4568. With respect to P-1716, the Chamber recalls that, when the Five Captives were regrouped, he was separated from the group and kept apart from them at Yamwara under Cœur de Lion's watch.¹⁰⁵⁰² Mr Yekatom's elements went as far as to show him where they had previously buried other people.¹⁰⁵⁰³ This isolation from the other captives and threats further exacerbated his already vulnerable position.

4569. With respect to Saint Cyr, the Chamber notes that he was held captive at gunpoint and had to endure multiple barbaric physical assaults on his body. The Chamber recalls in this regard

¹⁰⁴⁹⁸ See similarly [Ongwen Sentencing Judgment](#), ICC-02/04/01/15-1819-Red, para. 162 with regard to assessing liberty of physical movement in the context of the crime against humanity of enslavement.

¹⁰⁴⁹⁹ See e.g. paragraphs 4558-4564 above.

¹⁰⁵⁰⁰ See paragraphs 104, 3227 above.

¹⁰⁵⁰¹ See paragraphs 101, 3174 above.

¹⁰⁵⁰² See paragraph 107 above.

¹⁰⁵⁰³ See paragraph 3247 above.

that Saint Cyr's legs were broken, his toes, fingers and an ear cut off and he was tied up in the '*arbatacher*' manner.¹⁰⁵⁰⁴ Ultimately, he was killed by Mr Yekatom's elements.¹⁰⁵⁰⁵

4570. The Chamber further takes into account the extent of victimisation, notably that Mr Yekatom's elements severely deprived a total of seven individuals of their physical liberty,¹⁰⁵⁰⁶ some of whom suffered this deprivation in two separate locations.

4571. Additionally, it notes the emotional and psychological harm caused by the commission of the crime on the surviving captives. P-1716 testified that he was 'at the point of death, so [he] cannot forget what was happening' and that the events 'haunt' him until today.¹⁰⁵⁰⁷ P-0967 stated '[i]t was horrible. It was very difficult. We didn't think we were going to survive.'¹⁰⁵⁰⁸

4572. Finally, the Chamber is not persuaded by the Yekatom Defence's argument that Count 14 is of reduced gravity as the 'duration of the alleged imprisonment of the Lapo family members amounted to a single evening'.¹⁰⁵⁰⁹ First, this is not supported by the evidence for *all* captives: amongst the six persons, five were held from 24 until on or about 27 December 2013,¹⁰⁵¹⁰ and only P-1716's detention lasted one night.¹⁰⁵¹¹ As regards Saint Cyr, the Chamber notes that his captivity was cut short by no other reason than his murder by Mr Yekatom's elements.¹⁰⁵¹² Second, the Chamber is, in any event, of the view that the duration of the six persons' captivity cannot be considered in isolation. Rather, it must be considered jointly with the other circumstances surrounding the events, as set out above and below.

¹⁰⁵⁰⁴ See paragraph 101 above.

¹⁰⁵⁰⁵ See paragraph 4220 above.

¹⁰⁵⁰⁶ In this respect, the Chamber recalls that the crime is already fulfilled with the detention of only *one* person, see paragraph 3835 above.

¹⁰⁵⁰⁷ P-1716: T-147, p. 15, lines 13-18.

¹⁰⁵⁰⁸ P-0967: T-199, p. 48, line 23 – p. 49, line 1.

¹⁰⁵⁰⁹ [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, para. 20. See also Yekatom Defence Oral Sentencing Submissions: T-311, p. 33, lines 13-22. *Contra* Prosecution Oral Sentencing Submissions: T-310, p. 37, line 22 – p. 38, line 14.

¹⁰⁵¹⁰ See paragraphs 95-96, 110, 4202 above.

¹⁰⁵¹¹ See paragraphs 95-96, 107, 4201 above.

¹⁰⁵¹² See paragraph 4200 above.

4573. Regarding Mr Yekatom's degree of participation and intent in relation to this crime, the Chamber recalls its findings above.¹⁰⁵¹³ In particular, it recalls that by virtue of his position, Mr Yekatom had the sole power to end the deprivation of the captives' physical liberty throughout the period of their respective captivities.¹⁰⁵¹⁴ Fully cognisant of this power, as well as the fact that his elements had mistreated Saint Cyr and the latter's physical state in the evening of 24 December 2013,¹⁰⁵¹⁵ Mr Yekatom did not intervene to free the captives.

4574. Having considered all of the above circumstances, as well as the factors relevant to all crimes,¹⁰⁵¹⁶ in particular the aggravating circumstance of committing the crime for a discriminatory motive,¹⁰⁵¹⁷ the Chamber sentences Mr Yekatom to a term of 10 years of imprisonment for the crime against humanity of imprisonment and other forms of severe deprivation of physical liberty (Count 14).

ii. *Other inhumane acts as a crime against humanity (Count 11) and cruel treatment as a war crime (Count 13)*

4575. At the outset, the Chamber notes that the facts underlying Counts 11 and 13 (with regard to cruel treatment of the six persons) overlap. Accordingly, it addresses these counts jointly in this section.

4576. The crime of other inhumane acts pursuant to Article 7(1)(k) of the Statute is particularly serious as it is directed against a person and requires the perpetrator to intentionally inflict great suffering, or serious injury to body or to mental or physical health. Irrespective of the crime's residual nature,¹⁰⁵¹⁸ 'inhumane acts' are considered to be 'serious violations of international customary law and the basic rights pertaining to human beings, drawn from the

¹⁰⁵¹³ See in particular paragraphs 4551-4555 above.

¹⁰⁵¹⁴ See paragraph 4248 above.

¹⁰⁵¹⁵ See paragraphs 106, 3241 above.

¹⁰⁵¹⁶ See section VI.B.2; section VI.B.3.i; paragraphs 4551-4565 above.

¹⁰⁵¹⁷ See section VI.B.2.i.a above.

¹⁰⁵¹⁸ See paragraph 3825 above.

norms of international human rights law, which are of a similar nature and gravity to the acts referred to in [A]rticle 7(1) of the Statute’.¹⁰⁵¹⁹

4577. Similarly, the war crime of cruel treatment is inherently grave as it violates the personal integrity of the victim. The Chamber further notes that this crime is prohibited by most universal or regional human rights instruments,¹⁰⁵²⁰ as well as under international humanitarian law,¹⁰⁵²¹ further attesting to its severity.¹⁰⁵²²

4578. In light of the above, the Chamber considers that the gravity of both crimes must be considered high *in abstracto*.

4579. Turning to the assessment of the facts *in concreto*, the Chamber finds the gravity of Counts 11 and 13 to be high. The Chamber recalls its findings above regarding the circumstances of and the means employed to execute the crimes committed at Yamwara in this respect.¹⁰⁵²³

4580. The Chamber finds it of particular note that the harms inflicted on the captives under Counts 11 and 13 were executed through numerous different acts and were multi-faceted, as they caused physical, as well as psychological and emotional harms. Regarding the latter, the Chamber particularly recalls that the captives witnessed Saint Cyr’s torture. Notably, the male captives watched parts of Saint Cyr’s mistreatment¹⁰⁵²⁴ and the female captives were put in a situation where they had no choice but to listen and guess about Saint Cyr’s fate.¹⁰⁵²⁵

4581. P-1704, P-1705, and P-1716 described this horrific experience and not being able to do anything.¹⁰⁵²⁶ Notably, P-1716 stated that ‘[i]t was terrible to watch live directly what was happening. Somebody that I knew, he was being beaten, his leg was being fractured and

¹⁰⁵¹⁹ Pre-Trial Chamber I, *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, [Decision on the confirmation of charges](#), 30 September 2008, ICC-01/04-01/07-717, para. 448.

¹⁰⁵²⁰ See in particular article 7 [International Covenant on Civil and Political Rights](#) (UNTS, Vol. 999 (1976), p. 175); article 5 [Universal Declaration of Human Rights](#) (GA/RES/217 A(III) of 10 December 1948); article 5 [African Charter on Human and Peoples’ Rights](#) (UNTS, Vol. 1520 (1988), p. 247); article 5(2) [American Convention on Human Rights](#) (UNTS, Vol. 1144 (1979), p. 145).

¹⁰⁵²¹ See Common Article 3 of the four Geneva Conventions; Article 4(2)(a) of [Additional Protocol II](#).

¹⁰⁵²² See also [Al Hassan Sentencing Judgment](#), ICC-01/12-01/18-2662, para. 44.

¹⁰⁵²³ See e.g. paragraphs 4558-4564 above.

¹⁰⁵²⁴ See paragraphs 101, 3174 above.

¹⁰⁵²⁵ See paragraph 104, 3227, 3254 above.

¹⁰⁵²⁶ See P-1716: T-147, p. 15, lines 11-18; P-1704: T-128, p. 25, line 17 – p. 26, line 3; P-1705: T-211, p. 37, line 21 – p. 38, line 3.

parts of his body were being cut off’, ‘we were being subjected to these atrocities live’.¹⁰⁵²⁷ P-1704 said that that he felt ‘traumatised’.¹⁰⁵²⁸ The Chamber considers that the exposure to a family member’s or friend’s suffering, whilst in a precarious and frightening situation oneself, is particularly cruel and heightens the gravity of these crimes.

4582. With respect to P-1716 particularly, the Chamber further recalls that, when the Five Captives were regrouped, he was separated from the group and kept apart from the other captives at Yamwara under Cœur de Lion’s watch.¹⁰⁵²⁹ P-1716 indicated that the ‘Anti-Balaka’ constantly told him that he would be killed and buried. The witness further stated that they showed him where they had previously buried other people and that the ground was indeed ‘disturbed’ in these locations.¹⁰⁵³⁰ The Chamber finds this behaviour of constantly and graphically reminding P-1716 that his survival was entirely in the control of Mr Yekatom’s elements, to exhibit particular cruelty.

4583. In addition to the above, the Chamber also considers relevant that the crimes underlying Counts 11 and 13 were committed against a total of six individuals and the long-lasting impact caused, as already touched upon above.¹⁰⁵³¹ In this context, the Chamber particularly highlights that P-1704 and P-1716 indicated that they continue to be haunted by the events.¹⁰⁵³² P-1704 stated that:

I’m still haunted by what happened. Even last night I thought about it. And often I get headaches because of it. [...] Sometimes I even have nightmares about what happened, you see. [...] I see it in my mind again, like a movie, when they were hitting him and cutting his ears off. It[’s] still traumatising me.¹⁰⁵³³

4584. In contrast, and taking note of the Yekatom Defence’s submissions in this regard,¹⁰⁵³⁴ the Chamber has duly taken into account that, apart from Saint Cyr, the captives were not severely physically injured.

¹⁰⁵²⁷ P-1716: T-147, p. 15, lines 5-18.

¹⁰⁵²⁸ P-1704: T-128, p. 25, lines 6-8.

¹⁰⁵²⁹ See paragraph 107 above.

¹⁰⁵³⁰ P-1716 Statement, CAR-OTP-2053-0062-R01, at 0070, para. 45. See also paragraph 3247 above.

¹⁰⁵³¹ See e.g. paragraph 4571 above.

¹⁰⁵³² P-1704: T-128, p. 25, line 17 – p. 26, line 3; P-1716: T-147, p. 15, lines 11-18.

¹⁰⁵³³ P-1704: T-128, p. 25, lines 21-25.

¹⁰⁵³⁴ See Yekatom Defence Oral Sentencing Submissions: T-311, p. 33, lines 23-24.

4585. Regarding Mr Yekatom's degree of participation and intent in relation to these crimes, the Chamber recalls its findings above.¹⁰⁵³⁵ In particular, it recalls that by virtue of his position, Mr Yekatom had the sole power to end the mistreatment of the six persons.¹⁰⁵³⁶ Fully cognisant of this power, as well as the fact that his elements mistreated Saint Cyr and the latter's physical state in the evening of 24 December 2013,¹⁰⁵³⁷ Mr Yekatom did not intervene to free the captives.

4586. Having considered all of the above circumstances, as well as the factors relevant to all crimes,¹⁰⁵³⁸ in particular the aggravating circumstance of committing the crimes for a discriminatory motive,¹⁰⁵³⁹ the Chamber sentences Mr Yekatom to a term of 10 years of imprisonment for the crime against humanity of other inhumane acts (Count 11) and 10 years of imprisonment for the war crime of cruel treatment (Count 13).

*iii. Torture as a crime against humanity and as
a war crime (Counts 12 and 13)*

4587. At the outset, the Chamber notes that torture as a crime against humanity contains legal elements which are not contained in torture as a war crime, and *vice versa*.¹⁰⁵⁴⁰ However, the Chamber is of the view that it cannot be said in the abstract whether the presence of these

¹⁰⁵³⁵ See in particular paragraphs 4551-4555 above.

¹⁰⁵³⁶ See paragraph 4248 above.

¹⁰⁵³⁷ See paragraphs 106, 3241 above.

¹⁰⁵³⁸ See section VI.B.2; section VI.B.3.i; paragraphs 4551-4565 above.

¹⁰⁵³⁹ See section VI.B.2.i.a above.

¹⁰⁵⁴⁰ Notably, both crimes require that the 'perpetrator inflicted severe physical or mental pain or suffering upon one or more persons'. However, Article 7(1)(f) of the Elements of Crimes requires the following elements: 'Such person or persons were in the custody or under the control of the perpetrator'; 'Such pain or suffering did not arise only from, and was not inherent in or incidental to, lawful sanctions'; 'The conduct was committed as part of a widespread or systematic attack directed against a civilian population'; and 'The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population'. Contrarily, Article 8(2)(c)(i) of the Elements of Crimes requires: 'The perpetrator inflicted the pain or suffering for such purposes as: obtaining information or a confession, punishment, intimidation or coercion or for any reason based on discrimination of any kind'; 'Such person or persons were either *hors de combat*, or were civilians, medical personnel or religious personnel taking no active part in the hostilities'; 'The perpetrator was aware of the factual circumstances that established this status'; 'The conduct took place in the context of and was associated with an armed conflict not of an international character'; and 'The perpetrator was aware of factual circumstances that established the existence of an armed conflict'.

additional elements renders one of the crimes graver than the other.¹⁰⁵⁴¹ Accordingly, the Chamber considers that their gravity *in abstracto* shall be assessed as one.

4588. Torture is a particularly heinous act, by which an individual's human dignity, security and mental well-being is assaulted. The right not to be subjected to torture is a non-derogable right recognised in customary and conventional international law¹⁰⁵⁴² and as a norm of *ius cogens*. The gravity of this crime, both as a war crime and as a crime against humanity, must therefore be considered very high *in abstracto*.¹⁰⁵⁴³

4589. Turning to the assessment of the facts *in concreto*, the Chamber considers the gravity of the crimes underlying Counts 12 and 13 (torture of Saint Cyr) as particularly high. In this respect, the Chamber highlights the circumstances of and the means employed to execute these crimes.¹⁰⁵⁴⁴ While the crimes only concern one individual, Saint Cyr, the manner in which he was mistreated was particularly depraved and violent.¹⁰⁵⁴⁵ Notably, he was unarmed¹⁰⁵⁴⁶ and beaten by multiple perpetrators for a considerable amount of time. The assailants knocked Saint Cyr to the ground, used a stick to force him down on his knees¹⁰⁵⁴⁷ and specifically beat his legs, breaking them. His hands and feet were tied together in the back in the 'arbatacher'-style and despite his inability to defend himself, the assailants continued assaulting him.¹⁰⁵⁴⁸ Eventually an element in Mr Yekatom's group went as far as to cut off his toes, fingers and an ear.¹⁰⁵⁴⁹

4590. The Chamber further recalls that P-1716 considered Saint Cyr to be in 'a very critical' state when he was taken away, indicating that it was unlikely that he would still be alive.¹⁰⁵⁵⁰ P-

¹⁰⁵⁴¹ See similarly [Ongwen Sentencing Judgment](#), ICC-02/04/01/15-1819-Red, para. 157.

¹⁰⁵⁴² See in particular article 7 of the [International Covenant on Civil and Political Rights](#) (UNTS, Vol. 999 (1976), p. 175); article 5 of the [Universal Declaration of Human Rights](#) (GA/RES/217 A(III) of 10 December 1948); article 5 of the [African Charter on Human and Peoples' Rights](#) (UNTS, Vol. 1520 (1988), p. 247); article 5(2) [American Convention on Human Rights](#) (UNTS, Vol. 1144 (1979), p.145).

¹⁰⁵⁴³ See also [Al Hassan Sentencing Judgment](#), ICC-01/12-01/18-2662, para. 44; [Ongwen Sentencing Judgment](#), ICC-02/04/01/15-1819-Red, para. 157.

¹⁰⁵⁴⁴ See e.g. paragraphs 4558-4564 above.

¹⁰⁵⁴⁵ See also [Prosecution Sentencing Brief](#), ICC-01/14-01/18-2747-Red, paras 14, 24; [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, paras 20, 51.

¹⁰⁵⁴⁶ See paragraph 98 above.

¹⁰⁵⁴⁷ See paragraph 3171 above.

¹⁰⁵⁴⁸ See paragraph 101 above.

¹⁰⁵⁴⁹ See paragraph 101 above.

¹⁰⁵⁵⁰ See paragraph 3177 above.

1705 further indicated that Saint Cyr was simply thrown onto the ground,¹⁰⁵⁵¹ which, in the Chamber's view, further illustrates Mr Yekatom's elements' lack of appreciation for his dignity and life.

4591. Some of Saint Cyr's family members directly witnessed his mistreatment first-hand, the others were put in a situation where they had no choice but to listen to his cries from close by and left in a state of uncertainty as to his condition.¹⁰⁵⁵² Cœur de Lion, who watched Mr Yekatom's elements beat and interrogate Saint Cyr, encouraged and ordered the assailants to continue.¹⁰⁵⁵³

4592. The Chamber further notes the impact and harm caused to Saint Cyr's family as a result of his torture. In particular, it recalls that P-1704, P-1705, and P-1716 described how terrible it was to watch Saint Cyr's mistreatment and not being able to do anything,¹⁰⁵⁵⁴ which haunts them until today. The Chamber further notes that, P-1654, who had just lost his other older son, was left in a state of uncertainty of not knowing, until at least the release of the Five Captives, whether Saint Cyr was still alive.¹⁰⁵⁵⁵

4593. Regarding Mr Yekatom's degree of participation and intent in relation to these crimes, the Chamber recalls its findings above.¹⁰⁵⁵⁶ In particular, it recalls that Mr Yekatom considered Saint Cyr a 'traitor' and that they could therefore not 'keep him'. When asked about Saint Cyr's treatment, Mr Yekatom said in Sango '*eforolo tonga na papai*' – meaning that 'they peeled the papaya', 'they removed the skin like they would do to a papaya'.¹⁰⁵⁵⁷ The Chamber also notes that instead of punishing the element who cut off Saint Cyr's body parts, he praised the element for having done a 'good job' and rewarded the element with a post of responsibility in his group.¹⁰⁵⁵⁸

¹⁰⁵⁵¹ See paragraph 3177 above.

¹⁰⁵⁵² See paragraphs 101, 104, 3174, 3227 above.

¹⁰⁵⁵³ See paragraph 101 above.

¹⁰⁵⁵⁴ See *e.g.* paragraph 4581 above.

¹⁰⁵⁵⁵ See paragraph 3236 above.

¹⁰⁵⁵⁶ See *in particular* paragraphs 4551-4555 above.

¹⁰⁵⁵⁷ See paragraph 103 above.

¹⁰⁵⁵⁸ See paragraph 103 above. See also CLRV2 Oral Sentencing Submissions: T-310, p. 50, line 23 – p. 51, line 4.

4594. Mr Yekatom also did not inform Saint Cyr's father, P-1654, who was fearful for Saint Cyr, about his son's state and location, or that of the other captives. On the contrary, Mr Yekatom threatened him by telling him not to go to the authorities or he and his family would be killed.¹⁰⁵⁵⁹ Furthermore, no evidence has been brought before the Chamber to show that Mr Yekatom took any efforts to limit Saint Cyr's suffering or save his life.

4595. Having considered all of the above circumstances, as well as the factors relevant to all crimes,¹⁰⁵⁶⁰ in particular the aggravating circumstance of committing the crimes for a discriminatory motive,¹⁰⁵⁶¹ with the exception of the war crime of torture for which it is a constitutive element, the Chamber sentences Mr Yekatom to a term of 13 years of imprisonment for the crime against humanity of torture (Count 12) and 13 years of imprisonment for the war crime of torture (Count 13).

iv. *Murder as a crime against humanity and as
a war crime (Counts 15 and 16)*

4596. The Chamber recalls its considerations above in relation to the gravity of the crimes of murder *in abstracto*.¹⁰⁵⁶² Turning to the assessment of the facts *in concreto*, the Chamber considers the gravity of Counts 15 and 16 as particularly high.

4597. The Chamber notes the devastating impact of Saint Cyr's murder on his family. It recalls that Saint Cyr's four children, all under 18 years at the time of his capture, lost their father and had to be taken in by Saint Cyr's father, P-1654.¹⁰⁵⁶³ Saint Cyr's death impacted his family members immensely, in particular P-1654 and P-1705, who found themselves in great difficulty without his help.¹⁰⁵⁶⁴ P-0967 said that [REDACTED], Saint Cyr's mother, was on

¹⁰⁵⁵⁹ See paragraph 105 above.

¹⁰⁵⁶⁰ See section VI.B.2; section VI.B.3.i; paragraphs 4551-4565 above.

¹⁰⁵⁶¹ See section VI.B.2.i.a above.

¹⁰⁵⁶² See paragraph 4507 above.

¹⁰⁵⁶³ P-1654 Statement, CAR-OTP-2053-0112-R04, at 0118, para. 48.

¹⁰⁵⁶⁴ [REDACTED]

the verge of death because she was suffering, traumatised, losing two of her children in one week.¹⁰⁵⁶⁵

4598.P-0967 herself, who considered Saint Cyr as her [REDACTED], was similarly impacted, and described the anguish of not knowing what happened to him. During her testimony she begged the Court that:

If the commander of the Anti-Balaka, the person in charge of the Anti-Balaka who killed [REDACTED], I want to know, if he was buried, I beg him to tell me where the grave is so that I can talk about this to [REDACTED]. But if his flesh was sold at the market, he should tell me so so that I can find some peace.¹⁰⁵⁶⁶

4599.Regarding Mr Yekatom's degree of participation and intent in relation to these crimes, the Chamber recalls its findings above.¹⁰⁵⁶⁷

4600.Having considered all of the above circumstances, as well as the factors relevant to all crimes,¹⁰⁵⁶⁸ in particular the aggravating circumstance of committing the crimes for a discriminatory motive,¹⁰⁵⁶⁹ the Chamber sentences Mr Yekatom to a term of 14 years of imprisonment for the crime against humanity of murder (Count 15) and 14 years of imprisonment for the war crime of murder (Count 16).

v. *Persecution as a crime against humanity*
(Count 17)

4601.In relation to the gravity *in abstracto* of the crime against humanity of persecution, the Chamber refers to its considerations above.¹⁰⁵⁷⁰

4602.Turning to the assessment of the facts *in concreto*, the Chamber considers the gravity of Count 17 to be high. In this regard, the Chamber highlights that Mr Yekatom's elements

¹⁰⁵⁶⁵ P-0967: T-200, p. 9, line 20 – p. 10, line 14. See also [Prosecution Sentencing Brief](#), ICC-01/14-01/18-2747-Red, para. 13; [CLR2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, paras 30, 49; CLR2 Closing Brief, ICC-01/14-01/18-2734-Conf, para. 222.

¹⁰⁵⁶⁶ P-0967: T-200, p. 12, lines 1-5. See further P-1705: T-211, p. 55, lines 2-8.

¹⁰⁵⁶⁷ See in particular paragraphs 4551-4555, 4594 above.

¹⁰⁵⁶⁸ See section VI.B.2; section VI.B.3.i; paragraphs 4551-4565 above.

¹⁰⁵⁶⁹ See section VI.B.2.i.a above.

¹⁰⁵⁷⁰ See paragraph 4547 above.

targeted a total of seven individuals at Yamwara on religious grounds,¹⁰⁵⁷¹ and violated numerous fundamental rights of the captives, namely, the right to liberty and security of person, right against arbitrary arrest and detention and related procedural guarantees, right not to be subjected to torture and cruel, inhuman or degrading treatment, and right of all persons deprived of their liberty to be treated with humanity and with respect for their inherent dignity and, in Saint Cyr's case, going as far as denying him his right to life.¹⁰⁵⁷² Mr Yekatom intended his elements to persecute the seven persons on the basis that they were perceived to be Muslims.¹⁰⁵⁷³

4603. It further recalls its findings above regarding the circumstances of and the means employed to execute all crimes committed at Yamwara,¹⁰⁵⁷⁴ as well as the crime-specific considerations made in relation to assessing the gravity of Counts 11 to 16, including the harm and consequences caused by these crimes and Mr Yekatom's degree of participation and intent. The Chamber notes the facts underlying his conviction under Count 17 are the same as those forming the basis of the convictions under Counts 11 to 16. In this respect, it stresses, once more, that these factual overlaps are duly taken into account in the context of determining the joint sentence.

4604. Having considered all of the above circumstances, as well as the factors relevant to all crimes,¹⁰⁵⁷⁵ with the exception of the aggravating factor of committing the crime for a discriminatory motive, the Chamber sentences Mr Yekatom to a term of 10 years of imprisonment for the crime against humanity of persecution (Count 17).

¹⁰⁵⁷¹ See paragraphs 4230-4231 above.

¹⁰⁵⁷² See paragraph 4229 above. See also [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, para. 26.

¹⁰⁵⁷³ See paragraph 4253 above.

¹⁰⁵⁷⁴ See e.g. paragraphs 4558-4564 above.

¹⁰⁵⁷⁵ See section VI.B.2; section VI.B.3.i; paragraphs 4551-4565 above.

c. *Crimes committed in the context of the Anti-Balaka's advance through and takeover of villages along the PK9-Mbaïki axis (Counts 24 to 28)*

4605. The Chamber observes that the crimes committed in the context of Mr Yekatom's group's advance along the PK9-Mbaïki axis share a number of features,¹⁰⁵⁷⁶ in particular as concerns Mr Yekatom's individual responsibility. In this respect, the Chamber recalls its findings above.¹⁰⁵⁷⁷ Notably, it recalls that Mr Yekatom is convicted of committing the crimes underlying Counts 24 to 28 jointly with and through others pursuant to Article 25(3)(a) of the Statute.

4606. The Chamber considers that multiple circumstances significantly heighten Mr Yekatom's degree of participation and show that he acted with a high degree of intent. First, Mr Yekatom was the undisputed leader of the Anti-Balaka group along the PK9-Mbaïki axis, comprising at least 1,000 elements, and he had full control over his elements during the advance along the PK9-Mbaïki axis and subsequent events in Mbaïki.¹⁰⁵⁷⁸ Second, at the time of the advance along the PK9-Mbaïki axis, an agreement existed between Mr Yekatom, Cœur de Lion and Alkanto to establish control over the area as well as to remove all Muslims therefrom, including by killing them.¹⁰⁵⁷⁹ Third, Mr Yekatom, along with Cœur de Lion and Alkanto, gave instructions to elements of the group to kill all the Muslims in the area.¹⁰⁵⁸⁰ Fourth, Mr Yekatom instructed his elements to advance along the axis, and during this advance he and the elements under his command took over villages, occupied checkpoints and set up bases, including in Mbaïki.¹⁰⁵⁸¹ Fifth, Mr Yekatom took part in the meeting at the *St Jeanne d'Arc* Church in Mbaïki, at which the removal of the Muslim civilian population from Mbaïki – which was a foregone conclusion at that point – was decided.¹⁰⁵⁸² Sixth, Mr Yekatom knew that elements of his group committed acts of violence in Mbaïki. Efforts

¹⁰⁵⁷⁶ In this respect, the Chamber notes that these features are addressed jointly for all crimes merely for clarity and avoidance of duplication. However, it emphasises that it has taken each of these findings into account when determining the individual sentences below.

¹⁰⁵⁷⁷ See paragraphs 36, 48, 55, 63; section II.E; paragraphs 1299, 1305; section V.B.3.iv.b.i above.

¹⁰⁵⁷⁸ See paragraphs 63, 115, 4363 above. See also paragraph 4359 above.

¹⁰⁵⁷⁹ See paragraph 4356 above.

¹⁰⁵⁸⁰ See paragraph 114 above. See also [Prosecution Sentencing Brief](#), ICC-01/14-01/18-2747-Red, para. 22; Prosecution Oral Sentencing Submissions: T-310, p. 12, line 23 – p. 14, line 12.

¹⁰⁵⁸¹ See paragraphs 113-117, 121, 3297-3308 above.

¹⁰⁵⁸² See paragraph 120 above.

and measures to prevent these acts were taken only after the removal of the Muslim civilian population from Mbaïki had been decided and/or carried out.¹⁰⁵⁸³

4607. The Chamber takes note of the Yekatom Defence's argument that Mr Yekatom was not present at all times during the events on the PK9-Mbaïki axis.¹⁰⁵⁸⁴ In this regard, it notes that it indeed received evidence indicating that Mr Yekatom was not permanently based at a particular location along the PK9-Mbaïki axis,¹⁰⁵⁸⁵ and that he may have been absent when Chadian forces transported Muslim civilians away from Mbaïki,¹⁰⁵⁸⁶ and when his elements killed Djido Saleh.¹⁰⁵⁸⁷ The Chamber, however, also received evidence that Mr Yekatom 'constantly' moved around the PK9-Mbaïki axis to patrol and control the elements under his command.¹⁰⁵⁸⁸ Considering the factors highlighted above, and bearing in mind Mr Yekatom's role and full control over his elements along the PK9-Mbaïki axis, the Chamber finds of limited relevance to the present assessment that Mr Yekatom might not have been physically present during some of the acts underlying Counts 24 to 28.

4608. The Chamber is mindful that certain factual findings on Mr Yekatom's acts only pertain to specific crimes committed during the course of Mr Yekatom's group's advance along the PK9-Mbaïki axis. Where this is the case, they are discussed in the context of the relevant crimes below. Nonetheless, these differences do not lead to different conclusions regarding Mr Yekatom's degree of participation and intent for the individual crimes committed. On the contrary, taking all of the above as well as the below crime-specific considerations into account, the Chamber finds Mr Yekatom's degree of participation and his intent to be high for each of the crimes underlying Counts 24 to 28.

4609. Another feature common to all crimes committed in the context of Mr Yekatom's group's advance along the PK9-Mbaïki axis is their commission for motives involving discrimination. In this regard, the Chamber recalls that the Muslim civilian population along

¹⁰⁵⁸³ See paragraph 121 above. See also, in relation to Mr Yekatom's purported efforts along the PK9-Mbaïki axis, paragraph 4470 above.

¹⁰⁵⁸⁴ Yekatom Defence Oral Sentencing Submissions: T-311, p. 32, line 23 – p. 33, line 12. See also [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, para. 22.

¹⁰⁵⁸⁵ See e.g. paragraphs 3379, 3527 above.

¹⁰⁵⁸⁶ See paragraph 3570 above.

¹⁰⁵⁸⁷ See paragraph 3676 above.

¹⁰⁵⁸⁸ See e.g. paragraphs 3379, 3527 above.

the PK9-Mbaïki axis was targeted on the basis of their perceived religious commonalities with the Seleka, as well as Mr Yekatom's intent in that regard.¹⁰⁵⁸⁹ The Chamber highlights in particular the discriminatory character of the killing and subsequent mistreatment of Saleh, who was one of the very few remaining Muslims in Mbaïki.¹⁰⁵⁹⁰ As indicated above,¹⁰⁵⁹¹ the Chamber considers this circumstance to be an aggravating factor within the meaning of Rule 145(2)(b)(v) of the Rules for the crimes underlying Counts 24 to 27.¹⁰⁵⁹²

i. Forcible transfer and deportation as a crime against humanity and displacement as a war crime (Counts 24 and 25)

4610. The Chamber refers to its considerations above as to the gravity *in abstracto* of the crimes of forcible transfer and deportation, and of displacement.¹⁰⁵⁹³

4611. Turning to the assessment of the facts *in concreto*, the Chamber considers the gravity of Counts 24 and 25 to be high. In this respect, the Chamber recalls that, due to and in fear of the advance of Mr Yekatom's group along the PK9-Mbaïki axis, a significant proportion of the Muslim civilian population fled their towns and villages along the axis, with at least 1,000 Muslim civilians fleeing from locations along the PK9-Mbaïki axis and in the Lobaye prefecture to Mbaïki.¹⁰⁵⁹⁴ At least 3,000 Muslim civilians were later removed from Mbaïki, with very few Muslim civilians remaining in the town as a result.¹⁰⁵⁹⁵ Accordingly, the Chamber finds that the number of persons affected by the crimes underlying Counts 24 and 25 was significant and considers particularly noteworthy that they constituted a large part of the Muslim civilian population present along the PK9-Mbaïki axis.

¹⁰⁵⁸⁹ See paragraphs 4341, 4368 above.

¹⁰⁵⁹⁰ See paragraphs 124-125, 3670 above.

¹⁰⁵⁹¹ See section VI.B.2.i.a above.

¹⁰⁵⁹² With respect to Count 28, the Chamber recalls that the discriminatory dimension is a constitutive element of the crime against humanity of persecution. Accordingly, the Chamber does not consider it as an aggravating factor for this crime.

¹⁰⁵⁹³ See paragraphs 4517-4518 above.

¹⁰⁵⁹⁴ See paragraphs 118-119 above.

¹⁰⁵⁹⁵ See paragraphs 122-123 above. See also [CLRv2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, para. 60.

4612. In relation to the war crime of displacement specifically, the Chamber recalls that this crime does not require for displacement as such to actually occur.¹⁰⁵⁹⁶ Considering this, the Chamber finds the fact that Muslim inhabitants were effectively displaced as a direct consequence of the actions of Mr Yekatom's group to heighten the gravity of the crime under Count 25.¹⁰⁵⁹⁷ The Chamber considers that this displacement was objectively foreseeable to Mr Yekatom, recalling that, *inter alia*, the instructions of Mr Yekatom, Cœur de Lion and Alkanto and consequent actions of the elements in Mr Yekatom's group would necessarily result in Muslim civilians seeking shelter elsewhere and leaving their homes, and that Mr Yekatom intended for Muslim civilians to be dislocated.¹⁰⁵⁹⁸

4613. Concerning victims dislocated to Mbaïki from their villages along the axis, the Chamber recalls that fleeing Muslims had to leave their possessions behind and arrived in Mbaïki with 'nothing on them'.¹⁰⁵⁹⁹ Muslims in the town endured difficult living conditions, due to overcrowding, hunger and fear of death from the Anti-Balaka,¹⁰⁶⁰⁰ and a lack of medical care in the town.¹⁰⁶⁰¹ Following the arrival of Mr Yekatom and his elements to Mbaïki, Muslims were further subjected to threats and harassment from the elements, were not able to move around freely, and their living conditions worsened by the day.¹⁰⁶⁰²

4614. Regarding the situation in Mbaïki, Raymond Mongbandi notably stated that there was 'little food' in Mbaïki.¹⁰⁶⁰³ P-2353 testified that 'it was hunger and the death threat that weighed on the populations. When you are hungry, when you've got nothing to eat and you've got the death threats as well, life becomes terrible'.¹⁰⁶⁰⁴ The Chamber also recalls the detailed account of Diakité Aboubakar:

When the evacuees arrived in M[baïki], prices of everything went high. There was not enough meat for the people. There was a general shortage of food including vegetables like coco, aubergines, peanuts, manioc etc. Some of the evacuees had brought food but that was all finished. The reserve in the city was all depleted. By the time they left the

¹⁰⁵⁹⁶ See [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, para. 163.

¹⁰⁵⁹⁷ See paragraph 4329 above.

¹⁰⁵⁹⁸ See notably paragraphs 4325-4328, 4365 above.

¹⁰⁵⁹⁹ See paragraphs 3438, 3450 above.

¹⁰⁶⁰⁰ See paragraphs 119, 3449-3453 above.

¹⁰⁶⁰¹ See paragraph 3452 above.

¹⁰⁶⁰² See paragraphs 121, 3533-3551, 3608 above. See notably paragraphs 3531, 3539-3540, 3548 above.

¹⁰⁶⁰³ See paragraph 3451 above.

¹⁰⁶⁰⁴ See paragraph 3453 above.

city, there was nothing left. Life was very difficult. They must have remained in M[baïki] for about two weeks before the trucks came and took them. At this time, the women were even scared to go to the market because the Anti-Balaka were walking around armed with knives and machetes. We had never seen anything like this.¹⁰⁶⁰⁵

4615. The Chamber further highlights that some Muslim civilians were forced to leave twice in a short amount of time – first from their villages and towns along the PK9-Mbaïki axis to Mbaïki, and then again from Mbaïki to other locations in the CAR or abroad, notably to Chad,¹⁰⁶⁰⁶ which contributed to victims' hardship and the uncertainty of their situations.

4616. Regarding the removal from Mbaïki by Chadian forces, the Chamber recalls that Muslim civilians were not allowed to get into the trucks with their belongings and had to leave them behind,¹⁰⁶⁰⁷ they were treated harshly by Chadian soldiers to ensure their speedy departure,¹⁰⁶⁰⁸ some families were separated in the trucks,¹⁰⁶⁰⁹ and women and children were more numerous than men in the trucks.¹⁰⁶¹⁰ Further, witnesses stated that the travel conditions in the convoy to Chad were difficult, with no provision of food or water, and they were attacked by the Anti-Balaka on the way.¹⁰⁶¹¹

4617. The Chamber also notes that some of the individuals who were removed from Mbaïki, as well as others who watched the scene, described the departure of Muslims from Mbaïki as a difficult and emotional situation.¹⁰⁶¹² For instance, Diakité Aboubakar, who was removed from Mbaïki by the Congolese MISCA, testified that '[m]any were sad to see us leave. Many were crying. They were helping us to put our property in the vehicle. And when we were leaving Mbaïki, we were greeting the population. Some of the inhabitants were very happy to see us leave, while others were sad'.¹⁰⁶¹³ The Chamber considers that all the circumstances described above added to the distress of the Muslim civilians who were forced to leave.

¹⁰⁶⁰⁵ See paragraph 3451 above.

¹⁰⁶⁰⁶ See paragraphs 118-119, 122-123 above.

¹⁰⁶⁰⁷ See paragraphs 122, 3574 above. *See also* paragraph 3577 above.

¹⁰⁶⁰⁸ See paragraphs 3566, 3572, 3574 above.

¹⁰⁶⁰⁹ See paragraph 3573 above.

¹⁰⁶¹⁰ See paragraph 3569 above.

¹⁰⁶¹¹ See paragraphs 3587-3588 above.

¹⁰⁶¹² See paragraph 3571 above. *See for instance* paragraphs 3573, 3575, 3616 above.

¹⁰⁶¹³ See P-1595: T-106, p. 10, lines 15-18. *See* paragraph 3616 above.

4618. Concerning Muslim civilians dislocated outside of the CAR, the Chamber also emphasises that they had to leave their homes and were removed from their known surroundings. In Chad, Muslims who were unable to stay with relatives or to rent a house had to live in refugee camps, where the living conditions were poor and extremely difficult.¹⁰⁶¹⁴ P-2389 explained that one refugee camp had no toilets and they had to build latrines, and the conditions for the children to learn were not ‘viable’.¹⁰⁶¹⁵

4619. As a result of their dislocation, many witnesses reported feeling that they had to ‘abandon everything’ and that they had ‘lost everything’.¹⁰⁶¹⁶ The Chamber recalls P-1666’s testimony regarding his feelings on the day he was transported away from Mbaïki:

We didn’t think that one day we would leave from this town. You must remember, we invested a lot. We built a lot up and all of a sudden we had to abandon everything and leave. It was really with great sadness because we were forced to abandon everything which we had shared as we grew up, so there was a lot of sadness. It was difficult. It was very hard to bear.¹⁰⁶¹⁷

4620. The Chamber also notes the evidence that some Muslims who were forced to leave had lived in Mbaïki or surrounding towns and villages for a long time.¹⁰⁶¹⁸ While they reported hoping to return at some point, some individuals indicated that they or some of their family members continue to live in refugee camps or other locations where they had to resettle, and still feel the impact of their dislocation and related losses on their lives and the lives of their family, having returned neither to their original places of residence nor to their living conditions prior to the commission of the crimes.¹⁰⁶¹⁹

4621. P-2353 notably testified that:

If you have your own house and you’re driven out of your house and someone takes all your possessions, what can you do? You can only be sad. [...] It’s a very painful

¹⁰⁶¹⁴ See paragraphs 122, 3591-3594 above.

¹⁰⁶¹⁵ See paragraph 3593 above.

¹⁰⁶¹⁶ See e.g. paragraphs 3575, 3594, 3624-3626 above.

¹⁰⁶¹⁷ See paragraph 3575 above.

¹⁰⁶¹⁸ See e.g. paragraphs 3575, 3614, 3621, 3625 above.

¹⁰⁶¹⁹ See e.g. paragraphs 3594, 3621-3627 above. In this context, the Chamber also notes Daryn Reicherter’s report on the trauma effects of displacement. See Daryn Reicherter Expert Report, CAR-OTP-2127-6805, at 6832-40. Regarding the Ngaïssona Defence’s submissions on the alleged lack of probative value of Daryn Reicherter’s report (Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 71, lines 14-20), the Chamber refers to its findings above (see footnote 10419 above).

impact and on several levels. I was [REDACTED]. And today I've lost everything, just about everything. I've got nothing. All the fruit of my investment is gone. [...] [REDACTED] are just about managing to meet their needs. My children are all scattered and it's very difficult to meet their needs. [...] But after these events, I've lost everything. I've lost everything. [REDACTED]. I don't know how they're going to fend for themselves tomorrow. The second problem is I do not have a home. [...] Sometimes I have problems in paying my rent. [...] I've got financial problems, and I really am struggling to meet the needs of my family.¹⁰⁶²⁰

4622. The Chamber also notes that the UN Secretary-General reported a radical change in the ethnic and religious demography of the CAR following the flight of many Muslims mostly to Cameroon and Chad. He referred to towns which once had been multi-confessional as having been emptied of their Muslim communities, including Mbaïki.¹⁰⁶²¹

4623. Considering the above, the Chamber finds that the consequences and harm of the commission of the crimes under Counts 24 and 25 were high, with the victims not only deprived of their property, but also effectively uprooted from their homes and communities, and in some cases their country. Victims notably experienced physical and emotional suffering, considering in particular the difficult conditions at the time of their displacement or at the locations they were displaced to. This in turn led to the loss of social, occupational and economic stability, and material safety, and to the loss of communities, as most of the Muslim population had to flee from Mbaïki and surrounding towns and villages and remained unable to return at least for some time following the events.¹⁰⁶²²

4624. The Chamber recalls the Yekatom Defence's, Ngaïssona Defence's, and CLRV2's submissions regarding the duration and long-term impact of displacement as well as regarding the purported return of a number of displaced persons,¹⁰⁶²³ and addresses them here to the extent that they relate to the crimes under Counts 24 and 25. It notes in particular the Yekatom Defence's submission that 'a proportion of displaced persons are alleged to

¹⁰⁶²⁰ See paragraph 3624 above.

¹⁰⁶²¹ See paragraph 1907 above.

¹⁰⁶²² See also [Prosecution Sentencing Brief](#), ICC-01/14-01/18-2747-Red, para. 12; Prosecution Oral Sentencing Submissions: T-310, p. 36, lines 8-14; [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, paras 28, 47-49 referring to, *inter alia*, [CLRV2 Closing Brief](#), ICC-01/14-01/18-2734-Conf, paras 234-87.

¹⁰⁶²³ See paragraphs 4528-4529 above. See also [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, para. 20; Yekatom Defence Oral Sentencing Submissions: T-311, p. 44, lines 1-8; Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 70, line 23 – p. 71, line 6; CLRV2 Oral Sentencing Submissions: T-310, p. 47, lines 3-23. See also Prosecution Oral Sentencing Submissions: T-310, p. 37, lines 18-21; [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, para. 48.

have returned to their homes and/or returned to CAR in general, with reports on the peaceful cohabitation of Muslims in Mbaïki by 2015/2016'.¹⁰⁶²⁴

4625. The Chamber notes that the majority of the evidence cited by the Yekatom Defence relates to the return of peace to Mbaïki or the Lobaye prefecture, rather than the return of previously dislocated Muslim civilians along the PK9-Mbaïki axis. Regarding the latter, while some Muslim civilians may have eventually returned to the villages and towns along the PK9-Mbaïki axis after the period relevant to the charges,¹⁰⁶²⁵ the evidence on the record in this respect is scarce, mostly refers to an eventual return several years after the initial displacement, and, in any event, does not establish that all, or even a majority, were able to return to their villages or towns, or even to the CAR.

4626. In this regard, the Chamber does not consider that the harm deriving from displacement necessarily ended by virtue of either (i) an eventual return to the CAR from abroad; or (ii) for those displaced within the CAR, settling elsewhere. The Chamber recalls that victims had to leave their houses and their belongings behind, and thus emphasises that their return to the CAR or their place of origin does not mean that they were able to reach the same standards of living or live in the same conditions as before,¹⁰⁶²⁶ and does not reduce the gravity of the crimes as such.

4627. Turning to the arguments as to the necessity of a 'cut-off point', the Chamber recalls that it may consider any consequences arising from the crimes in the context of sentencing, as long as they were objectively foreseeable to the accused.¹⁰⁶²⁷ In this regard, the Chamber considers that the harm described above, including beyond the initial displacement of victims, is inherent to the nature of the crimes, derives from, and is sufficiently linked to them. It thus considers of limited relevance to its present assessment the fact that other factors may have played a role in some victims not returning to their places of origin following the events.

¹⁰⁶²⁴ [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, para. 20. *See also* Yekatom Defence Oral Sentencing Submissions: T-311, p. 44, lines 1-8.

¹⁰⁶²⁵ *See* paragraph 3623 above. *See further* D29-1317 Statement, CAR-D29-0009-0838-R01, at 0843, paras 33-36; D29-5012: T-294, p. 45, lines 5-14.

¹⁰⁶²⁶ *See notably* paragraph 4620 above.

¹⁰⁶²⁷ *See* paragraph 4404 above.

4628. Further considering the nature of Mr Yekatom's role in the context of his group's advance along the PK9-Mbaïki axis, as well as his essential contributions and participation in an agreement that entailed removing all Muslims from the area,¹⁰⁶²⁸ the Chamber is satisfied that the harm and consequences described above were objectively foreseeable to Mr Yekatom. In this context, regarding the Yekatom Defence's submission that Mr Yekatom took concrete steps to assist victims,¹⁰⁶²⁹ the Chamber refers to its above findings.¹⁰⁶³⁰

4629. Regarding the Prosecution's and the CLRV2's submissions on the vulnerability of victims of these crimes,¹⁰⁶³¹ the Chamber considers that while victims were placed in a vulnerable situation, it cannot discern a particular vulnerability or defencelessness within the sense of Rule 145(2)(b)(iii) of the Rules which would warrant an aggravated sentence. It considers that the particular circumstances of their treatment have already been accounted for in the Chamber's assessment of the circumstances of manner, location and means employed to execute the crimes pursuant to Rule 145(i)(c) of the Rules above.

4630. Finally, regarding Mr Yekatom's participation and intent in relation to these crimes, the Chamber recalls its findings above.¹⁰⁶³² In particular, the Chamber notes that it has taken into consideration that Mr Yekatom might not have been physically present during some of the acts underlying Counts 24 and 25.¹⁰⁶³³ However, for the reasons highlighted above, the Chamber considers Mr Yekatom's degree of participation and intent as high. Notably, it emphasises that Mr Yekatom, along with Cœur de Lion and Alkanto, gave instructions to their elements to kill all the Muslims in the area, and the implementation of these instructions

¹⁰⁶²⁸ See section V.B.3.iv.b.i; paragraph 4606 above.

¹⁰⁶²⁹ See Yekatom Defence Oral Sentencing Submissions: T-311, p. 20, line 5 – p. 22, line 1, p. 43, lines 24-25.

¹⁰⁶³⁰ See paragraphs 4478-4480 above.

¹⁰⁶³¹ [Prosecution Sentencing Brief](#), ICC-01/14-01/18-2747-Red, paras 23-24; Prosecution Oral Sentencing Submissions: T-310, p. 39, line 20 – p. 40, line 6; [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, para. 57. *Contra* [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, para. 30; Ngaissona Defence Oral Sentencing Submissions: T-311, p. 73, line 7 – p. 74, line 1.

¹⁰⁶³² See in particular paragraphs 4605-4608 above.

¹⁰⁶³³ See paragraph 4607 above.

included the creation of conditions leading to the dislocation of Muslims specifically along the PK9-Mbaïki axis.¹⁰⁶³⁴

4631. Having considered all of the above circumstances, as well as the factors relevant to all crimes,¹⁰⁶³⁵ in particular the aggravating circumstance of committing the crimes for a discriminatory motive,¹⁰⁶³⁶ the Chamber sentences Mr Yekatom to a term of 10 years of imprisonment for the crime against humanity of forcible transfer and deportation (Count 24) and 10 years of imprisonment for the war crime of displacement (Count 25).

ii. *Murder as a crime against humanity and as a war crime (Counts 26 and 27)*

4632. In relation to the gravity *in abstracto* of the crimes of murder, the Chamber refers to its considerations above.¹⁰⁶³⁷

4633. Turning to the assessment of the facts *in concreto*, the Chamber considers the gravity of Counts 26 and 27 to be particularly high. The Chamber finds the circumstances of and the means employed to execute Saleh's murder particularly cruel and brutal, which significantly heightens the crimes' gravity.¹⁰⁶³⁸ It recalls that a group of individuals – which included at least three elements of Mr Yekatom's group –, attacked Saleh's house while he and his family were inside, pursued Saleh and threw stones at him as he tried to flee, and killed him near the gendarmerie of Mbaïki.¹⁰⁶³⁹ Further, the vicious cutting off of parts of Saleh's body shortly after his death, in combination with the cruel and humiliating behaviour and utterances displayed and spoken concurrently, were particularly heinous and demonstrate an utter disregard for physical integrity and human dignity. Notably, the Chamber recalls that upon his killing, the attackers dragged Saleh's body along the ground, partly undressed him, cut off his genitals, one of his ears and his neck, partly severing his head, and beat his

¹⁰⁶³⁴ See notably paragraphs 4606-4607 above. See also paragraphs 114, 4356 above. See further paragraphs 4310-4318 above. See also Prosecution Oral Sentencing Submissions: T-310, p. 12, line 23 – p. 14, line 12.

¹⁰⁶³⁵ See section VI.B.2; section VI.B.3.i; paragraphs 4605-4609 above.

¹⁰⁶³⁶ See section VI.B.2.i.a above.

¹⁰⁶³⁷ See paragraph 4507 above.

¹⁰⁶³⁸ See also [Prosecution Sentencing Brief](#), ICC-01/14-01/18-2747-Red, para. 14; [CLR2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, paras 20, 30, 51.

¹⁰⁶³⁹ See paragraph 125 above.

body.¹⁰⁶⁴⁰ They also put their feet on different parts of Saleh's body and pretended to further harm him with their weapons.¹⁰⁶⁴¹ While the scene took place, the attackers insulted and made fun of Saleh, discussed eating his flesh and burning his body, and boasted about their actions.¹⁰⁶⁴² The mistreatment of Saleh's body was filmed and some individuals repeatedly asked that pictures of the body and of themselves be taken.¹⁰⁶⁴³

4634. The Chamber considers the mistreatment of Saleh's body to be directly linked to the crimes of murder and inherent to their nature, particularly noting the context in which they occurred, as well as objectively foreseeable to Mr Yekatom. It recalls that Mr Yekatom, Cœur de Lion and Alkanto instructed the elements to kill all the Muslims in the area, that elements under Mr Yekatom's command threatened and harassed Muslim civilians in Mbaïki – which Mr Yekatom was aware of –, and further threatened Saleh as one of the very few remaining Muslims in town, and that Saleh was targeted and his body mistreated because he was a Muslim.¹⁰⁶⁴⁴ It also recalls that Mr Yekatom's elements bore strong anti-Muslim sentiment and feelings of vengeance against the Seleka, which Mr Yekatom was aware of.¹⁰⁶⁴⁵ In the circumstances, the Chamber considers that it was foreseeable for Mr Yekatom that in some instances his elements' attacks on Muslims would escalate and lead to such kind of mistreatment.

4635. Further, the Chamber notes that Catherine Samba-Panza visited Mbaïki shortly before Saleh's killing and held a speech in which she called on the Anti-Balaka in general to stop the violence.¹⁰⁶⁴⁶ In that context, contemporaneous press articles and reports recognised the killing of Saleh, whom they described as the deputy mayor and one of the last remaining Muslims in Mbaïki, as a particularly impactful and emblematic event.¹⁰⁶⁴⁷ The Chamber

¹⁰⁶⁴⁰ See paragraphs 125, 3646, 3670 above.

¹⁰⁶⁴¹ See paragraphs 3646, 3670 above.

¹⁰⁶⁴² See paragraphs 3647, 3670 above.

¹⁰⁶⁴³ See Video, CAR-OTP-2059-0384; paragraph 3647 above.

¹⁰⁶⁴⁴ See paragraphs 114, 121, 124-125, 3670 above.

¹⁰⁶⁴⁵ See paragraphs 74, 2452 above. The Chamber notes that while this discussion is situated in the Chamber's evidentiary analysis of the Bangui Attack, it is equally relevant to the events that took place along the PK9-Mbaïki axis, in particular bearing in mind that elements such as Cœur de Lion, at least until his death, and Habib Beina were elements of the group throughout events during the Bangui Attack, Yamwara and along the PK9-Mbaïki axis.

¹⁰⁶⁴⁶ See paragraph 3642 above. See also paragraph 1300 above.

¹⁰⁶⁴⁷ See for instance Press Article, CAR-OTP-2001-4422; Press Article, CAR-D29-0002-0686; AI Report, CAR-OTP-2001-2707, at 2728-29. See also HRW Report, CAR-OTP-2001-2308, at 2316. The Chamber notes the

further recalls that, when asked about the impact that Saleh's death had on him, Raymond Mongbandi indicated that '[w]hat really caused an impact on [him] was the fact that a human being was decapitated', which he described as 'a horrible act'.¹⁰⁶⁴⁸

4636. The Chamber also notes that, following the attack on Saleh's house, his family was forced to flee,¹⁰⁶⁴⁹ and Saleh's wife and child were unable to attend his burial. In particular, Raymond Mongbandi testified that they could not attend the burial 'because the situation was very risky' considering the wife was Muslim and '[i]f the Anti-Balaka took note of her presence, she could have been executed'.¹⁰⁶⁵⁰ Raymond Mongbandi further testified that the MISCA escorted those participating in the burial to the cemetery, 'this really allow[ing] Djido's burial'.¹⁰⁶⁵¹

4637. Regarding the above, the Chamber finds that the harm suffered by Saleh's family and community by virtue of his killing and the mistreatment of his body was inherent to the nature of the crimes, and thus objectively foreseeable to Mr Yekatom.

4638. In this context, the Chamber notes the Yekatom Defence's submission that Mr Yekatom's offer to assist Saleh's family with burial costs should be considered in mitigation.¹⁰⁶⁵² The Chamber however recalls that Mr Yekatom did not pay for Saleh's burial and that Saleh's family was unable to attend his burial, as explained above.¹⁰⁶⁵³ In these circumstances, the Chamber does not consider that Mr Yekatom's offer demonstrates a genuine effort to assist the victims that would lessen the gravity of these crimes in any way.

4639. In relation to the Prosecution's argument that Saleh was alone and defenceless,¹⁰⁶⁵⁴ the Chamber cannot discern a particular vulnerability or defencelessness of Saleh within the

Defence's objections regarding some of these items, but considers that no prejudice arises in light of their use in this context. It notes in particular that, in the present context, it does not rely upon the content of those articles and reports in relation to the circumstances of Saleh's killing.

¹⁰⁶⁴⁸ See paragraph 3672 above.

¹⁰⁶⁴⁹ See paragraphs 125, 3648 above.

¹⁰⁶⁵⁰ See paragraph 3671 above.

¹⁰⁶⁵¹ See paragraph 3671 above.

¹⁰⁶⁵² [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, para. 35. *Contra* CLRV2 Oral Sentencing Submissions: T-310, p. 51, line 23 – p. 52, line 13.

¹⁰⁶⁵³ See paragraphs 125, 3671 above.

¹⁰⁶⁵⁴ [Prosecution Sentencing Brief](#), ICC-01/14-01/18-2747-Red, paras 23-24; Prosecution Oral Sentencing Submissions: T-310, p. 39, line 20 – p. 40, line 6. *Contra* [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, para. 30.

sense of Rule 145(2)(b)(iii) of the Rules, which would warrant an aggravated sentence. The Chamber emphasises that the circumstances of this murder are particularly brutal and appalling, as described above. It nonetheless found it more appropriate to consider them as part of the gravity assessment of the circumstances of manner, location and means employed to execute the crimes pursuant to Rule 145(i)(c) of the Rules above.

4640. Finally, regarding Mr Yekatom's participation and intent in relation to these crimes, the Chamber recalls its findings above.¹⁰⁶⁵⁵ It acknowledges that Mr Yekatom might not have been physically present during Saleh's killing, or issued a specific order in relation to Saleh.¹⁰⁶⁵⁶ However, for the reasons highlighted above, the Chamber considers Mr Yekatom's degree of participation and intent as high.¹⁰⁶⁵⁷ It also recalls its conclusion that Mr Yekatom assumed a degree of responsibility for the killing, in light of his statement that Saleh's killing had been 'an accident', combined with his offer to cover Saleh's funeral expenses.¹⁰⁶⁵⁸

4641. Having considered all of the above circumstances, as well as the factors relevant to all crimes,¹⁰⁶⁵⁹ in particular the aggravating circumstance of committing the crimes for a discriminatory motive,¹⁰⁶⁶⁰ the Chamber sentences Mr Yekatom to a term of 14 years of imprisonment for the crime against humanity of murder (Count 26) and 14 years of imprisonment for the war crime of murder (Count 27).

*iii. Persecution as a crime against humanity
(Count 28)*

4642. In relation to the gravity *in abstracto* of the crime against humanity of persecution, the Chamber refers to its considerations above.¹⁰⁶⁶¹

¹⁰⁶⁵⁵ See in particular paragraphs 4605-4608 above.

¹⁰⁶⁵⁶ See Yekatom Defence Oral Sentencing Submissions: T-311, p. 32, line 23 – p. 33, line 12. See paragraph 4607 above.

¹⁰⁶⁵⁷ See notably paragraphs 4606-4607 above.

¹⁰⁶⁵⁸ See paragraphs 125, 3673-3674 above.

¹⁰⁶⁵⁹ See section VI.B.2; section VI.B.3.i; paragraphs 4605-4609 above.

¹⁰⁶⁶⁰ See section VI.B.2.i.a above.

¹⁰⁶⁶¹ See paragraph 4547 above.

4643. Turning to the assessment of the facts *in concreto*, the Chamber considers the gravity of Count 28 to be high. In this regard, the Chamber highlights that Mr Yekatom's elements targeted a substantial number of Muslim civilians on religious grounds,¹⁰⁶⁶² and violated numerous fundamental rights, namely, regarding displaced Muslims, the right to liberty and security of person, right to liberty of movement, right against arbitrary or unlawful interference with their family and home, and right to property, and, in Saleh's case, denying him his right to life.¹⁰⁶⁶³ Mr Yekatom specifically meant for the Muslim civilian population along the PK9-Mbaiki axis to be targeted because of its religious commonalities with the Seleka.¹⁰⁶⁶⁴

4644. It further recalls its findings above regarding the crime-specific considerations made in relation to assessing the gravity of Counts 24 to 27, including the harm and consequences caused by these crimes and Mr Yekatom's degree of participation and intent. The Chamber notes that the facts underlying his conviction under Count 28 are the same as those forming the basis of his convictions under Counts 24 to 27. In this respect, it stresses, once more, that these factual overlaps are duly taken into account in the context of determining the joint sentence.

4645. Having considered all of the above circumstances, as well as the factors relevant to all crimes,¹⁰⁶⁶⁵ with the exception of the aggravating factor of committing the crime for a discriminatory motive, the Chamber sentences Mr Yekatom to a term of 10 years of imprisonment for the crime against humanity of persecution (Count 28).

iii. Determination of joint sentence

4646. Having determined the individual sentences for each crime of which Mr Yekatom is convicted, the Chamber now turns to its determination of the joint sentence for all crimes, which must reflect Mr Yekatom's total culpability.¹⁰⁶⁶⁶ According to Article 78(3) of the Statute, the total term of imprisonment shall be no less than the highest individual sentence

¹⁰⁶⁶² See e.g. paragraphs 4341, 4611 above.

¹⁰⁶⁶³ See paragraph 4340 above. See [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, para. 26.

¹⁰⁶⁶⁴ See paragraph 4368 above.

¹⁰⁶⁶⁵ See section VI.B.2; section VI.B.3.i; paragraphs 4605-4609 above.

¹⁰⁶⁶⁶ See Rule 145(1)(a) of the Rules.

pronounced. In Mr Yekatom's case, the minimum joint sentence is thus 14 years. The maximum sentence shall not exceed 30 years of imprisonment or a sentence of life imprisonment in conformity with Article 77(1)(b) of the Statute.

4647. The Prosecution requests a joint sentence of imprisonment of not less than 22 years for Mr Yekatom.¹⁰⁶⁶⁷ The CLRV1 defers to the Prosecution regarding the joint sentence to be imposed¹⁰⁶⁶⁸ and the CLRV2 request that he be sentenced to 30 years of imprisonment.¹⁰⁶⁶⁹

4648. At the outset, the Chamber recalls that sentencing an individual is a unique exercise tailored to the specific circumstances of each case. Any comparison with other cases before this Court is thus of limited relevance, if any.¹⁰⁶⁷⁰ Consequently, the Chamber considers the Yekatom Defence's submissions in this regard irrelevant.¹⁰⁶⁷¹

4649. In determining the joint sentence, the Chamber is called to pronounce a sentence in line with the Court's primary purposes of punishment – retribution and deterrence.¹⁰⁶⁷² It is conscious that the sentence imposed on the accused should also be suitable to give effect to the strong condemnation of the crimes at stake in this case by the international community.¹⁰⁶⁷³

4650. In this context, the Chamber also acknowledges the victims' desire for justice, to be re-empowered and for an adequate punishment to be imposed upon both accused.¹⁰⁶⁷⁴ It also accepts the CLRV2's submission that deterrence, both of the accused and others, plays a crucial role in this case 'in light of the still prevailing situation of relative conflict, insecurity

¹⁰⁶⁶⁷ [Prosecution Sentencing Brief](#), ICC-01/14-01/18-2747-Red, paras 1, 6, 27; Prosecution Oral Sentencing Submissions: T-310, p. 6, lines 3-13.

¹⁰⁶⁶⁸ [CLRV1 Sentencing Brief](#), ICC-01/14-01/18-2744-Red, para. 3.

¹⁰⁶⁶⁹ [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, paras 2, 71-75. *See further* CLRV2 Oral Sentencing Submissions: T-310, p. 54, line 8 – p. 55, line 15.

¹⁰⁶⁷⁰ *See also* [Al Mahdi Trial Judgment](#), ICC-01/12-01/15-171, para. 107; [Bemba Sentencing Judgment](#), ICC-01/05-01/08-3399, paras 91-92.

¹⁰⁶⁷¹ Yekatom Defence Oral Sentencing Submissions: T-311, p. 40, line 8 – p. 52, line 24.

¹⁰⁶⁷² The Chamber notes the Prosecution's and CLRV2's submissions in this regard, *see* [Prosecution Sentencing Brief](#), ICC-01/14-01/18-2747-Red, para. 6; Prosecution Oral Sentencing Submissions: T-310, p. 6, lines 11-13; [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, para. 74; CLRV2 Oral Sentencing Submissions: T-310, p. 45, line 20 – p. 46, line 13, p. 54, line 8 – p. 55, line 9. *See further* [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, paras 5-7.

¹⁰⁶⁷³ *See also* [Prosecution Sentencing Brief](#), ICC-01/14-01/18-2747-Red, para. 6.

¹⁰⁶⁷⁴ [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, paras 5, 71.

and impunity of the CAR'.¹⁰⁶⁷⁵ Conversely, the Chamber finds it entirely inappropriate to consider the fact that previous proceedings before the Court in the 'CAR Situation' ended with acquittal and non-confirmation of charges,¹⁰⁶⁷⁶ noting that neither Mr Yekatom nor Mr Ngaïssona had any involvement in these cases.¹⁰⁶⁷⁷

4651. The Chamber takes note of the Yekatom Defence's submission that the crimes were committed within a short timeframe.¹⁰⁶⁷⁸ It is also mindful of the factual overlap underlying a number of crimes of which Mr Yekatom is found guilty, which must be taken into consideration when determining his joint sentence.¹⁰⁶⁷⁹

4652. First, the Chamber notes that a factual overlap exists between crimes which concurrently constitute war crimes and crimes against humanity and are thus only distinguished by their different contextual elements.¹⁰⁶⁸⁰ Notably, this concerns the crimes of murder (Counts 2 and 3, 15 and 16, as well as 26 and 27, respectively) and, to a certain extent, torture (Counts 12 and 13).¹⁰⁶⁸¹

4653. Second, there is a partial overlap in the conduct underlying the crimes respectively committed within the context of (i) the Bangui Attack; (ii) the Yamwara Incident; and (iii) the Anti-Balaka's advance through and takeover of villages along the PK9-Mbaïki axis, as well as in the respective harm and consequences deriving from these crimes.

4654. Specifically, with respect to the crimes committed within the context of the Bangui Attack,¹⁰⁶⁸² the Chamber notes that the conduct underlying Counts 1 to 6 and 8 broadly

¹⁰⁶⁷⁵ [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, para. 74; CLRV2 Oral Sentencing Submissions: T-310, p. 54, lines 21-23.

¹⁰⁶⁷⁶ [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, para. 74; CLRV2 Oral Sentencing Submissions: T-310, p. 55, lines 3-6.

¹⁰⁶⁷⁷ See also Yekatom Defence Oral Sentencing Submissions: T-311, p. 41, line 16 – p. 42, line 2.

¹⁰⁶⁷⁸ Yekatom Defence Oral Sentencing Submissions: T-311, p. 30, line 5 – p. 31, line 2.

¹⁰⁶⁷⁹ The Chamber takes note of the participants' submissions in this respect, see [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, paras 12-13; [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, para. 21; CLRV2 Oral Sentencing Submissions: T-310, p. 46, line 14 – p. 47, line 2.

¹⁰⁶⁸⁰ See also [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, paras 12-13. *Contra*, [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, para. 21 and CLRV2 Oral Sentencing Submissions: T-310, p. 46, line 14 – p. 47, line 2, who argue that the concurrent charges for crimes against humanity and war crimes for similar conduct should be considered as 'accentuating the overall gravity of the crimes, rather than diminishing it'.

¹⁰⁶⁸¹ In this regard, the Chamber recalls its legal findings above, which address the differences between torture as a war crime and as a crime against humanity, see paragraphs 3817-3822 above.

¹⁰⁶⁸² See also [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, para. 13 i).

overlaps. It also observes that the harm and consequences deriving from the crime of forcible transfer and deportation, and the crime of displacement (Counts 4 and 5) overlap. Additionally, it observes that the crime of directing an attack against the civilian population as such (Count 1) was committed by way of conduct, and resulted in harm, which in turn constituted facts underlying separate crimes committed in the context of this attack. With respect to the crime of persecution (Count 8), the Chamber observes an overlap insofar as the crime was committed through acts constituting also the crimes under Counts 1 to 6. Furthermore, the discriminatory dimension underlying the crime of persecution was also considered as an aggravating factor in relation to Counts 1 to 6.

4655. With respect to the crimes committed during the Yamwara Incident,¹⁰⁶⁸³ the Chamber notes that the conduct underlying Counts 11 to 17 partly overlaps. It also observes the factual overlaps between the consequences, in particular the harm on the surviving captives, of the crimes of imprisonment and other forms of severe deprivation of physical liberty (Count 14), other inhumane acts (Count 11) and cruel treatment (Count 13), as well as between the consequences of the crimes of torture (Counts 12 and 13) and murder (Counts 15 and 16), in particular with regard to the emotional and psychological harm on Saint Cyr's family and friends. In addition, it notes that the crime of persecution (Count 17) was committed through acts also constituting the crimes under Counts 11 to 16 and that the discriminatory dimension underlying the crime of persecution was further considered as an aggravating factor in relation to Counts 11 to 16, with the exception of the war crime of torture under Count 13.

4656. With respect to the crimes committed in the context of the Anti-Balaka's advance along the PK9-Mbaïki axis,¹⁰⁶⁸⁴ the Chamber notes that the conduct underlying Counts 24 to 28 partly overlaps. Moreover, it observes the overlap between the harm and consequences deriving from the crime of forcible transfer and deportation, and the crime of displacement (Counts 24 and 25). Additionally, it recalls that the crime of persecution (Count 28) was committed through acts also constituting the crimes under Counts 24 to 27 and that the discriminatory dimension has also been considered an aggravating factor in relation to Counts 24 to 27.

¹⁰⁶⁸³ See also [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, para. 13 ii).

¹⁰⁶⁸⁴ See also [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, para. 13 iii).

4657. Having duly considered the above, the Chamber does not consider the timeframe or these overlaps to have a significant bearing on its determination of Mr Yekatom's joint sentence. In this respect, it notes that Mr Yekatom is convicted of 20 crimes, which were committed in the context of three separate incidents, spanning over different geographical areas. Furthermore, Mr Yekatom committed these crimes in the context of an organised armed group and as part of a wider policy, in which he voluntarily participated. Moreover, Mr Yekatom was fully aware of all of these crimes and played a key role in their commission.¹⁰⁶⁸⁵

4658. Most importantly, the Chamber notes that – with the exception of the abovementioned overlaps – the crimes committed by Mr Yekatom were wholly distinct and violated a wide array of fundamental protected interests. Notably, these protected interests included the right to life; the right not to be subjected to torture, and cruel, inhuman or degrading treatment; the right to liberty and security of person; the right to liberty of movement; the right to freedom of religion and to not be denied the right to practice their own religion in community with other members of their group; the right to property; the right against arbitrary arrest and detention and related procedural guarantees; the right against arbitrary or unlawful interference with their family and home; and the right of all persons deprived of their liberty to be treated with humanity and respect for their inherent dignity.¹⁰⁶⁸⁶

4659. For the same reasons, the Chamber also considers that a joint sentence corresponding to the highest individual sentence pronounced is incapable of reflecting Mr Yekatom's total culpability. Accordingly, the Chamber finds it appropriate to set Mr Yekatom's joint sentence slightly higher than 14 years.

4660. In determining his joint sentence, the Chamber further considered the Yekatom Defence's submissions regarding Mr Yekatom's rehabilitation and reintegration prospects. Specifically, the Yekatom Defence submits that the Chamber must consider whether any sentence imposed against Mr Yekatom would adequately allow for his reintegration and contribute to the maintenance of peace and reconciliation in the CAR.¹⁰⁶⁸⁷ In its submission,

¹⁰⁶⁸⁵ See in particular paragraphs 4492-4498, 4551-4555, 4605-4608 above.

¹⁰⁶⁸⁶ See paragraphs 4002, 4229, 4340 above.

¹⁰⁶⁸⁷ [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, para. 7.

it argues that Mr Yekatom ‘qualifies on all counts to be reintegrated into society’,¹⁰⁶⁸⁸ taking into account his individual and mitigating circumstances, including the fact that he is now 50 years old and that his military and political career ‘are behind him’.¹⁰⁶⁸⁹

4661. The Chamber acknowledges that reintegration and rehabilitation may constitute relevant considerations in determining an appropriate sentence. However, it also recalls the Court’s consistent jurisprudence that it should not be given undue weight.¹⁰⁶⁹⁰ Noting the specifics of Mr Yekatom’s case and the conclusions drawn above, the Chamber does not consider his prospects of reintegration and rehabilitation to be exceptional. Accordingly, it affords this factor only limited weight in determining the appropriate joint sentence.

4662. In light of the above considerations, the Chamber sentences Mr Yekatom to a joint sentence of 15 years.

4663. This sentence is pronounced unanimously. While Judge Chung would have convicted Mr Yekatom of Count 29, he does not consider his dissent in this respect to have any impact on the joint sentence.

4664. The Chamber is of the view that this term is proportionate to Mr Yekatom’s specific individual circumstances, conforms with the purposes of punishment under the Court’s legal framework, and adequately acknowledges the victims’ suffering and harm, whilst safeguarding Mr Yekatom’s prospects of rehabilitation and reintegration into society. Consequently, the Chamber considers imprisonment to constitute a sufficient penalty for Mr Yekatom and therefore does not impose any fine in addition thereto.¹⁰⁶⁹¹

iv. Deduction of time spent in detention

4665. The Chamber recalls that, in accordance with Article 78(2) of the Statute, ‘[i]n imposing a sentence of imprisonment, the Court shall deduct the time, if any, previously spent in detention in accordance with an order of the Court’.

¹⁰⁶⁸⁸ Yekatom Defence Oral Sentencing Submissions: T-311, p. 39, line 14.

¹⁰⁶⁸⁹ Yekatom Defence Oral Sentencing Submissions: T-311, p. 39, lines 12-19. See also [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, paras 40-41.

¹⁰⁶⁹⁰ See paragraph 4398 above.

¹⁰⁶⁹¹ Rule 146(1) of the Rules.

4666. Noting that Mr Yekatom was surrendered to the Court by the CAR authorities on 17 November 2018,¹⁰⁶⁹² the Chamber orders that the time he spent in detention from that date until the date of this judgment, shall be deducted from his sentence.

4. *Mr Ngaïssona*

i. *Factors and circumstances applicable to all crimes*

4667. In this section, as indicated above,¹⁰⁶⁹³ and in light of the relevant submissions by the participants, the Chamber first addresses factors and circumstances applicable to all crimes for which Mr Ngaïssona is convicted at this juncture, before turning to its considerations specific to each crime in section VI.B.4.ii. The Chamber clarifies that the conclusions in this section have been drawn at this juncture merely for the clarity of written reasoning and efficiency. Nonetheless, the Chamber, in accordance with the applicable law set out above,¹⁰⁶⁹⁴ recalls and duly considers them in the context of determining each individual sentence for which Mr Ngaïssona is found guilty of.

a. *Individual circumstances*

4668. The Ngaïssona Defence argues that Mr Ngaïssona's unique family circumstances warrant mitigation of the sentence, submitting that as the central figure and main provider for his large family and community,¹⁰⁶⁹⁵ his detention impacted them financially and morally.¹⁰⁶⁹⁶ The Chamber recalls that family circumstances are accorded little, if any weight, in sentencing, unless they are exceptional.¹⁰⁶⁹⁷ The Chamber notes Mr Ngaïssona's family

¹⁰⁶⁹² Report on Mr Yekatom's Arrest and Surrender, ICC-01/14-01/18-17-US-Exp-Red2, paras 19-24. *See also* [Yekatom Defence Sentencing Brief](#), ICC-01/14-01/18-2746-Red, para. 9.

¹⁰⁶⁹³ *See* paragraph 4416 above.

¹⁰⁶⁹⁴ *See* section VI.B.1 above.

¹⁰⁶⁹⁵ The Chamber notes that according to the Ngaïssona Defence, Mr Ngaïssona has a wife, nine children, 13 grandchildren and one great-grandchild under his care, and is also the main provider for much of his extended family, *see* [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 41; Annex 2 to the [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748-Conf-Exp-Anx2 (confidential redacted version, ICC-01/14-01/18-2748-Conf-Anx2-Red).

¹⁰⁶⁹⁶ [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 41; Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 84, lines 7-16. *Contra* CLRV2 Oral Sentencing Submissions: T-310, p. 52, lines 14-23.

¹⁰⁶⁹⁷ The Chamber also takes note of the submissions of the Prosecution and CLRV2 in this regard: Prosecution Oral Sentencing Submissions: T-310, p. 40, lines 15-21; [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, para. 70; CLRV2 Oral Sentencing Submissions: T-310, p. 52, lines 14-23. *See also* [Al Hassan Sentencing Judgment](#), ICC-01/12-01/18-2662, paras 86-87; [Bemba Sentencing Judgment](#), ICC-01/05-01/08-3399, paras 77-78.

circumstances but does not find them to be exceptional. Accordingly, it does not consider them mitigating as such.

4669. Similarly, the Chamber does not consider the fact that Mr Ngaïssona has no prior convictions¹⁰⁶⁹⁸ mitigating. As set out above, it notes that individuals convicted by international tribunals often lack prior convictions. That said, it accepts that it constitutes a relevant individual circumstance of an accused,¹⁰⁶⁹⁹ and is thus taken into account when determining the appropriate sentences for Mr Ngaïssona.

b. *Mitigating factors*

i. *Specific hardship in detention*

4670. The Ngaïssona Defence argues that the specific hardship Mr Ngaïssona experienced in pre-trial custody constitutes a mitigating factor.¹⁰⁷⁰⁰ As noted above, the Chamber is mindful that Mr Ngaïssona has been detained for a lengthy period, at a considerable geographic distance from the CAR and in a culturally different environment.¹⁰⁷⁰¹ It further acknowledges that during his detention, restrictions on contact were imposed on Mr Ngaïssona and he received a limited number of family visits, has not seen certain family members, including most of his children, and has been impacted by the death of a number of persons close to him, including his father.¹⁰⁷⁰² In this regard, the Chamber notes that it permitted Mr Ngaïssona temporary release from the Detention Centre to attend the funeral of his father.¹⁰⁷⁰³

4671. The Chamber is cognisant that Mr Ngaïssona's family life and his mental and physical well-being have been impacted by the circumstances of his detention, notably that he has been

¹⁰⁶⁹⁸ [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 43; Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 81, lines 6-7.

¹⁰⁶⁹⁹ See paragraph 4443 above.

¹⁰⁷⁰⁰ [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, paras 27, 40; Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 82, line 19 – p. 84, line 6; p. 84, line 17 – p. 85, line 8. *Contra* Prosecution Oral Sentencing Submissions: T-310, p. 40, lines 15-21.

¹⁰⁷⁰¹ See section VI.B.2.ii.a above.

¹⁰⁷⁰² See also [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 40, n. 128; Annex 3 to the [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748-Conf-Exp-Anx3 (confidential redacted version, ICC-01/14-01/18-2748-Conf-Anx3-Red); Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 83, line 19 – p. 85, line 8.

¹⁰⁷⁰³ See Decision on the Ngaïssona Defence's requests for temporary transfer and cancellation of hearings on 19 and 20 February 2024, 23 February 2024, ICC-01/14-01/18-2377 (with public [Annex A](#); confidential Annex B) (the '[Decision on Temporary Transfer](#)').

detained at great geographic distance from the CAR, his family and culture.¹⁰⁷⁰⁴ However, as indicated above,¹⁰⁷⁰⁵ the Chamber considers this remoteness to be a common feature of an accused before this Court, which, by itself, is not mitigating. That said, the Chamber recalls that it already gives weight to this circumstance in the context of affording mitigating effect to the impact of the Covid-19 pandemic on the detention conditions of the accused and their well-being.¹⁰⁷⁰⁶

4672. The Chamber now turns to the Ngaïssona Defence's contention that Mr Ngaïssona has had limited contact with his family because of, *inter alia*, restrictions on contact imposed for much of his detention, the Detention Centre's restrictive policy on family visits and the financial and visa-related obstacles encountered by his family in arranging travel to The Netherlands, particularly given the Court's limitations on funded family visits.¹⁰⁷⁰⁷

4673. First, the Chamber recalls that the contact restrictions were put in place partly in response to Mr Ngaïssona's own actions.¹⁰⁷⁰⁸ They were periodically reviewed throughout the trial, with due consideration being given to Mr Ngaïssona's right to family life, and eased whenever permissible.¹⁰⁷⁰⁹ The Chamber also recalls that Mr Ngaïssona voluntarily decided not to

¹⁰⁷⁰⁴ See also [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 40.

¹⁰⁷⁰⁵ See paragraph 4449 above.

¹⁰⁷⁰⁶ See paragraph 4436 above.

¹⁰⁷⁰⁷ [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 40, n. 128.

¹⁰⁷⁰⁸ See e.g. [First Decision on Mr Ngaïssona's Restrictions](#), ICC-01/14-01/18-484-Red2, paras 3-5, 20-25; Fourth Decision on Mr Ngaïssona's Restrictions on Contacts and Communications in Detention, 23 April 2021, ICC-01/14-01/18-965-Conf-Exp, confidential *ex parte*, only available to the Ngaïssona Defence and the Registry (public redacted version notified the same day, ICC-01/14-01/18-965-Red) (the '[Fourth Decision on Mr Ngaïssona's Restrictions](#)'), paras 3, 14-17; Eleventh Decision on Mr Ngaïssona's Restrictions on Contacts and Communications in Detention, 13 February 2025, ICC-01/14-01/18-2759-Conf-Exp, confidential *ex parte*, only available to the Ngaïssona Defence and the Registry (confidential redacted version notified the same day, ICC-01/14-01/18-2759-Conf-Red; reclassified to public on 14 July 2025, ICC-01/14-01/18-2759-Red) (the '[Eleventh Decision on Mr Ngaïssona's Restrictions](#)'), paras 2-3, 6-10. See similar [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, para. 243.

¹⁰⁷⁰⁹ See e.g. [Third Decision on Mr Ngaïssona's Restrictions](#), ICC-01/14-01/18-672, paras 9-24; Seventh Decision on Mr Ngaïssona's Restrictions on Contacts and Communications in Detention, 10 May 2023, ICC-01/14-01/18-1863-Conf-Exp, confidential *ex parte*, only available to the Ngaïssona Defence, the Prosecution and the Registry (confidential redacted version notified the same day, ICC-01/14-01/18-1863-Conf-Red), paras 5-10; Eighth Decision on Mr Ngaïssona's Restrictions on Contacts and Communications in Detention, 31 October 2023, ICC-01/14-01/18-2177-Conf, paras 23-34.

exercise his right to make non-privileged telephone calls for ten months, thereby limiting his contact with his family in this period.¹⁰⁷¹⁰

4674. Second, as set out above, the imposition of specific ‘stringent Covid-19 related “temporary measures”’ and the related suspension of certain Detention Centre activities¹⁰⁷¹¹ were taken in response to the global pandemic, in order to protect, *inter alia*, Mr Ngaïssona’s health.¹⁰⁷¹² Beyond the mitigating effect already afforded to both accused in this respect, the Chamber cannot discern any specific hardship Mr Ngaïssona experienced in detention in light of these restrictions, which requires further mitigation.

4675. Third, as set out above, the Chamber recalls that the Court has limited funding for the facilitation of family visits.¹⁰⁷¹³ Notwithstanding that Mr Ngaïssona has a right to family visits, the Chamber recalls that resource constraints, both financial and in terms of the days on which Detention Centre staff are available to monitor visits,¹⁰⁷¹⁴ are appropriate factors to consider in the context of determining visiting arrangements.¹⁰⁷¹⁵ As Mr Ngaïssona has received family visits while in detention, albeit not from all family members,¹⁰⁷¹⁶ the Chamber considers that this circumstance need not be considered any further.

4676. Finally, in relation to the Ngaïssona Defence’s argument that Mr Ngaïssona’s rights were violated by the denial of ‘nutritious and culturally appropriate food that is safe for consumption’,¹⁰⁷¹⁷ the Chamber recalls, as set out above, that food-related complaints are exclusively within the purview of the Registrar and subject to the Presidency’s judicial review.¹⁰⁷¹⁸ In this regard, the Chamber notes that notwithstanding Mr Ngaïssona’s

¹⁰⁷¹⁰ See Defence Observations to the “Ninth Registry Report on the Implementation of the Restrictions on Contact of Mr Ngaïssona Ordered by Pre-Trial Chamber II” (ICC-01/14-01/18-444-Conf-Exp), 19 March 2020, ICC-01/14-01/18-460-Conf ([public redacted version](#) notified on 2 March 2021, ICC-01/14-01/18-460-Red), para. 27. See further [First Decision on Mr Ngaïssona’s Restrictions](#), ICC-01/14-01/18-484-Red2, paras 11, 24, 27; [Third Decision on Mr Ngaïssona’s Restrictions](#), ICC-01/14-01/18-672, paras 17-18.

¹⁰⁷¹¹ [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 40, n. 130.

¹⁰⁷¹² See paragraphs 4432-4433 above.

¹⁰⁷¹³ See footnote 10261 above.

¹⁰⁷¹⁴ [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 40, n. 128; Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 83, lines 15-18.

¹⁰⁷¹⁵ See paragraph 4453 above.

¹⁰⁷¹⁶ As acknowledged by the Ngaïssona Defence, see [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 40, n. 128; Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 83, line 19 – p. 84, line 3.

¹⁰⁷¹⁷ [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 40, n.132; Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 83, lines 11-14.

¹⁰⁷¹⁸ See paragraph 4454 above.

dissatisfaction with the Registrar's response to the complaints he filed on this matter,¹⁰⁷¹⁹ he chose not to exercise his right to judicial review and instead requested the Chamber's intervention, which was rejected.¹⁰⁷²⁰ Therefore, in light of the foregoing, it does not consider that this factor constitutes a relevant mitigating factor in this instance.

4677. In light of the above considerations, the Chamber considers there to be no specific hardship in Mr Ngaïssona's detention which would warrant mitigation of his sentence beyond the mitigating weight afforded to the hardship caused by the Detention Centre Measures.

ii. Cooperation with the Court

4678. The Ngaïssona Defence submits that Mr Ngaïssona's overall behaviour and cooperation in the case exceeded mere good behaviour and should be considered as mitigating factors.¹⁰⁷²¹ Specifically, it argues that Mr Ngaïssona consistently showed good, cooperative behaviour in the courtroom and in detention¹⁰⁷²² and cooperated with the investigations in the case.¹⁰⁷²³ The Prosecution argues that Mr Ngaïssona has not cooperated with the Court.¹⁰⁷²⁴

4679. The Chamber recalls that Mr Ngaïssona has attended all court hearings in person unless health reasons prevented him from doing so and has been consistently cooperative, respectful and non-disruptive therein.¹⁰⁷²⁵ Further, the Chamber notes that Mr Ngaïssona complied with the Chamber's conditions during a period of temporary release in February 2024¹⁰⁷²⁶ and that no inappropriate behaviour in the Detention Centre towards Registry staff or other detainees has been reported to the Chamber.

¹⁰⁷¹⁹ See Defence Request to Redress the Violations of Mr Ngaïssona's Rights in Detention, 2 June 2020, ICC-01/14-01/18-541-Conf (with confidential *ex parte* Annexes 1-5, only available to the Ngaïssona Defence and the Registry) ([public redacted version](#)) notified the next day, ICC-01/14-01/18-541-Red), paras 11-13.

¹⁰⁷²⁰ See [Decision on the Ngaïssona Defence Request to Redress Violations in Detention](#), 22 June 2020, ICC-01/14-01/18-563, paras 7-13.

¹⁰⁷²¹ Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 81, line 13 – p. 82, line 18.

¹⁰⁷²² [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 39; Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 82, lines 5-11.

¹⁰⁷²³ Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 81, line 13 – p. 82, line 4.

¹⁰⁷²⁴ Prosecution Oral Sentencing Submissions: T-310, p. 42, lines 7-15.

¹⁰⁷²⁵ See also Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 82, lines 5-8.

¹⁰⁷²⁶ See [Decision on Temporary Transfer](#), ICC-01/14-01/18-2377.

4680. Nonetheless, as stated above, good behaviour and cooperation are not mitigating factors, unless the behaviour is ‘exceptional’ in nature.¹⁰⁷²⁷ The Chamber does not consider there to be any such exceptional behaviour with respect to Mr Ngaïssona. Concerning the Ngaïssona Defence’s submission that Mr Ngaïssona cooperated with the Prosecution and the French gendarmerie regarding the investigations in the case,¹⁰⁷²⁸ the Chamber considers that even if established to the requisite standard, these actions were not exceptional such that they would impact the sentences. Moreover, the Chamber considers that Mr Ngaïssona’s compliance with the Chamber’s orders has not been exemplary. In particular, it recalls that Mr Ngaïssona breached the contact restrictions in place on multiple occasions.¹⁰⁷²⁹

4681. All the above considered, the Chamber does not afford the factor of cooperation any mitigating effect.

iii. Efforts to promote peace, reconciliation and social cohesion

4682. The Ngaïssona Defence submits that Mr Ngaïssona’s concrete and genuine efforts to promote peace and reconciliation between Muslims and non-Muslims of the CAR should be given significant weight.¹⁰⁷³⁰ In particular, the Ngaïssona Defence lists eight concrete actions which it submits contributed to peace and to protect the Muslim population. Furthermore, it argues that Mr Ngaïssona never personally gained from these actions, referring to the many obstacles he faced as Anti-Balaka national coordinator, and that they demonstrate Mr Ngaïssona’s genuine will as a political leader to use his influence to calm the intercommunal violence. It also submits that several of the measures proposed by Mr Ngaïssona were adopted by the transitional government and the international community, which confirms that they were genuine and concrete.¹⁰⁷³¹ It adds that the limited success of these initiatives should not bear any weight and that several witnesses, including

¹⁰⁷²⁷ See paragraph 4458 above.

¹⁰⁷²⁸ See Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 81, lines 13-22.

¹⁰⁷²⁹ See [First Decision on Mr Ngaïssona’s Restrictions](#), ICC-01/14-01/18-484-Red2, paras 3-4; [Fourth Decision on Mr Ngaïssona’s Restrictions](#), ICC-01/14-01/18-965-Red, paras 14-16; [Eleventh Decision on Mr Ngaïssona’s Restrictions](#), ICC-01/14-01/18-2759-Red, para. 7.

¹⁰⁷³⁰ [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 28.

¹⁰⁷³¹ [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, paras 29-36; Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 80, lines 13-21, p. 85, line 21 – p. 98, line 2.

Catherine Samba-Panza, testified that the situation in the CAR would have been worse without Mr Ngaïssona.¹⁰⁷³²

4683. The Prosecution argues that efforts to promote peace and reconciliation are not mitigating factors if public pronouncements are accompanied by conduct which undermines those statements or perpetuates the group's criminal agenda and activities, as is the case for Mr Ngaïssona.¹⁰⁷³³ The CLRV2 submit that the argument that Mr Ngaïssona was an advocate for peace does not conform with the evidence.¹⁰⁷³⁴

4684. The Chamber recalls its conclusions above regarding Mr Ngaïssona's purported activities aimed at peace and reconciliation.¹⁰⁷³⁵ Furthermore, the Chamber takes note of all of the Ngaïssona Defence's submissions¹⁰⁷³⁶ and evidence submitted for the purpose of sentencing in this regard¹⁰⁷³⁷ and addresses them below to the extent that it considers them relevant to its assessment of this mitigating factor.

4685. The Chamber recalls that efforts to promote peace, reconciliation and social cohesion may only constitute a mitigating circumstance if they are genuine and concrete.¹⁰⁷³⁸

4686. Taking the above into account, the Chamber does not consider Mr Ngaïssona's efforts *during* the period relevant to the charges mitigating. In the view of the Chamber, they were neither genuine nor concrete, given that they were accompanied by conduct which undermined them and perpetuated the Anti-Balaka's criminal acts.¹⁰⁷³⁹ The Chamber further recalls that in the context of the Anti-Balaka's advance towards Bangui, during attacks on Bossangoa and Bangui, and during the advance of Mr Yekatom's group along the PK9-Mbaïki axis, Mr Ngaïssona did not intervene or condemn the Anti-Balaka's actions, including violent acts

¹⁰⁷³² [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 36.

¹⁰⁷³³ Prosecution Oral Sentencing Submissions: T-310, p. 40, line 22 – p. 41, line 20. *Contra* Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 97, lines 5-23.

¹⁰⁷³⁴ CLRV2 Oral Sentencing Submissions: T-310, p. 49, line 24 – p. 50, line 8.

¹⁰⁷³⁵ *See in particular* paragraphs 1853-1893, 1911-1921, 2114 above.

¹⁰⁷³⁶ Ngaïssona Defence Sentencing Brief, ICC-01/14-01/18-2748, paras 28-36 *referring to* [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, in particular to paras 563, 585-86, 588, 591-92, 593-98, 601-04, 607-08 and the references cited therein; Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 85, line 21 – p. 98, line 2.

¹⁰⁷³⁷ In particular, the Chamber notes Letter, CAR-OTP-2100-1743; Invitation, CAR-D30-0029-0003; Letter, CAR-D30-0001-0022.

¹⁰⁷³⁸ *See* paragraph 4467 above.

¹⁰⁷³⁹ *See* sections V.B.3.i.b.ii, V.B.3.ii.b, V.B.3.iii.b.ii, V.B.3.iv.b.ii above.

and abuses committed by them against Muslims, nor did he sanction individuals for their actions. Notably, the national coordination under the lead of Mr Ngaïssona praised the Anti-Balaka for having acted heroically and referred to the transition government as ungrateful for not recognising the ‘act of deliverance’ the Anti-Balaka in their view performed.¹⁰⁷⁴⁰ Moreover, Mr Ngaïssona committed all crimes of which he is convicted with discriminatory intent against Muslims.¹⁰⁷⁴¹

4687. In this context, the Chamber notes that in the period relevant to the charges various media statements attributed to the Anti-Balaka and seemingly signed by Mr Ngaïssona in his capacity as Anti-Balaka general coordinator appeared to call for peace and reconciliation.¹⁰⁷⁴² However, the Chamber considers that these statements were disingenuous given that in other forums Mr Ngaïssona continued to employ discriminatory rhetoric against Muslims at a time when Anti-Balaka groups were carrying out various attacks in localities in western CAR prefectures.¹⁰⁷⁴³ The Chamber particularly recalls that in a radio broadcast of an interview on 27 February 2014 – whilst claiming that he was not an enemy of the state or of peace – Mr Ngaïssona also made clear that he fully stood by the actions of the Anti-Balaka in their pursuit of their core objective, and that while Mr Ngaïssona knew about the death and dislocation of Muslim civilians due to the Anti-Balaka’s actions, he either chose not to refer to such events at all, or downplayed them.¹⁰⁷⁴⁴

4688. Contrarily, the Chamber acknowledges that Mr Ngaïssona undertook certain efforts *after* the period relevant to the charges, which are given some weight in assessing this mitigating factor.

4689. In particular, it recalls that Mr Ngaïssona attended the Brazzaville Forum in July 2014 where he expressed commitments to peace.¹⁰⁷⁴⁵ It further notes that in mid-2014, in the context of the Brazzaville negotiations, Mr Ngaïssona and the Anti-Balaka organised missions to the

¹⁰⁷⁴⁰ See paragraph 1857 above.

¹⁰⁷⁴¹ See paragraphs 4047, 4124, 4297, 4382 above.

¹⁰⁷⁴² See e.g. paragraphs 1810-1825 above. See also [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 29.

¹⁰⁷⁴³ See e.g. paragraphs 1812, 1814, 1821 above.

¹⁰⁷⁴⁴ See paragraphs 1598-1600 above.

¹⁰⁷⁴⁵ See paragraphs 1890, 1914 above. See also [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 34; Unsworn Statement of Mr Ngaïssona: T-304, p. 51, line 25 – p. 52, line 13.

provinces to give information to the Anti-Balaka regarding the peace process.¹⁰⁷⁴⁶ The Chamber also notes that after the Brazzaville agreement, the Anti-Balaka under Mr Ngaïssona engaged in various initiatives removing roadblocks.¹⁰⁷⁴⁷ The Chamber also notes that Mr Ngaïssona was involved in peace initiatives in Boda in March and July 2014.¹⁰⁷⁴⁸

4690. Additionally, the Chamber notes that *after* the period relevant to the charges, statements were issued by the Anti-Balaka national coordination under Mr Ngaïssona's lead calling for peace.¹⁰⁷⁴⁹ On 4 April 2014, Mr Ngaïssona issued a press release in which he announced '*la fin de toutes hostilités sur toute l'étendue du territoire national*'.¹⁰⁷⁵⁰ The Chamber notes that this message was repeated in subsequent press releases in April and May 2014, in preparation for the Brazzaville Forum.¹⁰⁷⁵¹ Nonetheless, the Chamber also recalls the specific context in which such statements were made. Notably, a handwritten document dated 17 April 2014, containing a commitment to peace was signed by Mr Ngaïssona as the immediate result of his impending arrest, pursuant to an arrest warrant issued against him by the CAR public prosecutor.¹⁰⁷⁵²

4691. The Chamber also notes the issuance of statements or '*communiqués*' asking the Anti-Balaka to observe a peaceful attitude and not to do anything to disturb the 'Muslim brothers' during Ramadan, as well as to allow free circulation of humanitarian, international forces and other vehicles. In relation to the latter, the Chamber also finds it of note that this seems to have taken place right after the Anti-Balaka engaged in a '*ville morte*' activity in October 2014.¹⁰⁷⁵³

¹⁰⁷⁴⁶ See paragraph 1888. See also [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 30.

¹⁰⁷⁴⁷ See paragraph 1891 above. See also [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, paras 30, 34.

¹⁰⁷⁴⁸ See paragraph 2114 above. See also [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 30.

¹⁰⁷⁴⁹ In particular, the Chamber notes Press statement, CAR-OTP-2110-0145, at 0146-50; Press statement, CAR-OTP-2084-0150, at 0150; Press statement, CAR-OTP-2084-0155, at 0155; Press statement, CAR-OTP-2084-0157, at 0157; Press statement, CAR-OTP-2084-0166, at 0166; Press statement, CAR-OTP-2101-3611, at 3611-12; Press statement, CAR-OTP-2030-0245, at 0245-47; Communiqué, CAR-OTP-2030-0243, at 0243. See also [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 29.

¹⁰⁷⁵⁰ See paragraph 1836; footnote 4781 above.

¹⁰⁷⁵¹ See paragraph 1838 above.

¹⁰⁷⁵² See paragraphs 1839-1841 above.

¹⁰⁷⁵³ See paragraph 1889 above. See also [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 29.

4692. While acknowledging these efforts, the Chamber also stresses that they must be put into perspective. Notably, they occurred in the context of broader peace negotiations with the CAR government and international authorities.¹⁰⁷⁵⁴ Furthermore, it is important to consider that these efforts were made when no more large-scale active hostilities took place, the Seleka had mostly retreated or was billeted, and many Muslim civilians had been forced to flee their localities.¹⁰⁷⁵⁵ Additionally, the Chamber notes that even after the period relevant to the charges, notwithstanding the fact that the Anti-Balaka national coordination, led by Mr Ngaïssona, repeatedly expressed its commitment to peace and security in the CAR, it continued to make public statements equating Seleka or other violence-committing individuals with Muslims in general.¹⁰⁷⁵⁶

4693. The Chamber further notes that within the first months of becoming general coordinator, Mr Ngaïssona provided the transitional government with a plan for the billeting and inclusion of Anti-Balaka elements in a DDR programme.¹⁰⁷⁵⁷ While a DDR programme was eventually set up some years later,¹⁰⁷⁵⁸ the Chamber is not persuaded by the argument that Mr Ngaïssona's involvement in the DDR proposals can be construed as a genuine peace effort. Instead, it considers that Mr Ngaïssona was primarily motivated by ulterior motives, including financial and political reasons.

4694. First, in terms of Mr Ngaïssona's financial motivations, it recalls the testimony of Jo-Brice Ouabiro Dana who stated that Mr Ngaïssona said during a meeting that taking care of the Anti-Balaka should not only be his responsibility, but that they should start a process with the government to take care of them.¹⁰⁷⁵⁹ Second, in terms of Mr Ngaïssona's political motivations, it is clear from the evidence that Mr Ngaïssona and the Anti-Balaka as a whole wanted to be taken into account within the transition process, including for personal interests,¹⁰⁷⁶⁰ and that the DDR proposals were utilised for this purpose.¹⁰⁷⁶¹ For example,

¹⁰⁷⁵⁴ See paragraph 1893 above.

¹⁰⁷⁵⁵ See paragraphs 1856, 1893 above. The Chamber recalls in this respect that the non-international armed conflict ended in February 2014, see paragraphs 66, 3904 above.

¹⁰⁷⁵⁶ See paragraphs 1842, 1848 above.

¹⁰⁷⁵⁷ See paragraphs 1863 above. See also [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 31.

¹⁰⁷⁵⁸ See also paragraphs 1870 above.

¹⁰⁷⁵⁹ See paragraphs 1871 above.

¹⁰⁷⁶⁰ See paragraph 1618 above.

¹⁰⁷⁶¹ See paragraph 1607 above.

the Chamber received evidence that Mr Ngaïssona sought a post as DDR coordinator within the new transition government.¹⁰⁷⁶² Third, and most importantly, the Chamber notes that it has received evidence which suggests that the proposals were not genuine. For example, the Chamber considers of note in this regard the testimony of Catherine Samba-Panza, who said that Mr Ngaïssona's statement of being ready to put down weapons was a 'political spin' (*'effets d'annonce'*).¹⁰⁷⁶³ Accordingly, Mr Ngaïssona's actions in relation to the DDR programme have not been taken into consideration for the purpose of the present assessment.

4695. Similarly, the Chamber does not consider that the fact of Mr Ngaïssona overseeing an initiative to identify Anti-Balaka elements and provide them with badges constitutes a genuine peace effort.¹⁰⁷⁶⁴ In this regard, it recalls its finding that the badges had a two-fold, inter-connected, purpose: (i) to distinguish what were considered 'real' from 'fake' Anti-Balaka; and (ii) for an eventual DDR programme.¹⁰⁷⁶⁵ The Chamber also recalls the testimony of Aurélien Llorca who explained Mr Ngaïssona's personal political motivations for issuing the badges, notably to 'prove' that people were under Mr Ngaïssona's organisation, as well as at the coordination's initiative with a view to improving the Anti-Balaka's visibility in the field, both towards local inhabitants and international forces.¹⁰⁷⁶⁶

4696. The Chamber also takes note of the Ngaïssona Defence's submissions regarding Mr Ngaïssona's creation of the PCUD party in November 2014 and disbanding of the Anti-Balaka movement.¹⁰⁷⁶⁷ The Chamber is unconvinced by the Ngaïssona Defence's argument that the fact that the creation of the PCUD risked the division of the Anti-Balaka movement shows that the PCUD was not a means for Mr Ngaïssona to gain power.¹⁰⁷⁶⁸ Instead it considers that the creation of the PCUD was primarily driven by Mr Ngaïssona's political

¹⁰⁷⁶² See e.g. paragraphs 1601-1603 above.

¹⁰⁷⁶³ See paragraph 1869 above. See also paragraphs 1610-1611, 1615 above.

¹⁰⁷⁶⁴ See [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 33 referring to [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, para. 585.

¹⁰⁷⁶⁵ See paragraph 1805 above.

¹⁰⁷⁶⁶ See paragraph 1808 above.

¹⁰⁷⁶⁷ See [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 35 referring to [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 602-604, Invitation, CAR-D30-0029-0003; Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 80, lines 13-21.

¹⁰⁷⁶⁸ See Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 94, line 13 – p. 95, line 18.

ambitions, rather than from a genuine effort to establish peace. Therefore, it does not consider this action to be of relevance in the context of peace or reconciliation efforts.

4697. The Chamber also notes that it received evidence that Mr Ngaïssona made some efforts to stop and deter the Anti-Balaka from committing crimes both during and after the period relevant to the charges, including by giving elements money for their needs.¹⁰⁷⁶⁹ At the outset, it notes that it does not consider such financial assistance mitigating on the basis that this would run counter to the Chamber's finding that financial contributions which aim at sustaining an armed group, such as to provide for its food or other sustenance, can amount to a form of assistance through which liability under the Statute can be incurred.¹⁰⁷⁷⁰ The Chamber also does not consider the setting up of a 'military police' by the general coordination under Mr Ngaïssona's lead as mitigating. In this respect, it notes that the initiative did not aim to address the types of crimes for which Mr Ngaïssona is convicted. Rather it sought to track down and hand over to the gendarmerie 'fake' Anti-Balaka, and was also understood to track down those considered to be Anti-Balaka elements, but acting out of bounds, specifically in the context of theft and looting.¹⁰⁷⁷¹

4698. Further, the Chamber stresses again that during the period relevant to the charges, Mr Ngaïssona did not intervene or condemn the Anti-Balaka's actions, nor did he sanction individuals for their actions.¹⁰⁷⁷² It considers that at no point did Mr Ngaïssona systematically or genuinely seek to prevent the Anti-Balaka from committing crimes. In this regard, the Chamber recalls its discussion on the concept of 'fake Anti-Balaka',¹⁰⁷⁷³ and its conclusion that Mr Ngaïssona used this concept to suggest that the violence and abuses attributed to the Anti-Balaka were committed by individuals not linked to the Anti-Balaka.¹⁰⁷⁷⁴ The Chamber further recalls that in an interview in July 2014, when asked about violent acts committed by the Anti-Balaka, Mr Ngaïssona sought to portray them as isolated acts by specifically identified individuals, which, at that time, Mr Ngaïssona knew not to be

¹⁰⁷⁶⁹ See paragraphs 1688, 1695 above. See also [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 33. See paragraph 4695 above regarding the Chamber's conclusions on the initiative pertaining to identification badges.

¹⁰⁷⁷⁰ See paragraph 4040 above.

¹⁰⁷⁷¹ See paragraph 1874 above.

¹⁰⁷⁷² See paragraph 4686 above.

¹⁰⁷⁷³ See paragraphs 1785-1800 above.

¹⁰⁷⁷⁴ See paragraph 1787 above.

correct.¹⁰⁷⁷⁵ The Chamber considers that even if Mr Ngaïssona did engage in some (limited) actions to prevent the Anti-Balaka from committing crimes after the period relevant to the charges, any such actions are undermined by the rhetoric he publicly employed seeking to downplay the scale of the Anti-Balaka's criminality, as well as the identity of the perpetrators.

4699. In conclusion, the Chamber accepts that Mr Ngaïssona may have wished for peace to return to the CAR once the Anti-Balaka's objectives had been accomplished and that he took certain efforts towards this goal. Nonetheless, taking all of the above considerations into account, the Chamber only considers the abovementioned peace and reconciliation activities which were made *after* the period relevant to the charges¹⁰⁷⁷⁶ and only affords them limited weight in mitigating Mr Ngaïssona's sentence.

iv. Efforts to assist victims

4700. The Ngaïssona Defence submits that Mr Ngaïssona personally intervened in a non-selective way to protect fellow Muslims in Bangui and went beyond his responsibilities as general coordinator in doing so. It points to examples of Mr Ngaïssona housing Muslims when they were captured by the Anti-Balaka and securing their 'safe passage to PK5', as well as returning their stolen property.¹⁰⁷⁷⁷

4701. Whilst the Chamber acknowledges that some witnesses provided evidence that Mr Ngaïssona helped certain Muslims,¹⁰⁷⁷⁸ it considers that any such actions undertaken are disingenuous as they stand in stark contrast to his criminal conduct against this group.¹⁰⁷⁷⁹ Further, it does not transpire from the evidence that Mr Ngaïssona generally assisted victims during the period relevant to the charges or thereafter. Rather, the Chamber notes that many of the alleged acts of assistance relate to Mr Ngaïssona returning stolen property, notably

¹⁰⁷⁷⁵ See paragraphs 1850-1852 above.

¹⁰⁷⁷⁶ See paragraphs 4688-4692 above.

¹⁰⁷⁷⁷ See [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 32 and the references cited therein; Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 81, lines 2-3. *Contra* CLRV2 Oral Sentencing Submissions: T-310, p. 52, lines 7-13.

¹⁰⁷⁷⁸ See [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 32 referring to, *inter alia*, [Ngaïssona Defence Closing Brief](#), ICC-01/14-01/18-2736-AnxA-Corr-Red, paras 594, 607 and the references cited therein.

¹⁰⁷⁷⁹ See sections V.B.3.i.b.ii, V.B.3.ii.b, V.B.3.iii.b.ii, V.B.3.iv.b.ii above.

vehicles to Muslims,¹⁰⁷⁸⁰ rather than the provision of assistance in relation to the crimes which he is convicted of.¹⁰⁷⁸¹

4702. As to the Ngaïssona Defence's submission that Mr Ngaïssona provided 'safe passage' to Muslims to PK5,¹⁰⁷⁸² the Chamber recalls that after the Bangui Attack, PK5 became overcrowded, practically uninhabitable and unsafe, and that Muslim persons who fled there continued to fear for their security because of the presence of the Anti-Balaka around PK5 and Bangui generally. It also recalls that as a result, some Muslims then fled to neighbouring countries, fearing for their safety.¹⁰⁷⁸³ In the circumstances, it does not therefore consider that such interventions by Mr Ngaïssona constituted genuine assistance.

4703. In light of the above, and in accordance with the jurisprudence of this Court, the Chamber does not consider it appropriate to consider the limited interventions referred to by the Ngaïssona Defence as generally mitigating.¹⁰⁷⁸⁴

c. Aggravating factors: Abuse of power

4704. The CLRV2 ask the Chamber to consider Mr Ngaïssona's alleged abuse of power as an aggravating factor pursuant to Rule 145(2)(b)(ii) of the Rules. Specifically, the CLRV2 submit that he held a 'high-level position in the Anti-Balaka organisation' and used his influence and power to promote the anti-Muslim animus, instead of using it to prevent the escalation of the conflict'. Moreover, it argues that '[w]hile holding a ministerial position, Mr Ngaïssona mobilised the youth' to strengthen [François] Boziz[é]'s position.¹⁰⁷⁸⁵

4705. The Chamber recalls the jurisprudence above.¹⁰⁷⁸⁶ The Chamber does not consider that Mr Ngaïssona, beyond holding various positions of authority including as the Anti-Balaka

¹⁰⁷⁸⁰ See paragraph 1873. See also [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 32.

¹⁰⁷⁸¹ See similar [Kunarac et al. Appeals Judgment](#), IT-96-23/1-A, para. 408.

¹⁰⁷⁸² See [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 32.

¹⁰⁷⁸³ See paragraph 80 above.

¹⁰⁷⁸⁴ See [Al Hassan Sentencing Judgment](#), ICC-01/12-01/18-2662, paras 115-17; [Onqwen Sentencing Judgment](#), ICC-02/04-01/15-1819-Red, para. 130; [Bemba Sentencing Judgment](#), ICC-01/05-01/08-3399, paras 72, 76. See further, [Blaškić Trial Judgment](#), IT-95-14-T, para. 781.

¹⁰⁷⁸⁵ [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, paras 62-63. *Contra* [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 43; Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 74, lines 10-24.

¹⁰⁷⁸⁶ See paragraph 4488 above.

general coordinator¹⁰⁷⁸⁷ and minister of youth, sports, arts and culture,¹⁰⁷⁸⁸ exercised his authority in these roles in a way that would warrant consideration as an aggravating factor within the meaning of Rule 145(2)(b)(ii) of the Rules. Considering the specific circumstances at hand, the Chamber is of the view that Mr Ngaïssona's role and acts are more appropriately assessed in the context of assessing his degree of participation and intent in relation to the individual crimes below.¹⁰⁷⁸⁹

ii. Determination of individual sentences for each crime

4706. At the outset, the Chamber recalls that the facts underlying the crimes of which Mr Ngaïssona is convicted overlap to a certain degree. Accordingly, they need to be taken into consideration for more than one crime. The Chamber recalls its findings above in this respect.¹⁰⁷⁹⁰

4707. In the present section, the Chamber addresses crime-specific considerations in relation to each of the 28 crimes of which Mr Ngaïssona is convicted. The analysis is grouped by the following incidents, which feature the same or at least connected underlying facts: (a) the crimes committed in the context of the attack on Bangui, including Boeing and Cattin – the Bangui Attack (Counts 1 to 6 and 8); (b) the crimes committed in the context of the attack on Bossangoa on 5 December 2013 – the Bossangoa Attack – and subsequent days and weeks (Counts 30 to 33, 37 to 39, 42); (c) the crimes committed in the context of the events at Yamwara on and around 24 December 2013 – the Yamwara Incident (Counts 11 to 17); and (d) the crimes committed in the context of the Anti-Balaka's advance through and takeover of villages along the PK9-Mbaïki axis (Counts 24 to 28). Each section contains general considerations applying to all crimes of the relevant incident. This has been done merely for clarity and avoidance of duplication. However, the Chamber emphasises that it has taken each of these findings into account when determining the individual sentences below.

¹⁰⁷⁸⁷ See paragraph 60 above.

¹⁰⁷⁸⁸ See paragraph 28 above.

¹⁰⁷⁸⁹ See for a similar approach [Lubanga Sentencing Appeals Judgment](#), ICC-01/04-01/06-3122, para. 85; [Lubanga Sentencing Judgment](#), ICC-01/04-01/06-2901, para. 51.

¹⁰⁷⁹⁰ See paragraph 4490 above.

a. *Crimes committed in the context of the attack on Bangui, including Boeing and Cattin (Counts 1 to 6 and 8)*

4708. The Chamber observes that the crimes committed in the context of the Bangui Attack share a number of features,¹⁰⁷⁹¹ in particular as concerns Mr Ngaïssona's individual responsibility. In this respect, the Chamber recalls its findings above.¹⁰⁷⁹² Notably, it recalls that Mr Ngaïssona is convicted of aiding, abetting or otherwise assisting the commission of crimes in the context of the Bangui Attack, within the meaning of Article 25(3)(c) of the Statute.

4709. In determining Mr Ngaïssona's degree of participation and intent for the purposes of sentencing, the Chamber notes the Ngaïssona Defence's submissions¹⁰⁷⁹³ and finds the following factors of relevance. Despite being outside of the CAR in 2013, Mr Ngaïssona was actively involved in planning the concrete steps to respond to the Seleka violence in the CAR as well as to ensure François Bozizé's return to power, by all means possible, including through armed violence.¹⁰⁷⁹⁴ Specifically, Mr Ngaïssona provided financial aid, organisational assistance and psychological support to the Anti-Balaka.¹⁰⁷⁹⁵ Mr Ngaïssona made these contributions for the purpose of facilitating the commission of criminal acts targeting the Muslim population, and fully aware that the Anti-Balaka would violently target the Muslim civilian population in the west of the CAR.¹⁰⁷⁹⁶

4710. For the purposes of determining the appropriate sentences for the crimes underlying Counts 1 to 6 and 8, the Chamber also considers it relevant to note that the Bangui Attack was not a spontaneous attack but was planned.¹⁰⁷⁹⁷ It further notes that Mr Ngaïssona specifically provided funds to Anti-Balaka elements that participated in the Bangui Attack,¹⁰⁷⁹⁸ that

¹⁰⁷⁹¹ In this respect, the Chamber notes that these features are addressed jointly for all crimes merely for clarity and avoidance of duplication. However, it emphasises that it has taken each of these findings into account when determining the individual sentences below.

¹⁰⁷⁹² See in particular sections II.A.2-II.A.3; section II.A.5, in particular paragraph 49; section II.A.6., in particular paragraph 56; paragraphs 827, 1299, 1301-1302, 1304; section V.B.3.i.b.ii above.

¹⁰⁷⁹³ See [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, paras 5-19; Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 59, line 13 – p. 67, line 7.

¹⁰⁷⁹⁴ See paragraphs 34-35 above. See also [Prosecution Sentencing Brief](#), ICC-01/14-01/18-2747-Red, paras 20-21; Prosecution Oral Sentencing Submissions: T-310, p. 8, lines 16-18, 24-25.

¹⁰⁷⁹⁵ See paragraph 38 above.

¹⁰⁷⁹⁶ See paragraphs 49, 3943-3945 above.

¹⁰⁷⁹⁷ See paragraphs 69-71, 73 above.

¹⁰⁷⁹⁸ See paragraph 70 above.

Mr Ngaïssona's contributions were found to have had, in the very least, a positive effect on the commission of the crimes during the Bangui Attack,¹⁰⁷⁹⁹ and that his financial support made it possible for at least some of the elements to participate in the Bangui Attack.¹⁰⁸⁰⁰ The Chamber also notes that Mr Ngaïssona knew and was informed of the advance of the groups towards Bangui as well as of the hostilities during this advance, including the killings and dislocation of Muslim civilians, and that notwithstanding this, Mr Ngaïssona continued to provide funds to the Anti-Balaka that participated in the Bangui Attack.¹⁰⁸⁰¹ Further, he was not only aware that the Anti-Balaka would commit these crimes in the ordinary course of events, but intended for them to commit these crimes within the context of the Bangui Attack and lent his assistance with the aim of facilitating such crimes.¹⁰⁸⁰²

4711. All facts considered, the Chamber cannot find any circumstances which would qualify Mr Ngaïssona's participation or intent as particularly high or low for the purposes of sentencing.

4712. Nonetheless, the Chamber notes that another feature common to all crimes committed in the context of the Bangui Attack is their commission for motives involving discrimination. In this regard, the Chamber recalls that Muslim persons were targeted on religious grounds.¹⁰⁸⁰³ Further, Mr Ngaïssona provided his financial contributions and support to the Anti-Balaka for the purpose of facilitating the crimes against the Muslim civilian population, including in Bangui.¹⁰⁸⁰⁴ As indicated above,¹⁰⁸⁰⁵ the Chamber considers this circumstance to be an aggravating factor within the meaning of Rule 145(2)(b)(v) of the Rules for the crimes underlying Counts 1 to 6.¹⁰⁸⁰⁶

¹⁰⁷⁹⁹ See paragraph 4037 above. See also Prosecution Oral Sentencing Submissions: T-310, p. 24, lines 6-14. *Contra* [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, paras 8-10.

¹⁰⁸⁰⁰ See paragraph 4710 above.

¹⁰⁸⁰¹ See paragraphs 56, 4710 above.

¹⁰⁸⁰² See paragraph 4043 above.

¹⁰⁸⁰³ See paragraph 4548 above.

¹⁰⁸⁰⁴ See paragraphs 49, 4042-4043, 4047 above.

¹⁰⁸⁰⁵ See section VI.B.2.i.a above.

¹⁰⁸⁰⁶ With respect to Count 8, the Chamber recalls that the discriminatory dimension is a constitutive element of the crime against humanity of persecution. Accordingly, the Chamber does not consider it as an aggravating factor for this crime.

*i. Attack against the civilian population as
such as a war crime (Count 1)*

4713. The Chamber recalls that it assessed the gravity of this crime as high *in abstracto* and in the concrete circumstances.¹⁰⁸⁰⁷ Furthermore, it recalls its findings above regarding Mr Ngaïssona's degree of participation and intent.¹⁰⁸⁰⁸

4714. The Chamber also recalls that it may consider harm arising as a consequence of a crime in the context of sentencing.¹⁰⁸⁰⁹ In the present case, extensive harm was inflicted on the civilian population as a result of the attack on Boeing and Cattin.¹⁰⁸¹⁰ In the view of the Chamber, this heightens the gravity *in concreto* of Count 1. The Chamber recognises that these consequences constitute the relevant facts underlying the other crimes Mr Ngaïssona is convicted of in the context of the Bangui Attack. While all relevant circumstances must be considered in the context of the individual sentence under this count, these factual overlaps are duly taken into account in the determination of the joint sentence.¹⁰⁸¹¹

4715. Having considered all of these circumstances, as well as the factors relevant to all crimes,¹⁰⁸¹² in particular the aggravating circumstance of committing the crime for a discriminatory motive,¹⁰⁸¹³ the Chamber sentences Mr Ngaïssona to a term of 10 years of imprisonment for the war crime of attack against the civilian population as such (Count 1).

*ii. Murder as a crime against humanity and as
a war crime (Counts 2 and 3)*

4716. The Chamber recalls that it assessed the gravity of these crimes as very high *in abstracto* and particularly high in the concrete circumstances.¹⁰⁸¹⁴ Furthermore, it recalls its findings above regarding Mr Ngaïssona's degree of participation and intent.¹⁰⁸¹⁵

¹⁰⁸⁰⁷ See section VI.B.3.ii.a.i above.

¹⁰⁸⁰⁸ See *in particular* paragraphs 4708-4711 above.

¹⁰⁸⁰⁹ See paragraph 4404 above.

¹⁰⁸¹⁰ See paragraph 4502 above.

¹⁰⁸¹¹ See paragraphs 4414, 4706 above.

¹⁰⁸¹² See section VI.B.2; section VI.B.4; paragraphs 4708-4712 above.

¹⁰⁸¹³ See section VI.B.2.i.a above.

¹⁰⁸¹⁴ See section VI.B.3.ii.a.ii above.

¹⁰⁸¹⁵ See *in particular* paragraphs 4708-4711 above.

4717. The Chamber considers that the significant impact of the crimes on Hassan's family, as described above, is inherent to the violent nature of the crimes committed and is accordingly satisfied that this harm was also objectively foreseeable to Mr Ngaïssona.¹⁰⁸¹⁶

4718. Having considered all of these circumstances, as well as the factors relevant to all crimes,¹⁰⁸¹⁷ in particular the aggravating circumstance of committing the crime for a discriminatory motive,¹⁰⁸¹⁸ the Chamber sentences Mr Ngaïssona to a term of 11 years of imprisonment for the crime against humanity of murder (Count 2) and 11 years of imprisonment for the war crime of murder (Count 3).

iii. *Forcible transfer and deportation as a crime against humanity and displacement as a war crime (Counts 4 and 5)*

4719. The Chamber recalls that it assessed the gravity of Counts 4 and 5 as high and substantial, respectively, *in abstracto* and as high in the concrete circumstances.¹⁰⁸¹⁹ Furthermore, it recalls its findings above regarding Mr Ngaïssona's degree of participation and intent.¹⁰⁸²⁰

4720. With respect to the impact of the crimes,¹⁰⁸²¹ the Chamber considers that the dislocation of Muslim civilians from Boeing and Cattin, as well as the harm and consequences caused, were all objectively foreseeable to Mr Ngaïssona. In this regard, it recalls that Mr Ngaïssona was fully aware that the Anti-Balaka would violently target the Muslim population, noting in particular his knowledge and awareness of their prior dislocating of Muslim civilians.¹⁰⁸²² Moreover, it recalls that the harm described above, including beyond the initial displacement of victims, is inherent to the nature of the crimes and derives from them.

4721. Regarding the Ngaïssona Defence's argument that the alleged harm to unidentified individuals in camps outside of the CAR cannot be considered in the harm assessment

¹⁰⁸¹⁶ See paragraphs 4511-4512 above.

¹⁰⁸¹⁷ See section VI.B.2; section VI.B.4; paragraphs 4708-4712 above.

¹⁰⁸¹⁸ See section VI.B.2.i.a above.

¹⁰⁸¹⁹ See section VI.B.3.ii.a.iii above.

¹⁰⁸²⁰ See *in particular* paragraphs 4708-4711 above.

¹⁰⁸²¹ See paragraphs 4520-4521, 4523-4527, 4532 above.

¹⁰⁸²² See paragraphs 49, 56, 4035, 4042 above.

against Mr Ngaïssona, recalling notably that the Pre-Trial Chamber declined to confirm charges against Mr Ngaïssona in relation to several prefectures,¹⁰⁸²³ the Chamber notes that it has only considered the harm deriving from the charged crimes, that is in relation to Muslims forcibly displaced from Boeing and Cattin.

4722. Further noting the Ngaïssona Defence's submission that the evidence relied upon by the CLRV2 concerning displacement should be scrutinised, referring to its reliance on items of limited probative value,¹⁰⁸²⁴ the Chamber emphasises that it has not relied on victim participation forms in this context.

4723. Having considered all of these circumstances, as well as the factors relevant to all crimes,¹⁰⁸²⁵ in particular the aggravating circumstance of committing the crimes for a discriminatory motive,¹⁰⁸²⁶ the Chamber sentences Mr Ngaïssona to a term of 8 years of imprisonment for the crime against humanity of forcible transfer and deportation (Count 4) and 8 years of imprisonment for the war crime of displacement (Count 5).

iv. *Directing an attack against a building
dedicated to religion as a war crime (Count
6)*

4724. The Chamber recalls that it assessed the gravity of this crime as substantial *in abstracto* and low in the concrete circumstances.¹⁰⁸²⁷ Furthermore, it recalls its findings above regarding Mr Ngaïssona's degree of participation and intent.¹⁰⁸²⁸

4725. With respect to the impact of the crime,¹⁰⁸²⁹ it recalls that Mr Ngaïssona was fully aware that the Anti-Balaka would violently target the Muslim population.¹⁰⁸³⁰ On this basis, it considers that it was entirely foreseeable to Mr Ngaïssona that in the context of the Bangui Attack,

¹⁰⁸²³ Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 71, lines 7-13.

¹⁰⁸²⁴ Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 71, lines 18-20.

¹⁰⁸²⁵ See section VI.B.2; section VI.B.4; paragraphs 4708-4712 above.

¹⁰⁸²⁶ See section VI.B.2.i.a above.

¹⁰⁸²⁷ See section VI.B.3.ii.a.iv above.

¹⁰⁸²⁸ See *in particular* paragraphs 4708-4711 above.

¹⁰⁸²⁹ See paragraphs 49, 4539, 4541 above.

¹⁰⁸³⁰ See *e.g.* paragraphs 4035-4036 above.

Anti-Balaka elements would attack buildings dedicated to the Muslim religion,¹⁰⁸³¹ and that in such cases, damage to the building and harm to Muslim communities would ensue. However, the Chamber does not consider that the subsequent destruction of the Boeing Mosque by the civilian population and the further harm resulting therefrom was objectively foreseeable to Mr Ngaïssona for the purposes of sentencing.

4726. Therefore, whilst the Chamber is mindful of the impact of the harm on the victims as described above, the Chamber does not consider it appropriate in the circumstances to attribute the full extent of these consequences to Mr Ngaïssona. The Chamber accordingly only gives them limited weight in its determination of the individual sentence for this crime.

4727. Further noting the Ngaïssona Defence's submissions in this regard, the Chamber stresses that it has not relied on the submissions by the participants concerning inter- or transgenerational harm¹⁰⁸³² or evidence pertaining to the alleged loss of religiosity,¹⁰⁸³³ for the purposes of sentencing in the present case. Regarding the Ngaïssona Defence's submission that the CLRV2's attribution of the destruction of hundreds of mosques to Mr Ngaïssona, including in towns that are not part of the charges, would punish him beyond his alleged culpability,¹⁰⁸³⁴ the Chamber notes that it has not relied on any such evidence in this context.

4728. Finally, and noting its conclusions above, the Chamber is not persuaded by the Ngaïssona Defence's submission countering the CLRV2's argument that the persecutory motive behind the 'destruction' of the Boeing Mosque is an aggravating factor, given there is no evidence that the Anti-Balaka sought to impose their religion or eradicate the Muslim faith.¹⁰⁸³⁵

4729. Having considered all of the above circumstances, as well as the factors relevant to all crimes,¹⁰⁸³⁶ in particular the aggravating circumstance of committing the crime for a

¹⁰⁸³¹ See paragraph 4042 above.

¹⁰⁸³² Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 72, lines 16-22.

¹⁰⁸³³ Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 72, line 23 – p. 73, line 2.

¹⁰⁸³⁴ Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 71, line 21 – p. 72, line 3.

¹⁰⁸³⁵ See Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 72, lines 4-15; [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, para. 39. See paragraph 4712 above.

¹⁰⁸³⁶ See section VI.B.2; section VI.B.4; paragraphs 4708-4712 above.

discriminatory motive,¹⁰⁸³⁷ the Chamber sentences Mr Ngaïssona to a term of 8 years of imprisonment for the war crime of directing an attack against a building dedicated to religion (Count 6).

v. *Persecution as a crime against humanity*
(Count 8)

4730. The Chamber recalls that it assessed the gravity of this crime as particularly serious *in abstracto* and high in the concrete circumstances.¹⁰⁸³⁸ Furthermore, it recalls its findings above regarding Mr Ngaïssona's degree of participation and intent,¹⁰⁸³⁹ and that Mr Ngaïssona intended for the Muslim civilian population to be discriminated against on the basis of their religious and ethnic commonalities with the Seleka.¹⁰⁸⁴⁰

4731. Noting that the facts underlying Mr Ngaïssona's conviction under Count 8 are the same as those forming the basis of his convictions under Counts 1 to 6, the Chamber stresses, once more, that these factual overlaps are duly taken into account in the context of determining the joint sentence.

4732. Having considered all of these circumstances, as well as the factors relevant to all crimes,¹⁰⁸⁴¹ with the exception of the aggravating factor of committing the crime for a discriminatory motive, the Chamber sentences Mr Ngaïssona to a term of 10 years of imprisonment for the crime against humanity of persecution (Count 8).

b. *Crimes committed in the context of the attack on Bossangoa on 5 December 2013 and thereafter (Counts 30 to 33, 37 to 39, 42)*

4733. The Chamber observes that the crimes committed in the context of the Bossangoa Attack and events in its aftermath share a number of features,¹⁰⁸⁴² in particular as concerns Mr Ngaïssona's individual responsibility. In this respect, the Chamber recalls its findings

¹⁰⁸³⁷ See section VI.B.2.i.a above.

¹⁰⁸³⁸ See section VI.B.3.ii.a.v above.

¹⁰⁸³⁹ See *in particular* paragraphs 4708-4711 above.

¹⁰⁸⁴⁰ See paragraph 4047 above.

¹⁰⁸⁴¹ See section VI.B.2; section VI.B.4; paragraphs 4708-4712 above.

¹⁰⁸⁴² In this respect, the Chamber notes that these features are addressed jointly for all crimes merely for clarity and avoidance of duplication. However, it emphasises that it has taken each of these findings into account when determining the individual sentences below.

above.¹⁰⁸⁴³ Notably, it recalls that Mr Ngaïssona is convicted of aiding, abetting or otherwise assisting the commission of crimes in the context of the Bossangoa Attack and events in its aftermath, within the meaning of Article 25(3)(c) of the Statute.

4734. Regarding Mr Ngaïssona's degree of participation and intent for the purposes of sentencing, the Chamber takes note of the Ngaïssona Defence's submissions¹⁰⁸⁴⁴ and recalls its findings above,¹⁰⁸⁴⁵ which equally apply to Mr Ngaïssona's involvement in the Bossangoa Attack and events in its aftermath. The Chamber also considers it relevant to note that the Bossangoa Attack took place in coordination with the Bangui Attack on the same day and was not a spontaneous attack.¹⁰⁸⁴⁶ Further, Mr Ngaïssona knew and was informed of the hostilities committed by the Anti-Balaka during their advance towards Bangui, including the killings and dislocation of Muslim civilians, and that notwithstanding, Mr Ngaïssona continued to provide funds to the Anti-Balaka.¹⁰⁸⁴⁷ The Chamber notes that Mr Ngaïssona's financial support made it possible for at least some of the elements to participate in the Bossangoa Attack.¹⁰⁸⁴⁸ It also recalls that Mr Ngaïssona was not only aware that the Anti-Balaka would commit the crimes in the ordinary course of events, but intended for them to commit them in the context of the Bossangoa Attack and lent his assistance with the aim of facilitating such crimes.¹⁰⁸⁴⁹

4735. For the purposes of determining the appropriate sentences for the crimes underlying Counts 30 to 33, 37 to 39, and 42, the Chamber deems it relevant that Mr Ngaïssona's participation in the crimes committed in the context of the Bossangoa Attack and events in its aftermath was limited to the abovementioned funding and supporting activities in relation to the Anti-Balaka prior to the attacks on Bangui and Bossangoa on 5 December 2013.¹⁰⁸⁵⁰

¹⁰⁸⁴³ See in particular sections II.A.2-II.A.3; section II.A.5, in particular paragraph 49; section II.A.6., in particular paragraph 56; paragraphs 827, 1299, 1301-1302, 1304; section V.B.3.ii.b above.

¹⁰⁸⁴⁴ See [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, paras 5-19; Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 59, line 13 – p. 67, line 7.

¹⁰⁸⁴⁵ See paragraph 4709 above.

¹⁰⁸⁴⁶ See paragraph 81 above. See also section IV.C.1.iv.a above.

¹⁰⁸⁴⁷ See paragraphs 56, 4119 above.

¹⁰⁸⁴⁸ See paragraph 4119 above.

¹⁰⁸⁴⁹ See paragraph 4120 above.

¹⁰⁸⁵⁰ See paragraph 4115 above.

4736. All facts considered, the Chamber cannot find any circumstances which would qualify Mr Ngaïssona's participation or intent as particularly high or low for the purposes of sentencing.

4737. Nonetheless, the Chamber notes that another feature common to all crimes committed in the context of the Bossangoa Attack and events in its aftermath is their commission for motives involving discrimination. In this regard, the Chamber recalls that the Muslim civilian population of Bossangoa was targeted on religious grounds.¹⁰⁸⁵¹ Further, Mr Ngaïssona provided his financial contributions and support to the Anti-Balaka for the purpose of facilitating the crimes against the Muslim civilian population, including in Bossangoa.¹⁰⁸⁵² As indicated above,¹⁰⁸⁵³ the Chamber considers this circumstance to be an aggravating factor within the meaning of Rule 145(2)(b)(v) of the Rules for the crimes underlying Counts 30 to 33, 37 to 39.¹⁰⁸⁵⁴

4738. Finally, with respect to the impact of the crimes, the Chamber considers that the harm and consequences caused to victims, as described below, were objectively foreseeable to Mr Ngaïssona. In this regard, it recalls that in providing his contributions and support, Mr Ngaïssona was fully aware that the Anti-Balaka would violently target the Muslim population, noting in particular his knowledge and awareness of their prior killing and dislocating of Muslim civilians.¹⁰⁸⁵⁵ Further, the resulting harm caused to victims by virtue notably of the attack, killings, destruction of homes, forced displacement, and confinement, was inherent to the nature of the crimes committed in the context of the Bossangoa Attack and events in its aftermath.¹⁰⁸⁵⁶

¹⁰⁸⁵¹ See paragraphs 4106-4107 above.

¹⁰⁸⁵² See paragraphs 49, 4119-4120, 4124 above.

¹⁰⁸⁵³ See section VI.B.2.i.a above.

¹⁰⁸⁵⁴ With respect to Count 42, the Chamber recalls that the discriminatory dimension is a constitutive element of the crime against humanity of persecution. Accordingly, the Chamber does not consider it as an aggravating factor for this crime.

¹⁰⁸⁵⁵ See *e.g.* paragraphs 49, 56, 4119 above.

¹⁰⁸⁵⁶ See *also*, in relation to Counts 37 and 38, paragraph 4768 and, in relation to Count 39, paragraph 4781 below.

*i. Attack against the civilian population as
such as a war crime (Count 30)*

4739. The Chamber refers to its considerations above as to the gravity *in abstracto* of the crime of attack against the civilian population as such.¹⁰⁸⁵⁷

4740. Turning to the assessment of the facts *in concreto*, the Chamber considers the gravity of Count 30 to be high. The Chamber considers the nature of the unlawful behaviour and the means employed to be of particular relevance to its assessment. Notably, it recalls the nature of the targets comprising the attack, that is residential areas, including the Boro neighbourhood – generally known as the Muslim neighbourhood –, and the Muslim civilian population of Bossangoa.¹⁰⁸⁵⁸ Further, during the attack, the Anti-Balaka was well armed, with some AK-47s, RPGs, and hunting weapons.¹⁰⁸⁵⁹

4741. The Chamber also recalls that it may consider harm arising as a consequence of a crime in the context of sentencing.¹⁰⁸⁶⁰ In the present case, as set out in detail in the sections below, extensive harm was inflicted on the civilian population as a result of the Bossangoa Attack.¹⁰⁸⁶¹ In the view of the Chamber, this heightens the gravity *in concreto* of Count 30. The Chamber recognises that these consequences constitute the relevant facts underlying the other crimes Mr Ngaïssona is convicted of in the context of the Bossangoa Attack. While all relevant circumstances must be considered in the context of the individual sentence under this count, these factual overlaps are duly taken into account in the determination of the joint sentence.¹⁰⁸⁶²

4742. In addition, the Chamber notes that several individuals were injured during the Bossangoa Attack.¹⁰⁸⁶³ In particular, Batoul Naffi was injured in the vicinity of the imam's compound,

¹⁰⁸⁵⁷ See paragraphs 4500-4501 above.

¹⁰⁸⁵⁸ See paragraphs 82, 4055 above.

¹⁰⁸⁵⁹ See paragraph 82 above.

¹⁰⁸⁶⁰ See paragraph 4404 above.

¹⁰⁸⁶¹ See sections VI.B.4.ii.b.ii-VI.B.4.ii.b.v below. See also [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, para. 24.

¹⁰⁸⁶² See paragraphs 4414, 4706 above.

¹⁰⁸⁶³ See paragraph 83 above.

receiving a bullet wound to the leg and machete wounds to the head.¹⁰⁸⁶⁴ Other individuals were also injured during the attack, notably by bullets.¹⁰⁸⁶⁵

4743. Regarding Mr Ngaïssona's degree of participation and intent in relation to this crime, the Chamber recalls its findings above.¹⁰⁸⁶⁶

4744. Having considered all of the above circumstances, as well as the factors relevant to all crimes,¹⁰⁸⁶⁷ in particular the aggravating circumstance of committing the crime for a discriminatory motive,¹⁰⁸⁶⁸ the Chamber sentences Mr Ngaïssona to a term of 10 years of imprisonment for the war crime of attack against the civilian population as such (Count 30).

ii. *Murder as a crime against humanity and as a war crime (Counts 31 and 32)*

4745. The Chamber refers to its considerations above as to the gravity of the crimes of murder *in abstracto*.¹⁰⁸⁶⁹

4746. Turning to the assessment of the facts *in concreto*, the Chamber considers the gravity of Counts 31 and 32 to be high.

4747. The Chamber finds the extent of victimisation to be of particular relevance, recalling that the Anti-Balaka killed at least 18 persons who were not armed or taking part in hostilities in the course of the Bossangoa Attack.¹⁰⁸⁷⁰ It further highlights the circumstances of and the means employed to commit the crimes, noting in particular that many of the victims were shot at,¹⁰⁸⁷¹ and some also had their throat slit.¹⁰⁸⁷² Victims' bodies were found in the vicinity of the imam's house,¹⁰⁸⁷³ and some were killed while seeking refuge from the attack.¹⁰⁸⁷⁴

¹⁰⁸⁶⁴ See paragraph 2828 above.

¹⁰⁸⁶⁵ See paragraphs 2829-2831 above.

¹⁰⁸⁶⁶ See *in particular* paragraphs 4733-4736 above.

¹⁰⁸⁶⁷ See section VI.B.2; section VI.B.4.i; paragraphs 4733-4738 above.

¹⁰⁸⁶⁸ See section VI.B.2.i.a above.

¹⁰⁸⁶⁹ See paragraph 4507 above.

¹⁰⁸⁷⁰ See paragraph 84 above. See also [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, para. 60.

¹⁰⁸⁷¹ See *e.g.* paragraphs 2868, 2870, 2875-2876, 2888-2891 above.

¹⁰⁸⁷² See paragraphs 2872, 2887 above.

¹⁰⁸⁷³ See paragraphs 2868, 2872, 2875-2876, 2880, 2884-2887, 2892-2895 above.

¹⁰⁸⁷⁴ See *e.g.* paragraphs 2870, 2874-2876 above.

4748. In this regard, the Chamber recalls the testimony of P-2462, who described how the imam's house was 'surrounded' by the Anti-Balaka and 'they started to shoot'.¹⁰⁸⁷⁵ It further recalls its finding that no battle between the Seleka and Anti-Balaka took place in the vicinity of the imam's residence.¹⁰⁸⁷⁶

4749. The Chamber also received evidence that victims could not be buried in accordance with the practices of their religion. P-2200 notably stated that on the day following the Bossangoa Attack, as it was too dangerous to leave the school, they did not have clean shrouds in which to wrap the bodies, nor was there the usual washing of the bodies for their burial. Further, they could not access the usual cemetery because the Anti-Balaka were still around in the town, and the victims were buried in communal holes.¹⁰⁸⁷⁷ P-2657 also stated that they could not go to the cemetery as it was far, the situation was unstable, and the Anti-Balaka would attack the Muslims.¹⁰⁸⁷⁸

4750. Additionally, the Chamber refers to the testimony of P-2049, which illustrates the emotional pain suffered by the family of victims to this day.¹⁰⁸⁷⁹

4751. Regarding Mr Ngaïssona's degree of participation and intent in relation to these crimes, the Chamber recalls its findings above.¹⁰⁸⁸⁰

4752. Having considered all of the above circumstances, as well as the factors relevant to all crimes,¹⁰⁸⁸¹ in particular the aggravating circumstance of committing the crimes for a discriminatory motive,¹⁰⁸⁸² the Chamber sentences Mr Ngaïssona to a term of 11 years of imprisonment for the crime against humanity of murder (Count 31) and 11 years of imprisonment for the war crime of murder (Count 32).

¹⁰⁸⁷⁵ P-2462: T-059, p. 22, lines 19-21, p. 23, lines 19-20. See paragraph 2824 above.

¹⁰⁸⁷⁶ See paragraph 2862 above.

¹⁰⁸⁷⁷ See paragraph 2878 above.

¹⁰⁸⁷⁸ See paragraph 2882 above. See also [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, para. 49.

¹⁰⁸⁷⁹ See P-2049: T-101, p. 49, lines 11-16. See also [Prosecution Sentencing Brief](#), ICC-01/14-01/18-2747-Red, para. 13; [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, para. 30.

¹⁰⁸⁸⁰ See in particular paragraphs 4733-4736 above.

¹⁰⁸⁸¹ See section VI.B.2; section VI.B.4.i; paragraphs 4733-4738 above.

¹⁰⁸⁸² See section VI.B.2.i.a above.

iii. *Destruction of the adversary's property as a war crime (Count 33)*

4753. The war crime of destruction of an adversary's property is a crime against the right to property, which is in principle of lesser gravity than crimes against life, physical integrity, and personal liberty and dignity.¹⁰⁸⁸³ Considering the protected interests at stake, the Chamber deems this crime to be of substantial gravity *in abstracto*.

4754. In this respect, the Chamber notes that the actual gravity of this crime is variable, taking into account factors such as the economic consequences for the victims and the number of victims.¹⁰⁸⁸⁴ Further, in addition to the deprivation of the right of property of the owner, the crime's gravity may increase depending on the *de facto* function of the property destroyed, particularly if it included people's homes.¹⁰⁸⁸⁵ Indeed, in such cases, the perpetrators do not merely destroy structures, but also destroy people's homes – a place where the victims ought to have been able to feel shielded and safe, depriving them of a private place, a shelter and a sense of security.¹⁰⁸⁸⁶

4755. Having regard to the extent of the damage and harm caused to the victims in the concrete circumstances, the Chamber deems the gravity *in concreto* of this crime to be substantial. The Chamber stresses that, as a consequence of this crime, victims sustained abrupt and definitive damage: from one day to the next, they lost their houses – which the Anti-Balaka burned and destroyed.¹⁰⁸⁸⁷ Beyond the material harm suffered, this deprived the victims of their 'homes' and the option to return to a private place and shelter in their communities, as well as their sense of security.¹⁰⁸⁸⁸

¹⁰⁸⁸³ See [Ongwen Sentencing Judgment](#), ICC-02/04-01/15-1819-Red, paras 169, 242; [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, para. 136; [Al Mahdi Trial Judgment](#), ICC-01/12-01/15-171, para. 77.

¹⁰⁸⁸⁴ See [Ongwen Sentencing Judgment](#), ICC-02/04-01/15-1819-Red, paras 169, 242.

¹⁰⁸⁸⁵ See [Ongwen Sentencing Judgment](#), ICC-02/04-01/15-1819-Red, para. 242; [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, para. 137.

¹⁰⁸⁸⁶ See [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, para. 137.

¹⁰⁸⁸⁷ See paragraph 85 above.

¹⁰⁸⁸⁸ See also [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, para. 32.

4756. Regarding Mr Ngaïssona's degree of participation and intent in relation to this crime, the Chamber recalls its findings above.¹⁰⁸⁸⁹

4757. Having considered all of the above circumstances, as well as the factors relevant to all crimes,¹⁰⁸⁹⁰ in particular the aggravating circumstance of committing the crime for a discriminatory motive,¹⁰⁸⁹¹ the Chamber sentences Mr Ngaïssona to a term of 8 years of imprisonment for the war crime of destruction of an adversary's property (Count 33).

iv. *Forcible transfer and deportation as a crime against humanity and displacement as a war crime (Counts 37 and 38)*

4758. The Chamber refers to its considerations above as to the gravity *in abstracto* of the crimes of forcible transfer and deportation, and of displacement.¹⁰⁸⁹²

4759. Turning to the assessment of the facts *in concreto*, the Chamber considers the gravity of Counts 37 and 38 to be high.

4760. In this respect, the Chamber recalls that the Bossangoa Attack, and the specific targeting of Muslim residential areas and the Muslim civilian population therein, forced Muslim civilians to flee and seek shelter at the *École de la Liberté*, where their numbers rose into several thousands.¹⁰⁸⁹³ All the Muslim civilians displaced thereat were later forced to leave Bossangoa altogether and transported to Chad, following which the town was emptied of its Muslim population.¹⁰⁸⁹⁴ Accordingly, the Chamber finds that the number of persons affected by the crimes underlying Counts 37 and 38 was significant.

4761. In relation to the war crime of displacement specifically, the Chamber recalls that this crime does not require for displacement as such to actually occur.¹⁰⁸⁹⁵ Considering this, the Chamber finds the fact that Muslim inhabitants were effectively displaced as a direct

¹⁰⁸⁸⁹ See in particular paragraphs 4733-4736 above.

¹⁰⁸⁹⁰ See section VI.B.2; section VI.B.4.i; paragraphs 4733-4738 above.

¹⁰⁸⁹¹ See section VI.B.2.i.a above.

¹⁰⁸⁹² See paragraphs 4517-4518 above.

¹⁰⁸⁹³ See paragraphs 82, 86, 4072, 4074 above.

¹⁰⁸⁹⁴ See paragraphs 88, 4072, 4074 above. See also [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, para. 60.

¹⁰⁸⁹⁵ See [Ntaganda Sentencing Judgment](#), ICC-01/04-02/06-2442, para. 163.

consequence of the actions of the Anti-Balaka to heighten the gravity of the crime under Count 38.¹⁰⁸⁹⁶

4762. Regarding victims displaced at the *École de la Liberté*, the Chamber notes that their dislocation took place urgently, with Muslim civilians fleeing to seek shelter in the midst of the Bossangoa Attack.¹⁰⁸⁹⁷ P-2049 notably explained that, while some people were able to take some belongings, others were not able to bring anything with them.¹⁰⁸⁹⁸ In addition, the Chamber recalls that, as further described below in relation to Count 39, Muslim civilians forcibly displaced at the *École de la Liberté* remained confined there for fear of threats by the Anti-Balaka, were dependent on the protection of international forces for their safety, and could not leave the school premises without risk to their person. They stayed there in cramped and dire conditions for several months.¹⁰⁸⁹⁹ In the view of the Chamber, the prevailing deplorable conditions around and at the *École de la Liberté* and the significant amount of time victims were placed in such conditions further heighten the harm they suffered from due to the crimes under Counts 37 and 38.

4763. The Chamber also highlights that Muslim civilians were forced to leave twice in a short amount of time – first from their homes in Bossangoa to the *École de la Liberté*, and then again from the school to Chad,¹⁰⁹⁰⁰ which contributed to victims’ hardship and the uncertainty of their situation. Several witnesses testified that they felt like they no longer had a home they could return to in Bossangoa.¹⁰⁹⁰¹

4764. Regarding the transportation of Muslims to Chad, the Chamber recalls P-2453’s testimony that due to a lack of space in the vehicles, they could only take rucksacks with some substantial essential items and had to abandon other personal belongings.¹⁰⁹⁰² Further, P-2200 stated regarding his removal that he noticed the presence of the Anti-Balaka along the route until the border and that, without the escort by Chadian soldiers, they would not

¹⁰⁸⁹⁶ See paragraph 4085 above.

¹⁰⁸⁹⁷ See paragraphs 86, 2958-2970 above, in particular paragraphs 2960-2961. See also paragraphs 2817-2820 above.

¹⁰⁸⁹⁸ See P-2049: T-101, p. 41, line 22 – p. 42, line 7.

¹⁰⁸⁹⁹ See section VI.B.4.ii.b.v below. See paragraphs 87-88 above.

¹⁰⁹⁰⁰ See in particular paragraphs 86, 88 above.

¹⁰⁹⁰¹ See e.g. paragraphs 2989, 2993, 3021 above.

¹⁰⁹⁰² See paragraph 3026 above.

have been able to pass.¹⁰⁹⁰³ In this context, the Chamber also notes [REDACTED],¹⁰⁹⁰⁴ as well as P-2049's evidence that, while transportation to other towns in the CAR was discussed, the decision was taken to bring people to Chad due to the lack of security in those other locations.¹⁰⁹⁰⁵

4765. The Chamber considers that these circumstances increased the victims' distress, and finds particularly significant that they had no choice but to leave their homes and ultimately go to Chad, and were removed from their known surroundings. Some witnesses still lived in refugee camps in Chad at the time of their testimony in 2021 and 2022.¹⁰⁹⁰⁶ P-2462 notably explained that she no longer lives like she used to – they sleep on the tarpaulins in tents built by HCR, she sleeps on a wooden bed; her school life has been destroyed; her mother suffers a lot because she does not know what to do [REDACTED], so the living conditions for them are extremely difficult.¹⁰⁹⁰⁷

4766. The Chamber also received evidence that following their displacement, it remained difficult for Muslim civilians to return to Bossangoa.¹⁰⁹⁰⁸ P-2049 notably testified that:

I really have that desire to return home. My country remains my country. Today I'm living in a refugee camp, and I am suffering. My town is Bossangoa. I have my relatives. I would like to return to Bossangoa, but peace has not been restored in Bossangoa. If I go back there now, I do not have a home. I have no way to survive. So I prefer to stay in the refugee camp here. And when I shall have the resources to rebuild a house in Bossangoa when security would have been restored in my country, it will be with joy that I would return and resettle in my native town of Bossangoa.¹⁰⁹⁰⁹

4767. Considering the above, the Chamber finds that the consequences and harm of the commission of the crimes under Counts 37 and 38 were high, with the victims not only deprived of their property, but also effectively uprooted from their homes and communities,

¹⁰⁹⁰³ See paragraph 3029 above.

¹⁰⁹⁰⁴ See paragraph 3019 above.

¹⁰⁹⁰⁵ See paragraph 3027 above.

¹⁰⁹⁰⁶ See paragraphs 3033-3035 above.

¹⁰⁹⁰⁷ See paragraph 3034 above. In this context, the Chamber also notes Daryn Reicherter's report on the trauma effects of displacement. See Daryn Reicherter Expert Report, CAR-OTP-2127-6805, at 6832-40. Regarding the Ngaissona Defence's submissions on the alleged lack of probative value of Daryn Reicherter's report (see Ngaissona Defence Oral Sentencing Submissions: T-311, p. 71, lines 14-20), the Chamber refers to its findings above (see footnote 10419 above).

¹⁰⁹⁰⁸ See also paragraphs 3033, 3035-3037 above.

¹⁰⁹⁰⁹ P-2049: T-101, p. 52, lines 1-7. See paragraph 3033 above.

and in some cases their country. Victims notably experienced physical and emotional suffering, considering in particular the difficult conditions at the time of their displacement or at the locations they were displaced to. This in turn led to the loss of social, occupational and economic stability, and material safety, and to the loss of communities, as the Muslim population was forced to flee from Bossangoa and remained unable to return at least for some time following the events.¹⁰⁹¹⁰

4768. Regarding the Ngaïssona Defence's submissions on the long-term impact of forced displacement,¹⁰⁹¹¹ the Chamber recalls that it may consider any consequences arising from the crimes in the context of sentencing, as long as they were objectively foreseeable to the accused.¹⁰⁹¹² In this context, the Chamber considers that the harm described above, including beyond the initial displacement of victims, is inherent to the nature of the crimes, derives from, and is sufficiently linked to them. It thus considers of limited relevance to its present assessment the fact that other factors may have played a role in some victims not returning to their places of origin following the events. Recalling its above findings,¹⁰⁹¹³ the Chamber thus finds that it was entirely foreseeable to Mr Ngaïssona that Anti-Balaka elements would forcibly displace Muslim civilians, and that the harm described above would occur.

4769. Turning to the Ngaïssona Defence's argument that the alleged harm to unidentified individuals in camps outside of the CAR cannot be considered in the harm assessment against Mr Ngaïssona, recalling notably that the Pre-Trial Chamber declined to confirm charges against Mr Ngaïssona in relation to several prefectures,¹⁰⁹¹⁴ the Chamber notes that it has only considered the harm deriving from the charged crimes, that is in relation to Muslim civilians dislocated to the *École de la Liberté* in the context of the Bossangoa Attack and forced to leave Bossangoa thereafter.

¹⁰⁹¹⁰ See [Prosecution Sentencing Brief](#), ICC-01/14-01/18-2747-Red, para. 12; Prosecution Oral Sentencing Submissions: T-310, p. 36, lines 8-14; [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, paras 28, 47-49 referring to, *inter alia*, [CLRV2 Closing Brief](#), ICC-01/14-01/18-2734-Conf, paras 234-87.

¹⁰⁹¹¹ See paragraph 4528 above. See also Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 70, line 23 – p. 71, line 6.

¹⁰⁹¹² See paragraph 4404 above.

¹⁰⁹¹³ See paragraph 4738 above.

¹⁰⁹¹⁴ Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 71, lines 7-13.

4770. The Chamber further notes the Ngaïssona Defence's submission that the evidence relied upon by the CLRV2 concerning displacement should be scrutinised, referring to its reliance on items of alleged limited probative value.¹⁰⁹¹⁵ The Chamber emphasises that it has not relied on victim participation forms in this context.

4771. Regarding the Prosecution's and the CLRV2's submissions on the vulnerability of victims of these crimes,¹⁰⁹¹⁶ the Chamber considers that while victims were placed in a vulnerable situation, it cannot discern a particular vulnerability or defencelessness within the sense of Rule 145(2)(b)(iii) of the Rules, which would warrant an aggravated sentence. It considers that the particular circumstances of their treatment have already been accounted for in the Chamber's assessment of the circumstances of manner, location and means employed to execute the crimes pursuant to Rule 145(i)(c) of the Rules above.

4772. Finally, regarding Mr Ngaïssona's degree of participation and intent in relation to these crimes, the Chamber recalls its findings above.¹⁰⁹¹⁷

4773. Having considered all of the above circumstances, as well as the factors relevant to all crimes,¹⁰⁹¹⁸ in particular the aggravating circumstance of committing the crimes for a discriminatory motive,¹⁰⁹¹⁹ the Chamber sentences Mr Ngaïssona to a term of 8 years of imprisonment for the crime against humanity of forcible transfer and deportation (Count 37), and 8 years of imprisonment for the war crime of displacement (Count 38).

¹⁰⁹¹⁵ Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 71, lines 14-20.

¹⁰⁹¹⁶ [Prosecution Sentencing Brief](#), ICC-01/14-01/18-2747-Red, paras 23-24; Prosecution Oral Sentencing Submissions: T-310, p. 39, line 20 – p. 40, line 6; [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, para. 57. *Contra* Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 73, line 7 – p. 74, line 1.

¹⁰⁹¹⁷ See in particular paragraphs 4733-4736 above.

¹⁰⁹¹⁸ See section VI.B.2; section VI.B.4.i; paragraphs 4733-4738 above.

¹⁰⁹¹⁹ See section VI.B.2.i.a above.

v. *Imprisonment and other forms of severe deprivation of physical liberty as a crime against humanity (Count 39)*

4774. The Chamber refers to its considerations above as to the gravity of the crime *in abstracto*.¹⁰⁹²⁰

4775. Turning to the assessment of the facts *in concreto*, the Chamber considers the gravity of Count 39 to be high.

4776. The Chamber finds of particular significance the circumstances of and the means employed to execute the crime, as well as the extent of victimisation deriving from it – considering in particular the large number of victims and the significant length of time they were placed in the conditions described below –, and considers these factors to significantly heighten the gravity of the crime.

4777. First, the Chamber recalls that several thousand Muslim civilians remained confined at the *École de la Liberté* for fear of threats by the Anti-Balaka, where they were dependent on the protection of international forces for their safety and could not leave without risk to their person.¹⁰⁹²¹ Witnesses notably testified that the school felt like ‘a prison’,¹⁰⁹²² and described how they were specifically advised not to leave the school for risk of being attacked by the Anti-Balaka.¹⁰⁹²³

4778. In that respect, P-2200 stated that the situation for Muslims in Bossangoa at that time was like being in prison, in that they were encircled from all sides by the Anti-Balaka who had established their positions at several places in the town in such a way that those in the school did not dare to leave.¹⁰⁹²⁴ P-1577 also testified that in the aftermath of the Bossangoa Attack, they could see Anti-Balaka elements especially around the area of the school. P-1577 confirmed that the camp was protected by African Union troops surrounding it from different

¹⁰⁹²⁰ See paragraph 4566 above.

¹⁰⁹²¹ See paragraphs 86-88 above.

¹⁰⁹²² See e.g. paragraphs 2984, 2988, 2993 above.

¹⁰⁹²³ See paragraphs 2983-2994 above.

¹⁰⁹²⁴ See paragraph 2984 above.

locations, presumably to protect them from attack from the Anti-Balaka. P-1577 testified that people were allowed to leave the school but if, for example, they wanted to travel and pick things up from their homes, they had to go with an armed guard and not travel too far away from the protection of the camp for fear of being attacked.¹⁰⁹²⁵

4779. Second, the Chamber notes the cramped and dire living conditions under which victims remained at the *École de la Liberté*.¹⁰⁹²⁶ In this context, the Chamber refers to the testimony of witnesses – who described, *inter alia*, the overall crowdedness and lack of proper accommodation and sanitation, the difficulties in operating the clinic, and the lack of proper schooling –, and to photographs [REDACTED].¹⁰⁹²⁷ It highlights that the Muslim civilians at the school stayed in such conditions for months, from December 2013 to February or, for some, April 2014.¹⁰⁹²⁸

4780. The Chamber finds the testimonies of P-1577 and P-2453 particularly illustrative in that regard. P-1577 explained that the *École de la Liberté* was ‘very densely populated’, with no significant latrines or sanitation available, a typical scene of a displaced camp, that is, a very busy place with people cooking outdoors, the smell of cooking, lots of crying, uncomfortable people, and dirty children.¹⁰⁹²⁹ P-2453 stated that although the *École de la Liberté* was very big, comprised of six buildings:

[...] it was not enough to accommodate all of us, some had to stay in tents outside. I was sleeping in a classroom with many other people, we put the women and children on one side and the men were on another side. We were all sleeping on mats on the floor, only a few people who had arrived in early September had a mattress.¹⁰⁹³⁰

4781. Third, in light of the prevailing conditions around and at the *École de la Liberté*, all Muslim civilians confined thereat could not only not return to their homes, but were eventually forced to leave Bossangoa altogether for Chad.¹⁰⁹³¹ For instance, P-2462 testified that they eventually left to Chad ‘because of the crisis. We were enclaved in the *École de Liberté*. It

¹⁰⁹²⁵ See paragraph 2983 above.

¹⁰⁹²⁶ See paragraphs 87-88 above.

¹⁰⁹²⁷ See paragraphs 3001-3012 above.

¹⁰⁹²⁸ See paragraphs 86, 88, 3017 above.

¹⁰⁹²⁹ See paragraph 3002 above.

¹⁰⁹³⁰ P-2453 Statement, CAR-OTP-2111-0415-R04, at 0434, para. 91. See paragraph 3006 above.

¹⁰⁹³¹ See section VI.B.4.ii.b.iv above. See paragraphs 88, 4072, 4074 above.

was almost like a prison. Many people [...] refused to leave, but many people couldn't handle it anymore to live under these conditions, so many took the decision, the majority took the decision to leave'.¹⁰⁹³² The Chamber refers in that context to its above findings as to the consequences and harm deriving from the displacement of Muslim civilians from the school to Chad,¹⁰⁹³³ which equally derive from and are intrinsically linked to this crime.

4782.Regarding Mr Ngaïssona's degree of participation and intent in relation to this crime, the Chamber recalls its findings above.¹⁰⁹³⁴

4783.Having considered all of the above circumstances, as well as the factors relevant to all crimes,¹⁰⁹³⁵ in particular the aggravating circumstance of committing the crime for a discriminatory motive,¹⁰⁹³⁶ the Chamber sentences Mr Ngaïssona to a term of 8 years of imprisonment for the crime against humanity of imprisonment and other forms of severe deprivation of physical liberty (Count 39).

vi. *Persecution as a crime against humanity*
(Count 42)

4784.In relation to the gravity of the crime against humanity of persecution, the Chamber refers to its considerations above.¹⁰⁹³⁷

4785.Turning to the assessment of the facts *in concreto*, the Chamber considers the gravity of Count 42 to be high. In this regard, the Chamber highlights that the Anti-Balaka targeted a substantial number of Muslim civilians on religious grounds,¹⁰⁹³⁸ and violated numerous fundamental rights, namely, the right to life, right to physical integrity,¹⁰⁹³⁹ right to property, right to liberty and security of person, right to liberty of movement, and right against arbitrary

¹⁰⁹³² P-2657: T-104, p. 37, lines 10-15. See paragraph 3018 above.

¹⁰⁹³³ See notably paragraphs 4764-4767 above.

¹⁰⁹³⁴ See in particular paragraphs 4733-4736 above.

¹⁰⁹³⁵ See section VI.B.2; section VI.B.4.i; paragraphs 4733-4738 above.

¹⁰⁹³⁶ See section VI.B.2.i.a above.

¹⁰⁹³⁷ See paragraph 4547 above.

¹⁰⁹³⁸ See paragraphs 4106-4107 above. See also e.g. paragraph 4760 above.

¹⁰⁹³⁹ Given Mr Ngaïssona's acquittal in relation to Counts 40 and 41, the Chamber notes that it has only considered the deprivation of the right to physical integrity with respect to the injuries sustained by individuals during the Bossangoa Attack in the context of sentencing.

or unlawful interference with their family and home.¹⁰⁹⁴⁰ Mr Ngaïssona intended the Muslim civilian population of Bossangoa to be discriminated against on the basis of their religious and ethnic commonalities with the Seleka.¹⁰⁹⁴¹

4786. It further recalls its findings above regarding the crime-specific considerations made in relation to assessing the gravity of Counts 30 to 33, and 37 to 39, including the harm and consequences caused by these crimes, as well as Mr Ngaïssona's degree of participation and intent. The Chamber notes that the facts underlying his conviction under Count 42 are the same as those forming the basis of his convictions under Counts 30 to 33, and 37 to 39. In this respect, it stresses, once more, that these factual overlaps are duly taken into account in the context of determining the joint sentence.

4787. Having considered all of the above circumstances, as well as the factors relevant to all crimes,¹⁰⁹⁴² with the exception of the aggravating factor of committing the crime for a discriminatory motive, the Chamber sentences Mr Ngaïssona to a term of 10 years of imprisonment for the crime against humanity of persecution (Count 42).

c. *Crimes committed within the context of the events at Yamwara on and around 24 December 2013 (Counts 11 to 17)*

4788. The Chamber observes that the crimes committed in the context of the events at Yamwara share a number of features,¹⁰⁹⁴³ in particular as concerns Mr Ngaïssona's individual responsibility. In this respect, the Chamber recalls its findings above.¹⁰⁹⁴⁴ Notably, it recalls that Mr Ngaïssona is convicted of aiding, abetting or otherwise assisting the commission of crimes at Yamwara, within the meaning of Article 25(3)(c) of the Statute.

¹⁰⁹⁴⁰ See paragraph 4102 above. See also [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, para. 26.

¹⁰⁹⁴¹ See paragraph 4124 above.

¹⁰⁹⁴² See section VI.B.2; section VI.B.4.i; paragraphs 4733-4738 above.

¹⁰⁹⁴³ In this respect, the Chamber notes that these features are addressed jointly for all crimes merely for clarity and avoidance of duplication. However, it emphasises that it has taken each of these findings into account when determining the individual sentences below.

¹⁰⁹⁴⁴ See in particular sections II.A.2-II.A.3; section II.A.5, in particular paragraph 49; section II.A.6., in particular paragraph 56; section II.A.7, in particular paragraphs 57, 64; paragraphs 827, 1299, 1301-1302, 1304; section V.B.3.iii.b.ii above.

4789. Regarding the degree of Mr Ngaïssona's participation and intent for the purposes of sentencing, the Chamber takes note of the Ngaïssona Defence's submissions,¹⁰⁹⁴⁵ and recalls its findings above,¹⁰⁹⁴⁶ which equally apply to his involvement in the Yamwara Incident. Additionally, the Chamber notes that after the attacks on 5 December 2013, Mr Ngaïssona continued to provide financial assistance to the Anti-Balaka,¹⁰⁹⁴⁷ remained informed of the Anti-Balaka's continued activities and continued liaising with various individuals in this regard.¹⁰⁹⁴⁸ Furthermore, the Chamber recalls that Mr Ngaïssona was not only aware that the Anti-Balaka would commit the crimes forming part of the Yamwara Incident in the ordinary course of events, but intended for the Anti-Balaka to commit them and lent his assistance with the aim of facilitating such crimes.¹⁰⁹⁴⁹

4790. For the purposes of determining the appropriate sentences for the crimes underlying Counts 11 to 17, the Chamber deems it relevant that Mr Ngaïssona's participation in the crimes committed at Yamwara was limited to the abovementioned funding of the Anti-Balaka and supporting their activities 'prior to the attacks on Bangui and Bossangoa on 5 December 2013, and subsequently' generally.¹⁰⁹⁵⁰

4791. All facts considered, the Chamber cannot find any circumstances which would qualify Mr Ngaïssona's participation or intent as particularly high or low for the purposes of sentencing.

4792. Nonetheless, the Chamber notes that another feature common to all crimes committed at Yamwara is their commission for motives involving discrimination. In this regard, the Chamber recalls that the seven persons were targeted by Mr Yekatom's group because they were perceived to be Muslims.¹⁰⁹⁵¹ Further, Mr Ngaïssona provided his financial contributions and support to the Anti-Balaka for the purpose of facilitating the crimes against

¹⁰⁹⁴⁵ See [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, paras 5-19; Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 59, line 13 – p. 67, line 7.

¹⁰⁹⁴⁶ See in particular paragraph 4709 above.

¹⁰⁹⁴⁷ See paragraph 35 above.

¹⁰⁹⁴⁸ See paragraph 57 above.

¹⁰⁹⁴⁹ See paragraph 4292 above.

¹⁰⁹⁵⁰ See paragraph 4281 above.

¹⁰⁹⁵¹ See paragraphs 4230-4231 above.

the Muslim civilian population, including at Yamwara.¹⁰⁹⁵² As indicated above,¹⁰⁹⁵³ the Chamber considers this circumstance to be an aggravating factor within the meaning of Rule 145(2)(b)(v) of the Rules for the crimes underlying Counts 11 to 16.¹⁰⁹⁵⁴

4793. Additionally, the Chamber considers that the abovementioned nature of the unlawful behaviour and the means employed, as well as the impact of all crimes committed at Yamwara,¹⁰⁹⁵⁵ should be taken into account when determining the individual sentences for Mr Ngaïssona. With respect to the impact of the crimes,¹⁰⁹⁵⁶ the Chamber considers that the harm and consequences caused to victims were all objectively foreseeable to Mr Ngaïssona. In this regard, it recalls that in providing his contributions and support, Mr Ngaïssona was fully aware that the Anti-Balaka would violently target the Muslim population, noting in particular his knowledge and awareness of their prior killing of Muslim civilians.¹⁰⁹⁵⁷ Moreover, the resulting harms caused to the surviving captives of the Yamwara Incident by virtue of their mistreatment, as well as the impact on Saint Cyr's family and friends as a result of his torture and killing, were inherent to the nature of the crimes committed during the Yamwara Incident.

4794. Before the Chamber turns to its determination of the individual sentences for each crime, it is recalled that Judge Kovács would have acquitted Mr Ngaïssona of Counts 12, 13, 15 and 16 concerning Saint Cyr's torture and murder. With respect to these crimes, his dissent should thus be borne in mind in the context of the above findings, as well as the findings in sections iii, iv and v.

¹⁰⁹⁵² See paragraphs 49, 4291-4292 above.

¹⁰⁹⁵³ See section VI.B.2.ii.b above.

¹⁰⁹⁵⁴ With respect to Count 17, the Chamber recalls that the discriminatory dimension is a constitutive element of the crime against humanity of persecution. Accordingly, the Chamber does not consider it as an aggravating factor for this crime.

¹⁰⁹⁵⁵ See in particular paragraphs 4558-4564 above.

¹⁰⁹⁵⁶ See in particular paragraphs 4564, 4571, 4592, 4597-4598 above.

¹⁰⁹⁵⁷ See e.g. paragraphs 49, 56, 4291 above.

- i. *Imprisonment and other forms of severe deprivation of physical liberty as a crime against humanity (Count 14)*

4795. The Chamber recalls that it assessed the gravity of this crime as substantial *in abstracto* and high in the concrete circumstances.¹⁰⁹⁵⁸ Furthermore, it recalls its findings above regarding Mr Ngaïssona's degree of participation and intent.¹⁰⁹⁵⁹

4796. Having considered all of these circumstances, as well as the factors relevant to all crimes,¹⁰⁹⁶⁰ in particular the aggravating circumstance of committing the crime for a discriminatory motive,¹⁰⁹⁶¹ the Chamber sentences Mr Ngaïssona to a term of 8 years of imprisonment for the crime against humanity of imprisonment and other forms of severe deprivation of physical liberty (Count 14).

- ii. *Other inhumane acts as a crime against humanity (Count 11) and cruel treatment as a war crime (Count 13)*

4797. The Chamber recalls that it assessed the gravity of these crimes as high *in abstracto* and in the concrete circumstances.¹⁰⁹⁶² Furthermore, it recalls its findings above regarding Mr Ngaïssona's degree of participation and intent.¹⁰⁹⁶³

4798. Having considered all of these circumstances, as well as the factors relevant to all crimes,¹⁰⁹⁶⁴ in particular the aggravating circumstance of committing the crimes for a discriminatory motive,¹⁰⁹⁶⁵ the Chamber sentences Mr Ngaïssona to a term of 9 years of imprisonment for the crime against humanity of other inhumane acts (Count 11) and 9 years of imprisonment for the war crime of cruel treatment (Count 13).

¹⁰⁹⁵⁸ See section VI.B.3.ii.b.i above.

¹⁰⁹⁵⁹ See *in particular* paragraphs 4788-4791 above.

¹⁰⁹⁶⁰ See section VI.B.2; section VI.B.4.i; paragraphs 4788-4794 above.

¹⁰⁹⁶¹ See section VI.B.2.i.a above.

¹⁰⁹⁶² See section VI.B.3.ii.b.ii above.

¹⁰⁹⁶³ See *in particular* paragraphs 4788-4791 above.

¹⁰⁹⁶⁴ See section VI.B.2; section VI.B.4.i; paragraphs 4788-4794 above.

¹⁰⁹⁶⁵ See section VI.B.2.i.a above.

iii. *Torture as a crime against humanity and as a war crime (Counts 12 and 13)*

4799. The Chamber recalls that it assessed the gravity of these crimes as very high *in abstracto* and particularly high in the concrete circumstances.¹⁰⁹⁶⁶ Furthermore, it recalls its findings above regarding Mr Ngaïssona's degree of participation and intent,¹⁰⁹⁶⁷ Judge Kovács dissenting.

4800. Having considered all of these circumstances, as well as the factors relevant to all crimes,¹⁰⁹⁶⁸ in particular the aggravating circumstance of committing the crimes for a discriminatory motive,¹⁰⁹⁶⁹ with the exception of the war crime of torture for which it is a constitutive element, the Chamber, by majority, Judge Kovács dissenting, sentences Mr Ngaïssona to a term of 10 years of imprisonment for the crime against humanity of torture (Count 12) and 10 years of imprisonment for the war crime of torture (Count 13).

iv. *Murder as a crime against humanity and as a war crime (Counts 15 and 16)*

4801. The Chamber recalls its assessment of the gravity of these crimes as very high *in abstracto* and particularly high in the concrete circumstances.¹⁰⁹⁷⁰ Furthermore, it recalls its findings above regarding Mr Ngaïssona's degree of participation and intent,¹⁰⁹⁷¹ Judge Kovács dissenting.

4802. Having considered all of these circumstances, as well as the factors relevant to all crimes,¹⁰⁹⁷² in particular the aggravating circumstance of committing the crimes for a discriminatory motive,¹⁰⁹⁷³ the Chamber, by majority, Judge Kovács dissenting, sentences Mr Ngaïssona to

¹⁰⁹⁶⁶ See section VI.B.3.ii.b.iii above.

¹⁰⁹⁶⁷ See *in particular* paragraphs 4788-4791 above.

¹⁰⁹⁶⁸ See section VI.B.2; section VI.B.4.i; paragraphs 4788-4794 above.

¹⁰⁹⁶⁹ See section VI.B.2.i.a above.

¹⁰⁹⁷⁰ See section VI.B.3.ii.b.iv above.

¹⁰⁹⁷¹ See *in particular* paragraphs 4788-4791 above.

¹⁰⁹⁷² See section VI.B.2; section VI.B.4.i; paragraphs 4788-4794 above.

¹⁰⁹⁷³ See section VI.B.2.i.a above.

a term of 11 years of imprisonment for the crime against humanity of murder (Count 15) and 11 years of imprisonment for the war crime of murder (Count 16).

v. *Persecution as a crime against humanity*
(Count 17)

4803. The Chamber recalls that it assessed the gravity of this crime as particularly serious *in abstracto* and as high in the concrete circumstances.¹⁰⁹⁷⁴ Furthermore, it recalls its findings above regarding Mr Ngaïssona's degree of participation and intent,¹⁰⁹⁷⁵ and that Mr Ngaïssona intended the Muslim civilian population to be discriminated against on the basis of their religious and ethnic commonalities with the Seleka,¹⁰⁹⁷⁶ Judge Kovács dissenting in relation to Saint Cyr's torture and murder.

4804. Noting that the facts underlying Mr Ngaïssona's conviction under Count 17 are the same as those forming the basis of his convictions under Counts 11 to 16, the Chamber stresses, once more, that these factual overlaps are duly taken into account in the context of determining the joint sentence.

4805. Having considered all of these circumstances, as well as the factors relevant to all crimes,¹⁰⁹⁷⁷ apart from the aggravating circumstance of the aggravating factor of committing the crime for a discriminatory motive, the Chamber sentences Mr Ngaïssona to a term of 10 years of imprisonment for the crime against humanity of persecution (Count 17).

4806. While Judge Kovács would have acquitted Mr Ngaïssona from Counts 12, 13, 15 and 16 regarding Saint Cyr's torture and murder and therefore did not consider these crimes in assessing Mr Ngaïssona's liability for persecution, he nonetheless considers the above-mentioned sentence to appropriately reflect Mr Ngaïssona's culpability under Count 17 regarding the remaining underlying crimes. Accordingly, the abovementioned sentence is pronounced unanimously.

¹⁰⁹⁷⁴ See section VI.B.3.ii.b.v above.

¹⁰⁹⁷⁵ See in particular paragraphs 4788-4791 above.

¹⁰⁹⁷⁶ See paragraph 4297 above.

¹⁰⁹⁷⁷ See section VI.B.2; section VI.B.4.i; paragraphs 4788-4794 above.

d. *Crimes committed in the context of the Anti-Balaka's advance through and takeover of villages along the PK9-Mbaïki axis (Counts 24 to 28)*

4807. The Chamber observes that the crimes committed in the context of the Anti-Balaka's advance along the PK9-Mbaïki axis share a number of features,¹⁰⁹⁷⁸ in particular as concerns Mr Ngaïssona's individual responsibility. In this respect, it recalls its findings above.¹⁰⁹⁷⁹ Notably, it recalls that Mr Ngaïssona is convicted of aiding, abetting or otherwise assisting the commission of crimes in the context of the Anti-Balaka's advance along the PK9-Mbaïki axis, within the meaning of Article 25(3)(c) of the Statute.

4808. Regarding the degree of Mr Ngaïssona's participation and intent for the purposes of sentencing, the Chamber takes note of the Ngaïssona Defence's submissions¹⁰⁹⁸⁰ and recalls its findings above,¹⁰⁹⁸¹ which equally apply to his involvement in the Anti-Balaka's advance along the PK9-Mbaïki axis. Further, the Chamber notes that immediately following his return to Bangui on 14 January 2014, Mr Ngaïssona was installed as general coordinator of the Anti-Balaka and, as such, represented the entirety of the Anti-Balaka towards the CAR transition government and international authorities.¹⁰⁹⁸² As general coordinator of the Anti-Balaka, Mr Ngaïssona continued to provide financial assistance to the Anti-Balaka and actively engaged in formalising the structure of the Anti-Balaka.¹⁰⁹⁸³ Additionally, the Chamber recalls that Mr Ngaïssona was not only aware that the Anti-Balaka would commit the crimes in the ordinary course of events, but intended for them to commit them in the context of Mr Yekatom's group's advance through and takeover of villages along the PK9-Mbaïki axis, and lent his assistance with the aim of facilitating such crimes.¹⁰⁹⁸⁴

¹⁰⁹⁷⁸ In this respect, the Chamber notes that these features are addressed jointly for all crimes merely for clarity and avoidance of duplication. However, it emphasises that it has taken each of these findings into account when determining the individual sentences below.

¹⁰⁹⁷⁹ See in particular sections II.A.2-II.A.3; section II.A.5, in particular paragraph 49; section II.A.6., in particular paragraph 56; section II.A.7, in particular paragraphs 57, 60-62, 64; paragraphs 827, 1299, 1301-1304; section V.B.3.iv.b.ii above.

¹⁰⁹⁸⁰ See [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, paras 5-19; Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 59, line 13 – p. 67, line 7.

¹⁰⁹⁸¹ See paragraphs 4709, 4789 above.

¹⁰⁹⁸² See paragraphs 60-61, 64 above.

¹⁰⁹⁸³ See paragraph 62 above.

¹⁰⁹⁸⁴ See paragraph 4378 above.

4809. For the purposes of determining the appropriate sentences for the crimes underlying Counts 24 to 28, the Chamber deems it relevant that Mr Ngaïssona's participation in the crimes committed in the context of the Anti-Balaka's advance along the PK9-Mbaïki axis was limited to the abovementioned funding and supporting activities in relation to the Anti-Balaka in 2013, which he continued to provide in 2014, in addition to his contributions to further formalise the Anti-Balaka's structure, notably in his role as general coordinator of the Anti-Balaka.¹⁰⁹⁸⁵

4810. All facts considered, the Chamber cannot find any circumstances which would qualify Mr Ngaïssona's participation or intent as particularly high or low for the purposes of sentencing.

4811. Nonetheless, the Chamber notes that another feature common to all crimes committed in the context of the Anti-Balaka's advance along the PK9-Mbaïki axis is their commission for motives involving discrimination. In this regard, the Chamber recalls that the Muslim civilian population along the PK9-Mbaïki axis was targeted by reason of their perceived religious commonalities with the Seleka.¹⁰⁹⁸⁶ Further, Mr Ngaïssona provided his financial contributions and support to the Anti-Balaka for the purpose of facilitating the crimes against the Muslim civilian population, including along the PK9-Mbaïki axis.¹⁰⁹⁸⁷ As indicated above,¹⁰⁹⁸⁸ the Chamber considers this circumstance to be an aggravating factor within the meaning of Rule 145(2)(b)(v) of the Rules for the crimes underlying Counts 24 to 27.¹⁰⁹⁸⁹

¹⁰⁹⁸⁵ See paragraphs 4373, 4808 above.

¹⁰⁹⁸⁶ See paragraph 4341 above.

¹⁰⁹⁸⁷ See paragraphs 49, 4377-4378, 4382 above.

¹⁰⁹⁸⁸ See section VI.B.2.i.a above.

¹⁰⁹⁸⁹ With respect to Count 28, the Chamber recalls that the discriminatory dimension is a constitutive element of the crime against humanity of persecution. Accordingly, the Chamber does not consider it as an aggravating factor for this crime.

*i. Forcible transfer and deportation as a crime
against humanity and displacement as a war
crime (Counts 24 and 25)*

4812. The Chamber recalls that it assessed the gravity of Counts 24 and 25 as high and substantial, respectively, *in abstracto* and as high in the concrete circumstances.¹⁰⁹⁹⁰ Furthermore, it recalls its findings above regarding Mr Ngaïssona's degree of participation and intent.¹⁰⁹⁹¹

4813. With respect to the impact of the crimes,¹⁰⁹⁹² the Chamber considers that the dislocation of Muslim civilians along the PK9-Mbaïki axis, as well as the harm and consequences caused, were objectively foreseeable to Mr Ngaïssona. In this regard, it recalls that Mr Ngaïssona was fully aware that the Anti-Balaka would violently target the Muslim population, noting in particular his knowledge and awareness of their prior dislocating of Muslim civilians.¹⁰⁹⁹³ Moreover, it recalls that the harm described above, including beyond the initial displacement of victims, is inherent to the nature of the crimes and derives from them.

4814. Regarding the Ngaïssona Defence's argument that the alleged harm to unidentified individuals in camps outside of the CAR cannot be considered in the harm assessment against Mr Ngaïssona, recalling notably that the Pre-Trial Chamber declined to confirm charges against Mr Ngaïssona in relation to several prefectures,¹⁰⁹⁹⁴ the Chamber notes that it has only considered the harm deriving from the charged crimes, that is in relation to Muslim civilians dislocated from their towns and villages along the PK9-Mbaïki axis, and Muslim civilians dislocated subsequently from Mbaïki.

4815. The Chamber further notes the Ngaïssona Defence's submission that the evidence relied upon by the CLRV2 concerning displacement should be scrutinised, referring to its reliance on items of alleged limited probative value.¹⁰⁹⁹⁵ The Chamber emphasises that it has not relied on victim participation forms in this context.

¹⁰⁹⁹⁰ See section VI.B.3.ii.c.i above.

¹⁰⁹⁹¹ See in particular paragraphs 4807-4810 above.

¹⁰⁹⁹² See paragraphs 4611-4623, 4627 above.

¹⁰⁹⁹³ See e.g. paragraphs 49, 56, 4377 above.

¹⁰⁹⁹⁴ Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 71, lines 7-13.

¹⁰⁹⁹⁵ Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 71, lines 14-20.

4816. Having considered all of these circumstances, as well as the factors relevant to all crimes,¹⁰⁹⁹⁶ in particular the aggravating circumstance of committing the crimes for a discriminatory motive,¹⁰⁹⁹⁷ the Chamber sentences Mr Ngaïssona to a term of 8 years of imprisonment for the crime against humanity of forcible transfer and deportation (Count 24), and 8 years of imprisonment for the war crime of displacement (Count 25).

ii. *Murder as a crime against humanity and as a war crime (Counts 26 and 27)*

4817. The Chamber recalls that it assessed the gravity of these crimes as very high *in abstracto* and particularly high in the concrete circumstances.¹⁰⁹⁹⁸ Furthermore, it recalls its findings above regarding Mr Ngaïssona's degree of participation and intent.¹⁰⁹⁹⁹

4818. With respect to the impact of the crimes,¹¹⁰⁰⁰ the Chamber considers the harm suffered by Saleh's family and community, as well as the mistreatment of Saleh's body upon his killing, to be objectively foreseeable to Mr Ngaïssona. In this regard, it recalls the considerations above, particularly its finding that the mistreatment of Saleh's body was directly linked to the crimes of murder and inherent to their nature, in light of the context in which they occurred.¹¹⁰⁰¹ Further, Mr Ngaïssona was fully aware that the Anti-Balaka would violently target the Muslim population, noting in particular his knowledge and awareness of their prior killing of Muslim civilians.¹¹⁰⁰²

4819. Having considered all of these circumstances, as well as the factors relevant to all crimes,¹¹⁰⁰³ in particular the aggravating circumstance of committing the crimes for a discriminatory motive,¹¹⁰⁰⁴ the Chamber sentences Mr Ngaïssona to a term of 11 years of imprisonment for

¹⁰⁹⁹⁶ See section VI.B.2; section VI.B.4.i; paragraphs 4807-4811 above.

¹⁰⁹⁹⁷ See section VI.B.2.i.a above.

¹⁰⁹⁹⁸ See section VI.B.3.ii.c.ii above.

¹⁰⁹⁹⁹ See *in particular* paragraphs 4807-4810 above.

¹¹⁰⁰⁰ See paragraphs 4633-4637 above.

¹¹⁰⁰¹ See paragraph 4634 above. See also notably paragraph 4637 above.

¹¹⁰⁰² See *e.g.* paragraphs 49, 56, 4377 above.

¹¹⁰⁰³ See section VI.B.2; section VI.B.4.i; paragraphs 4807-4811 above.

¹¹⁰⁰⁴ See section VI.B.2.i.a above.

the crime against humanity of murder (Count 26) and 11 years of imprisonment for the war crime of murder (Count 27).

*iii. Persecution as a crime against humanity
(Count 28)*

4820. The Chamber recalls that it assessed the gravity of this crime as particularly serious *in abstracto* and high in the concrete circumstances.¹¹⁰⁰⁵ Furthermore, it recalls its findings above regarding Mr Ngaïssona's degree of participation and intent,¹¹⁰⁰⁶ and that Mr Ngaïssona intended for the Muslim civilian population along the PK9-Mbaïki axis to be discriminated against on the basis of their religious commonalities with the Seleka.¹¹⁰⁰⁷

4821. Noting that the facts underlying Mr Ngaïssona's conviction under Count 28 are the same as those forming the basis of his convictions under Counts 24 to 27, the Chamber stresses, once more, that these factual overlaps are duly taken into account in the context of determining the joint sentence.

4822. Having considered all of these circumstances, as well as the factors relevant to all crimes,¹¹⁰⁰⁸ with the exception of the aggravating factor of committing the crime for a discriminatory motive, the Chamber sentences Mr Ngaïssona to a term of 10 years of imprisonment for the crime against humanity of persecution (Count 28).

iii. Determination of joint sentence

4823. Having determined the individual sentences for each crime of which Mr Ngaïssona is convicted, the Chamber now turns to its determination of the joint sentence for all crimes, which must reflect Mr Ngaïssona's total culpability.¹¹⁰⁰⁹ In accordance with Article 78(3) of the Statute, the minimum joint sentence for Mr Ngaïssona is 11 years. As stated above, the maximum sentence shall not exceed 30 years of imprisonment or a sentence of life imprisonment in conformity with Article 77(1)(b) of the Statute.

¹¹⁰⁰⁵ See section VI.B.3.ii.c.iii above.

¹¹⁰⁰⁶ See *in particular* paragraphs 4807-4810 above.

¹¹⁰⁰⁷ See paragraph 4382 above.

¹¹⁰⁰⁸ See section VI.B.2; section VI.B.4.i; paragraphs 4807-4811 above.

¹¹⁰⁰⁹ See Rule 145(1)(a) of the Rules.

4824. The Prosecution requests a joint sentence of imprisonment of not less than 20 years.¹¹⁰¹⁰ The Ngaïssona Defence submits, on the one hand, that Mr Ngaïssona's maximum sentence should be time served in detention,¹¹⁰¹¹ and, on the other hand, that the Chamber 'should pronounce a joint sentence pursuant to Article 78(3) that is equal to the highest individual sentence pronounced'.¹¹⁰¹² The CLRV2 request that Mr Ngaïssona be sentenced to 30 years of imprisonment.¹¹⁰¹³

4825. The Chamber recalls its findings at paragraphs 4648-4650 above, which it considers equally relevant to its determination of Mr Ngaïssona's joint sentence. For the reasons set out there,¹¹⁰¹⁴ it does not entertain the parties' submissions comparing Mr Ngaïssona's case with that of others.¹¹⁰¹⁵

4826. The Chamber is mindful that the crimes were committed within a short timeframe and of the factual overlap underlying a number of crimes of which Mr Ngaïssona is found guilty, which must be taken into consideration when determining his joint sentence.¹¹⁰¹⁶

4827. First, and perhaps most strikingly, the Chamber observes that Mr Ngaïssona's responsibility for the 28 crimes he is convicted of is largely based on the same contributions.¹¹⁰¹⁷ In this respect, it recalls that his conviction pursuant to Article 25(3)(c) of the Statute for the crimes committed during all four incidents is established through his funding and supporting of the Anti-Balaka prior to the attacks on Bangui and Bossangoa on 5 December 2013.¹¹⁰¹⁸ Solely

¹¹⁰¹⁰ [Prosecution Sentencing Brief](#), ICC-01/14-01/18-2747-Red, paras 1, 6, 27; Prosecution Oral Sentencing Submissions: T-310, p. 6, lines 3-13.

¹¹⁰¹¹ [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, paras 2, 44; Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 98, lines 4-7.

¹¹⁰¹² [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 21.

¹¹⁰¹³ [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, paras 2, 71-75. *See further* CLRV2 Oral Sentencing Submissions: T-310, p. 54, line 8 – p. 55, line 15.

¹¹⁰¹⁴ *See* paragraph 4648 above.

¹¹⁰¹⁵ Prosecution Oral Sentencing Submissions: T-310, p. 25, lines 9-22; Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 56, line 24 – p. 58, line 8, p. 62, line 24 – p. 63, line 18, p. 66, lines 5-15.

¹¹⁰¹⁶ The Chamber take note of the participants' submissions in this respect, *see* [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, paras 20-26; Annex 1 to the [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748-Anx1; Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 67, lines 21-25, p. 68, line 8 – p. 70, line 7; [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, para. 21; CLRV2 Oral Sentencing Submissions: T-310, p. 46, line 14 – p. 47, line 2.

¹¹⁰¹⁷ *See also* [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, paras 20-22; Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 68, lines 8-18.

¹¹⁰¹⁸ *See in particular* paragraphs 4034, 4115, 4281, 4373 above.

for Counts 11 to 17, which concern the Yamwara Incident, and Counts 24 to 28, which relate to the Anti-Balaka's advance along the PK9-Mbaïki axis, the Chamber considered additional facts.¹¹⁰¹⁹ However, the Chamber is conscious that these additional facts also partly overlap. Notably, for both incidents, the Chamber considered that after the attacks on 5 December 2013, Mr Ngaïssona continued to provide financial assistance to the Anti-Balaka, remained informed of the Anti-Balaka's continued activities and continued liaising with various individuals in this regard.¹¹⁰²⁰

4828. Second, factual overlaps exist between crimes which concurrently constitute war crimes and crimes against humanity and are thus only distinguished by their different contextual elements.¹¹⁰²¹ Notably, this concerns the crimes of murder (Counts 2 and 3, 15 and 16, 26 and 27, as well as 31 and 32) and, to a certain extent, torture (Counts 12 and 13).¹¹⁰²²

4829. Third, there is a partial overlap in the conduct underlying, and the harm and consequences deriving from the crimes respectively committed within the context of (i) the Bangui Attack; (ii) the Bossangoa Attack and events in its aftermath; (iii) the Yamwara Incident; and (iv) the Anti-Balaka's advance through and takeover of villages along the PK9-Mbaïki axis.

4830. Specifically, with respect to the crimes committed within the context of the Bangui Attack, the Chamber notes that the conduct underlying Counts 1 to 6 and 8 broadly overlaps. It also notes that the harm and consequences deriving from the crime of forcible transfer and deportation, and the crime of displacement (Counts 4 and 5) overlap.¹¹⁰²³ Additionally, it observes that the crime of directing an attack against the civilian population as such (Count

¹¹⁰¹⁹ See paragraphs 4789, 4808 above.

¹¹⁰²⁰ See paragraphs 4789, 4808 above.

¹¹⁰²¹ See also [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 23; Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 68, line 24 – p. 69, line 8. *Contra*, [CLRV2 Sentencing Brief](#), ICC-01/14-01/18-2745-Red, para. 21 and CLRV2 Oral Sentencing Submissions: T-310, p. 46, line 14 – p. 47, line 2, who argue that the concurrent charges for crimes against humanity and war crimes for similar conduct should be considered as 'accentuating the overall gravity of the crimes, rather than diminishing it'.

¹¹⁰²² In this regard, the Chamber recalls its legal findings above, which address the differences between torture as a war crime and as a crime against humanity, see paragraphs 3817-3822 above. The Chamber is not persuaded by the Ngaïssona Defence's submission that the crimes of displacement under Article 8(2)(e)(viii) and the crime of forcible transfer and deportation pursuant to Article 7(1)(d) of the Statute fall into this category, considering their distinct elements of the crimes, see [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 23; Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 69, line 25 – p. 70, line 1.

¹¹⁰²³ See also, albeit based on a different argument, [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, paras 23, 25; Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 69, line 25 – p. 70, line 1.

1) was committed by way of conduct, and resulted in harm, which in turn constituted facts underlying separate crimes committed in the context of this attack. With respect to the crime of persecution (Count 8), the Chamber observes an overlap insofar as the crime was committed through acts constituting also the crimes under Counts 1 to 6.¹¹⁰²⁴ Furthermore, the discriminatory dimension underlying the crime of persecution was considered as an aggravating factor in relation to Counts 1 to 6.

4831. With respect to the crimes committed in the context of the Bossangoa Attack and events in its aftermath, the Chamber similarly sees a partial overlap in the conduct underlying Counts 30 to 33, 37 to 39, and 42. It also notes that the harm and consequences deriving from the crime of forcible transfer and deportation, and the crime of displacement (Counts 37 and 38), as well as the crime of imprisonment and other forms of severe deprivation of physical liberty (Count 39), overlap. Additionally, it recalls that the crime of directing an attack against the civilian population as such (Count 30) was committed by way of conduct, and resulted in harm, which in turn constituted facts underlying separate crimes committed in the context of this attack. With respect to the crime of persecution (Count 42), the Chamber observes an overlap insofar as the crime was committed through acts constituting also the crimes under Counts 30 to 33, and 37 to 39. Lastly, the Chamber observes that the discriminatory dimension underlying the crime of persecution has also been considered an aggravating factor in relation to Counts 30 to 33, and 37 to 39.

4832. With respect to the crimes committed during the Yamwara Incident, the Chamber notes that the conduct underlying Counts 11 to 17 partly overlaps. It also notes the factual overlaps between the consequences, in particular the harm on the surviving captives, of the crimes of imprisonment and other forms of severe deprivation of physical liberty (Count 14), other inhumane acts (Count 11) and cruel treatment (Count 13).¹¹⁰²⁵ Similarly, the Chamber observes the overlaps between the consequences of the crimes of torture (Counts 12 and 13) and murder (Counts 15 and 16) with regard to the emotional and psychological harm on

¹¹⁰²⁴ See also [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, paras 24-25; Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 69, lines 9-25.

¹¹⁰²⁵ See similar [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 24. The Chamber, however, does not agree with the Ngaïssona Defence's submission that 'count 14 [...] is completely absorbed in terms of its underlying criminal conduct by counts 11 and 13'.

Saint Cyr's family and friends. While agreeing with (the overlap of) these consequences as such, Judge Kovács recalls that he did not consider Mr Ngaïssona responsible for these crimes. In addition, the Chamber observes that the crime of persecution (Count 17) was committed through acts also constituting the crimes under Counts 11 to 16 and that the discriminatory dimension underlying the crime of persecution was further considered as an aggravating factor in relation to Counts 11 to 16, with the exception of the war crime of torture under Count 13.

4833. With respect to the crimes committed in the context of the Anti-Balaka's advance through and takeover of villages along the PK9-Mbaïki axis, the Chamber notes the partial overlap in the conduct underlying Counts 24 to 28. It also notes the overlap between the harm and consequences deriving from the crime of forcible transfer and deportation, and the crime of displacement (Counts 24 and 25). Additionally, it recalls that the crime of persecution (Count 28) was committed through acts also constituting the crimes under Counts 24 to 27 and that the discriminatory dimension has also been considered an aggravating factor in relation to Counts 24 to 27.

4834. Having duly considered the above, the Chamber considers that these overlaps, particularly with regard to Mr Ngaïssona's conduct, must have an impact on the determination of the joint sentence. Nonetheless, this consideration must be assessed alongside the fact that Mr Ngaïssona is convicted of 28 crimes, which were committed in the context of four separate incidents, spanning over different geographical areas. Furthermore, he committed these crimes in the context of an organised armed group and as part of a wider policy, in which he voluntarily participated.

4835. Importantly, the crimes resulted in the violation of numerous fundamental protected interests, including the right to life; the right to physical integrity; the right not to be subjected to torture, and cruel, inhuman or degrading treatment; the right to liberty and security of person; the right to liberty of movement; the right to freedom of religion and to not be denied the right to practice their own religion in community with other members of their group; the right to property; the right against arbitrary arrest and detention and related procedural guarantees; the right against arbitrary or unlawful interference with their family and home;

and the right of all persons deprived of their liberty to be treated with humanity and respect for their inherent dignity.¹¹⁰²⁶

4836. Considering the above, the Chamber finds that a joint sentence corresponding to the highest individual sentence pronounced is incapable of reflecting Mr Ngaïssona's total culpability. Accordingly, the Chamber considers it appropriate to set the joint sentence for Mr Ngaïssona slightly higher than 11 years.

4837. In determining his joint sentence, the Chamber further takes note of the Ngaïssona Defence's submissions regarding the 'policy aims of sentencing'.¹¹⁰²⁷ In particular, it has considered the submissions that Mr Ngaïssona's prospects of rehabilitation and reintegration are exceptionally positive, emphasising his age, high level of education, professional background, and strong familial support.¹¹⁰²⁸ Moreover, it notes the submissions that Mr Ngaïssona is already well advanced in the rehabilitation process through his gradual distancing from the Anti-Balaka movement following the creation of the PCUD, that he wishes to 'continue contributing to peace and stability in [the] CAR' through his party and that up until his arrest, he was devoted to developing football in the CAR and the greater region as a 'vehicle for reconciliation'.¹¹⁰²⁹

4838. The Chamber recalls the Court's jurisprudence on rehabilitation and reintegration in the sentencing context, as set out above.¹¹⁰³⁰ Taking into account the specifics of Mr Ngaïssona's case and the Chamber's findings above, the Chamber does not consider that Mr Ngaïssona's prospects of reintegration and rehabilitation are exceptional. Therefore, it affords this factor only limited weight in determining the appropriate joint sentence.

¹¹⁰²⁶ See paragraphs 4002, 4102, 4229, 4340 above.

¹¹⁰²⁷ Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 75, line 15 – p. 77, line 22.

¹¹⁰²⁸ [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 37; Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 80, line 1 – p. 81, line 9.

¹¹⁰²⁹ [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, para. 38, *referring, inter alia*, to the Unsworn Statement of Mr Ngaïssona, T-305. See also Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 80, lines 10-21. In this regard, the Chamber also notes Report, CAR-OTP-2092-1021; Video, CAR-D30-0029-0001; Transcript, CAR-D30-0029-0004; Video, CAR-D30-0029-0002; Transcript, CAR-D30-0029-0007.

¹¹⁰³⁰ See paragraph 4398 above.

4839. The Chamber is also not persuaded by the Ngaïssona Defence's argument that deterrence should only be given 'minimal weight'.¹¹⁰³¹ On the contrary, given Mr Ngaïssona's high profile in the CAR, *inter alia*, due to his past roles in the FIFA, the CAR politics and as general coordinator of the Anti-Balaka, as well as the resulting heightened public awareness of his trial, the Chamber considers it crucial to set a sentence which has a deterrent effect not only on Mr Ngaïssona, but which also effectively deters others. The Ngaïssona Defence's related arguments concerning the particular context in which Mr Ngaïssona committed these crimes, notably as a reaction to the alleged Seleka crimes, have however been taken into account above.¹¹⁰³²

4840. Lastly, the Chamber takes note of the Ngaïssona Defence's suggestion to consider 'non-carceral sentences'.¹¹⁰³³ It considers this proposal to be incompatible with the Court's legal framework and thus does not consider this submission further.

4841. In light of the above considerations, the Chamber sentences Mr Ngaïssona to a joint sentence of 12 years.

4842. This sentence is pronounced unanimously. While Judge Kovács would have acquitted Mr Ngaïssona of Counts 12, 13, 15 and 16 concerning Saint Cyr's torture and murder, he does not consider his dissent in this respect to have any impact on the joint sentence.

4843. The Chamber is of the view that this term is proportionate to Mr Ngaïssona's specific individual circumstances, conforms with the purposes of punishment under the Court's legal framework, and adequately acknowledges the victims' suffering and harm, whilst safeguarding Mr Ngaïssona's prospects of rehabilitation and reintegration into society. Consequently, the Chamber considers imprisonment to constitute a sufficient penalty for Mr Ngaïssona and therefore does not impose any fine in addition thereto.¹¹⁰³⁴

¹¹⁰³¹ Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 76, line 2 – p. 77, line 22.

¹¹⁰³² See section VI.B.2.ii.b above.

¹¹⁰³³ Ngaïssona Defence Oral Sentencing Submissions: T-311, p. 78, line 1 – p. 79, line 25.

¹¹⁰³⁴ Rule 146(1) of the Rules.

iv. Deduction of time spent in detention

4844. The Chamber notes that Mr Ngaïssona was arrested by the French authorities, pursuant to the Arrest Warrant against Mr Ngaïssona, on 12 December 2018 and was held in their detention until his transfer to the Court on 23 January 2019.¹¹⁰³⁵

4845. Accordingly, the Chamber orders that the time Mr Ngaïssona has spent in detention from the date of his arrest on 12 December 2018 until the date of this judgment, shall be deducted from his sentence.

¹¹⁰³⁵ Report on Mr Ngaïssona's Arrest by the French Authorities, ICC-01/14-01/18-96-US-Exp-Red, paras 1, 6; Report on Mr Ngaïssona's Arrest and Surrender, ICC-01/14-01/18-101-US-Exp, paras 5-14. *See also* [Ngaïssona Defence Sentencing Brief](#), ICC-01/14-01/18-2748, n. 2.

VII. VERDICT

4846. For the foregoing reasons and on the basis of the evidence submitted and discussed before this Chamber at trial and the entire proceedings, pursuant to Article 74(2) of the Statute, **THE CHAMBER FINDS**

ALFRED ROMBHOT YEKATOM

under **Count 1** of the charges, **GUILTY** of the **war crime of attack against the civilian population as such**, pursuant to Articles 8(2)(e)(i) and 25(3)(a) of the Rome Statute, committed on 5 December 2013 in Bangui, including in Boeing and Cattin;

under **Count 2** of the charges, **GUILTY** of the **crime against humanity of murder**, pursuant to Articles 7(1)(a) and 25(3)(a) of the Rome Statute, committed on 5 December 2013 in the market in Boeing and Cattin, Bangui;

under **Count 3** of the charges, **GUILTY** of the **war crime of murder**, pursuant to Articles 8(2)(c)(i) and 25(3)(a) of the Rome Statute, committed on 5 December 2013 in the market in Boeing and Cattin, Bangui;

under **Count 4** of the charges, **GUILTY** of the **crime against humanity of forcible transfer and deportation**, pursuant to Articles 7(1)(d) and 25(3)(a) of the Rome Statute, committed starting from 5 December 2013 in the context of the attack in Boeing and Cattin, Bangui;

under **Count 5** of the charges, **GUILTY** of the **war crime of displacement**, pursuant to Articles 8(2)(e)(viii) and 25(3)(a) of the Rome Statute, committed starting from 5 December 2013 in the context of the attack in Boeing and Cattin, Bangui;

under **Count 6** of the charges, **GUILTY** of the **war crime of directing an attack against a building dedicated to religion**, pursuant to Articles 8(2)(e)(iv) and 25(3)(a) of the Rome Statute, committed on 5 December 2013 in Boeing, Bangui;

under **Count 8** of the charges, **GUILTY** of the **crime against humanity of persecution**, on religious grounds, of Muslim civilians perceived by the Anti-Balaka as supporters of or affiliated with the Seleka, by attack against the civilian population as such, murder, forcible

transfer and deportation, displacement and directing an attack against a building dedicated to religion, committed starting from 5 December 2013 in the context of the attack in Boeing and Cattin, Bangui, pursuant to Articles 7(1)(h) and 25(3)(a) of the Rome Statute;

under **Count 11** of the charges, **GUILTY** of the **crime against humanity of other inhumane acts**, pursuant to Articles 7(1)(k) and 25(3)(a) of the Rome Statute, committed on or about 24 December 2013 at Yamwara in Boeing, Bangui;

under **Count 12** of the charges, **GUILTY** of the **crime against humanity of torture**, pursuant to Articles 7(1)(f) and 25(3)(a) of the Rome Statute, committed on or about 24 December 2013 at Yamwara in Boeing, Bangui;

under **Count 13** of the charges, **GUILTY** of the **war crime of cruel treatment** concerning the six persons and **GUILTY** of the **war crime of torture** of one other, pursuant to Articles 8(2)(c)(i) and 25(3)(a) of the Rome Statute, committed on or about 24 December 2013 at Yamwara in Boeing, Bangui;

under **Count 14** of the charges, **GUILTY** of the **crime against humanity of imprisonment and other forms of severe deprivation of physical liberty**, pursuant to Articles 7(1)(e) and 25(3)(a) of the Rome Statute, committed on or about 24 December 2013 until on or about 27 December 2013 in Boeing, Bangui;

under **Count 15** of the charges, **GUILTY** of the **crime against humanity of murder**, pursuant to Articles 7(1)(a) and 25(3)(a) of the Rome Statute, committed on or about 24 December 2013 at Yamwara in Boeing, Bangui;

under **Count 16** of the charges, **GUILTY** of the **war crime of murder**, pursuant to Articles 8(2)(c)(i) and 25(3)(a) of the Rome Statute, committed on or about 24 December 2013 at Yamwara in Boeing, Bangui;

under **Count 17** of the charges, **GUILTY** of the **crime against humanity of persecution**, on ethnic and religious grounds, of civilians perceived by the Anti-Balaka as supporters of or affiliated with the Seleka, by other inhumane acts, torture, cruel treatment, imprisonment and other forms of severe deprivation of physical liberty and murder, committed on or about

24 December 2013 until on or about 27 December 2013 in Boeing, Bangui, pursuant to Articles 7(1)(h) and 25(3)(a) of the Rome Statute;

under **Count 24** of the charges, **GUILTY** of the **crime against humanity of forcible transfer and deportation**, pursuant to Articles 7(1)(d) and 25(3)(a) of the Rome Statute, committed between on or about 10 January 2014 and on or about 6 February 2014 in the context of the Anti-Balaka's advance through and takeover of villages along the PK9-Mbaïki axis, including Sekia, Ndangala, Bimon, Kapou, Bossongo, Pissa and Mbaïki;

under **Count 25** of the charges, **GUILTY** of the **war crime of displacement**, pursuant to Articles 8(2)(e)(viii) and 25(3)(a) of the Rome Statute, committed between on or about 10 January 2014 and on or about 6 February 2014 in the context of the Anti-Balaka's advance through and takeover of villages along the PK9-Mbaïki axis, including Sekia, Ndangala, Bimon, Kapou, Bossongo, Pissa and Mbaïki;

under **Count 26** of the charges, **GUILTY** of the **crime against humanity of murder**, pursuant to Articles 7(1)(a) and 25(3)(a) of the Rome Statute, committed on 28 February 2014 in Mbaïki;

under **Count 27** of the charges, **GUILTY** of the **war crime of murder**, pursuant to Articles 8(2)(c)(i) and 25(3)(a) of the Rome Statute, committed on 28 February 2014 in Mbaïki;

under **Count 28** of the charges, **GUILTY** of the **crime against humanity of persecution**, on religious grounds, of Muslim civilians perceived by the Anti-Balaka as supporters of or affiliated with the Seleka, by forcible transfer and deportation, displacement and murder, committed between on or about 10 January 2014 and on or about 6 February 2014 and on 28 February 2014 in the context of the Anti-Balaka's advance through and takeover of villages along the PK9-Mbaïki axis, including Sekia, Ndangala, Bimon, Kapou, Bossongo, Pissa and Mbaïki, pursuant to Articles 7(1)(h) and 25(3)(a) of the Rome Statute;

BY MAJORITY, under **Count 29** of the charges, **NOT GUILTY** of the **war crime of conscripting or enlisting children under the age of 15 years into an armed group and using them to participate actively in hostilities**, pursuant to Articles 8(2)(e)(vii) and

25(3)(a) of the Rome Statute, between at least December 2013 and August 2014 in Boeing, Sekia, Pissa and Batalimo.

4847. For the foregoing reasons and on the basis of the evidence submitted and discussed before this Chamber at trial and the entire proceedings, pursuant to Article 74(2) of the Statute, **THE CHAMBER FINDS**

PATRICE-EDOUARD NGAÏSSONA

under **Count 1** of the charges, **GUILTY** of the **war crime of attack against the civilian population as such**, pursuant to Articles 8(2)(e)(i) and 25(3)(c) of the Rome Statute, committed on 5 December 2013 in Bangui, including in Boeing and Cattin;

under **Count 2** of the charges, **GUILTY** of the **crime against humanity of murder**, pursuant to Articles 7(1)(a) and 25(3)(c) of the Rome Statute, committed on 5 December 2013 in the market in Boeing and Cattin, Bangui;

under **Count 3** of the charges, **GUILTY** of the **war crime of murder**, pursuant to Articles 8(2)(c)(i) and 25(3)(c) of the Rome Statute, committed on 5 December 2013 in the market in Boeing and Cattin, Bangui;

under **Count 4** of the charges, **GUILTY** of the **crime against humanity of forcible transfer and deportation**, pursuant to Articles 7(1)(d) and 25(3)(c) of the Rome Statute, committed starting from 5 December 2013 in the context of the attack in Boeing and Cattin, Bangui;

under **Count 5** of the charges, **GUILTY** of the **war crime of displacement**, pursuant to Articles 8(2)(e)(viii) and 25(3)(c) of the Rome Statute, committed starting from 5 December 2013 in the context of the attack in Boeing and Cattin, Bangui;

under **Count 6** of the charges, **GUILTY** of the **war crime of directing an attack against a building dedicated to religion**, pursuant to Articles 8(2)(e)(iv) and 25(3)(c) of the Rome Statute, committed on 5 December 2013 in Boeing, Bangui;

under **Count 8** of the charges, **GUILTY** of the **crime against humanity of persecution**, on religious grounds, of Muslim civilians perceived by the Anti-Balaka as supporters of or

affiliated with the Seleka, by attack against the civilian population as such, murder, forcible transfer and deportation, displacement and directing an attack against a building dedicated to religion, committed starting from 5 December 2013 in the context of the attack in Boeing and Cattin, Bangui, pursuant to Articles 7(1)(h) and 25(3)(c) of the Rome Statute;

under **Count 11** of the charges, **GUILTY** of the **crime against humanity of other inhumane acts**, pursuant to Articles 7(1)(k) and 25(3)(c) of the Rome Statute, committed on or about 24 December 2013 at Yamwara in Boeing, Bangui;

BY MAJORITY, under **Count 12** of the charges, **GUILTY** of the **crime against humanity of torture**, pursuant to Articles 7(1)(f) and 25(3)(c) of the Rome Statute, committed on or about 24 December 2013 at Yamwara in Boeing, Bangui;

under **Count 13** of the charges, **GUILTY** of the **war crime of cruel treatment** concerning the six persons, pursuant to Articles 8(2)(c)(i) and 25(3)(c) of the Rome Statute, and, **BY MAJORITY**, **GUILTY** of the **war crime of torture** of one other, pursuant to Articles 8(2)(c)(i) and 25(3)(c) of the Rome Statute, committed on or about 24 December 2013 at Yamwara in Boeing, Bangui;

under **Count 14** of the charges, **GUILTY** of the **crime against humanity of imprisonment and other forms of severe deprivation of physical liberty**, pursuant to Articles 7(1)(e) and 25(3)(c) of the Rome Statute, committed on or about 24 December 2013 until on or about 27 December 2013 in Boeing, Bangui;

BY MAJORITY, under **Count 15** of the charges, **GUILTY** of the **crime against humanity of murder**, pursuant to Articles 7(1)(a) and 25(3)(c) of the Rome Statute, committed on or about 24 December 2013 at Yamwara in Boeing, Bangui;

BY MAJORITY, under **Count 16** of the charges, **GUILTY** of the **war crime of murder**, pursuant to Articles 8(2)(c)(i) and 25(3)(c) of the Rome Statute, committed on or about 24 December 2013 at Yamwara in Boeing, Bangui;

under **Count 17** of the charges, **GUILTY** of the **crime against humanity of persecution**, on ethnic and religious grounds, of civilians perceived by the Anti-Balaka as supporters of

or affiliated with the Seleka, by other inhumane acts, torture, cruel treatment, imprisonment and other forms of severe deprivation of physical liberty and murder, committed on or about 24 December 2013 until on or about 27 December 2013 in Boeing, Bangui, pursuant to Articles 7(1)(h) and 25(3)(c) of the Rome Statute;

under **Count 24** of the charges, **GUILTY** of the **crime against humanity of forcible transfer and deportation**, pursuant to Articles 7(1)(d) and 25(3)(c) of the Rome Statute, committed between on or about 10 January 2014 and on or about 6 February 2014 in the context of the Anti-Balaka's advance through and takeover of villages along the PK9-Mbaïki axis, including Sekia, Ndongala, Bimon, Kapou, Bossongo, Pissa and Mbaïki;

under **Count 25** of the charges, **GUILTY** of the **war crime of displacement**, pursuant to Articles 8(2)(e)(viii) and 25(3)(c) of the Rome Statute, committed between on or about 10 January 2014 and on or about 6 February 2014 in the context of the Anti-Balaka's advance through and takeover of villages along the PK9-Mbaïki axis, including Sekia, Ndongala, Bimon, Kapou, Bossongo, Pissa and Mbaïki;

under **Count 26** of the charges, **GUILTY** of the **crime against humanity of murder**, pursuant to Articles 7(1)(a) and 25(3)(c) of the Rome Statute, committed on 28 February 2014 in Mbaïki;

under **Count 27** of the charges, **GUILTY** of the **war crime of murder**, pursuant to Articles 8(2)(c)(i) and 25(3)(c) of the Rome Statute, committed on 28 February 2014 in Mbaïki;

under **Count 28** of the charges, **GUILTY** of the **crime against humanity of persecution**, on religious grounds, of Muslim civilians perceived by the Anti-Balaka as supporters of or affiliated with the Seleka, by forcible transfer and deportation, displacement and murder, committed between on or about 10 January 2014 and on or about 6 February 2014 and on 28 February 2014 in the context of the Anti-Balaka's advance through and takeover of villages along the PK9-Mbaïki axis, including Sekia, Ndongala, Bimon, Kapou, Bossongo, Pissa and Mbaïki, pursuant to Articles 7(1)(h) and 25(3)(c) of the Rome Statute;

under **Count 30** of the charges, **GUILTY** of the **war crime of attack against the civilian population as such**, pursuant to Articles 8(2)(e)(i) and 25(3)(c) of the Rome Statute, committed on 5 December 2013 in Bossangoa;

under **Count 31** of the charges, **GUILTY** of the **crime against humanity of murder**, pursuant to Articles 7(1)(a) and 25(3)(c) of the Rome Statute, committed on 5 December 2013 in Bossangoa;

under **Count 32** of the charges, **GUILTY** of the **war crime of murder**, pursuant to Articles 8(2)(c)(i) and 25(3)(c) of the Rome Statute, committed on 5 December 2013 in Bossangoa;

under **Count 33** of the charges, **GUILTY** of the **war crime of destructing the adversary's property**, pursuant to Articles 8(2)(e)(xii) and 25(3)(c) of the Rome Statute, committed on 5 December 2013 and in the days thereafter in Bossangoa;

under **Count 34** of the charges, **NOT GUILTY** of the **war crime of pillaging**, pursuant to Articles 8(2)(e)(v) and 25(3)(c) of the Rome Statute, committed on 5 December 2013 in Bossangoa;

under **Count 35** of the charges, **NOT GUILTY** of the **war crime of directing an attack against a building dedicated to religion**, pursuant to Articles 8(2)(e)(iv) and 25(3)(c) of the Rome Statute, committed on 5 December 2013 and in the week following in Bossangoa;

under **Count 37** of the charges, **GUILTY** of the **crime against humanity of forcible transfer and deportation**, pursuant to Articles 7(1)(d) and 25(3)(c) of the Rome Statute, committed starting from 5 December 2013 in the context of the attack on Bossangoa;

under **Count 38** of the charges, **GUILTY** of the **war crime of displacement**, pursuant to Articles 8(2)(e)(viii) and 25(3)(c) of the Rome Statute, committed starting from 5 December 2013 in the context of the attack on Bossangoa;

under **Count 39** of the charges, **GUILTY** of the **crime against humanity of imprisonment and other forms of severe deprivation of physical liberty**, pursuant to Articles 7(1)(e) and

25(3)(c) of the Rome Statute, committed on 5 December 2013 and in the weeks following in Bossangoa;

under **Count 40** of the charges, **NOT GUILTY** of the **crime against humanity of rape**, pursuant to Articles 7(1)(g) and 25(3)(c) of the Rome Statute, committed on 5 December 2013 in Bossangoa;

under **Count 41** of the charges, **NOT GUILTY** of the **war crime of rape**, pursuant to Articles 8(2)(e)(vi) and 25(3)(c) of the Rome Statute, committed on 5 December 2013 in Bossangoa;

under **Count 42** of the charges, **GUILTY** of the **crime against humanity of persecution**, on religious grounds, of Muslim civilians perceived by the Anti-Balaka as supporters of or affiliated with the Seleka, by attack against the civilian population as such, murder, destruction of the adversary's property, forcible transfer and deportation, displacement, and imprisonment and other forms of severe deprivation of physical liberty, committed starting from 5 December 2013 in the context of the attack on Bossangoa, pursuant to Articles 7(1)(h) and 25(3)(c) of the Rome Statute.

4848. For the foregoing reasons, pursuant to Articles 76-78 of the Rome Statute, **THE CHAMBER**

SENTENCES Mr Yekatom to a joint sentence of 15 years;

SENTENCES Mr Ngaïssona to a joint sentence of 12 years;

ORDERS the deduction of the time Mr Yekatom has spent in detention since 17 November 2018 from his sentence;

ORDERS the deduction of the time Mr Ngaïssona has spent in detention since 12 December 2018 from his sentence;

INFORMS the participants that reparations to victims pursuant to Article 75 of the Rome Statute shall be addressed in due course; and

DIRECTS the Presidency, in accordance with Regulation 117 of the Regulations, to monitor the financial situation of Mr Yekatom and Mr Ngaïssona on an ongoing basis for the purposes of any reparations order against them.

Done in both English and French, the English version being authoritative.



Judge Bertram Schmitt

Presiding Judge



Judge Péter Kovács



Judge Chang-ho Chung

Dated 24 July 2025

At The Hague, The Netherlands