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Date: **22 November 2024**

**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 Document**

**Public Redacted Version of the “Closing Brief on behalf of Victims of Other Crimes”,  
No. ICC-01/14-01/18-2734-Conf, 15 November 2024**

**Source:** Common Legal Representatives of Victims of Other Crimes

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

**The Office of the Prosecutor**

Mr Karim A. A. Khan KC  
Mr Mame Mandiaye Niang  
Mr Kweku Vanderpuye

**Counsel for Alfred Yekatom**

Ms Mylène Dimitri  
Ms Anta Guissé  
Mr Thomas Hannis  
Ms Sarah Bafadhel

**Counsel for Patrice-Édouard Ngaissona**

Mr Geert-Jan Alexander Knoops  
Ms Marie-Hélène Proulx  
Ms Lauriane Vandeler

**Legal Representatives of the Victims**

Mr Abdou Dangabo Moussa  
Ms Marie Édith Douzima Lawson  
Mr Yaré Fall  
Ms Paolina Massidda  
Ms Elisabeth Rabesandratana  
Mr Dmytro Suprun

**Legal Representatives of the Applicants**

**Unrepresented Victims**

**Unrepresented Applicants  
(Participation/Reparation)**

**The Office of Public Counsel for Victims**

Ms Paolina Massidda  
Mr Enrique Carnero Rojo  
Mr Orchlón Narantsetseg  
Mr Alexis Larivière  
Ms Ana Peña  
Mr Innocent Mpoko

**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**

<b>I.</b>	<b>INTRODUCTION .....</b>	<b>5</b>
<b>II.</b>	<b>PROCEDURAL BACKGROUND .....</b>	<b>5</b>
<b>III.</b>	<b>CONFIDENTIALITY .....</b>	<b>6</b>
<b>IV.</b>	<b>VICTIMS PARTICIPATING IN THE CASE.....</b>	<b>7</b>
	<b>1. Overview of the Victims participating in the case .....</b>	<b>8</b>
	<b>2. Motivation and expectations of the Victims .....</b>	<b>15</b>
<b>V.</b>	<b>ASSESSMENT OF THE EVIDENCE.....</b>	<b>17</b>
<b>VI.</b>	<b>SUBMISSIONS ON THE CHARGED CRIMES .....</b>	<b>23</b>
	<b>1. The applicable law and the context in which the crimes were committed .....</b>	<b>23</b>
	a) Contextual elements of crimes against humanity .....	23
	b) Contextual elements of war crimes .....	28
	<b>2. The attack against the civilian population.....</b>	<b>30</b>
	a) Crimes committed in Bangui (including Cattin) and Boeing .....	35
	b) Crimes committed at the Yamwara school in Bangui .....	37
	c) Crimes committed along the PK9-Mbaïki axis .....	42
	d) Crimes committed in Bossangoa .....	54
<b>VII.</b>	<b>SUBMISSIONS ON THE LIABILITY OF THE ACCUSED .....</b>	<b>60</b>
	<b>1. Brief overview of the modes of liability charged against the Accused.....</b>	<b>60</b>
	a) Commission as an individual or through another person (direct and indirect perpetration) (article 25(3)(a) of the Statute) .....	60
	b) Ordering (article 25(3)(b) of the Statute) .....	61
	c) Aiding and abetting (article 25(3)(c) of the Statute) .....	62
	d) Contributing in any other way to a crime committed by a group of persons (article 25(3)(d) of the Statute).....	62
	<b>2. Mr Yekatom’s role and authority .....</b>	<b>64</b>
	a) Structuring, training and equipping Anti-Balaka elements .....	64
	b) Preparing the Anti-Balaka attack and participating and leading his group in the execution of the attack .....	66
	c) Issuing orders to Anti-Balaka members .....	66
	d) Intent and knowledge.....	67
	<b>3. Mr Ngaïssona’s role and authority .....</b>	<b>68</b>
	a) Structuring the Anti-Balaka.....	69
	b) Financing the Anti-Balaka.....	72
	c) Issuing instructions to the Anti-Balaka .....	73
	d) Liaising with Anti-Balaka members exercising key functions.....	74
	e) Intent and knowledge.....	74
<b>VIII.</b>	<b>IMPACT OF THE CRIMES UPON VICTIMS AND THEIR COMMUNITIES..</b>	<b>77</b>
	<b>1. Physical harm.....</b>	<b>79</b>
	<b>2. Psychological harm.....</b>	<b>80</b>
	<b>3. Material harm .....</b>	<b>82</b>
	<b>4. Impact of the forced displacement on the Victims .....</b>	<b>85</b>
	a) Conditions under which the displacement took place .....	86
	b) Living conditions at the temporary places of refuge .....	88
	c) Evacuation to other countries .....	91
	d) Living conditions at the places where Victims currently reside.....	95
	<b>5. Transgenerational harm .....</b>	<b>98</b>

<b>6. Specific harm of rape.....</b>	<b>99</b>
<b>7. Community harm.....</b>	<b>100</b>
<b>IX. CONCLUSION .....</b>	<b>104</b>

## I. INTRODUCTION

1. The Common Legal Representatives of the Victims of Other Crimes (the “CLR V”) file their Closing Brief on behalf of the 1,673 victims<sup>1</sup> they represent.
2. After having recalled the role of Victims in the proceedings before the Court and their important contribution to the search for truth and justice, the CLR V provide an overview of the Victims participating in the trial and explain their motivation and expectations for engaging in the process.
3. The CLR V then address the standard of proof and evaluate the evidence presented at trial for each of the events charged and for the liability of the Accused.
4. Finally, the CLR V detail the type of harms suffered by the Victims.
5. The CLR V submit that the evidence adduced before Trial Chamber V (the “Chamber”) establishes the responsibility of the Accused for all crimes charged beyond reasonable doubt.
6. In light of the Victims’ role to contribute to the search for the truth and given the page limit imposed by the Chamber, the CLR V will only address in the present submission the aspects of the case which are of most concern to the Victims they represent.

## II. PROCEDURAL BACKGROUND

7. The trial commenced on 16 February 2021 and concluded on 28 August 2024.
8. The Prosecution presented its evidence between 15 March 2021 and 11 September 2023.<sup>2</sup> The two teams of Legal Representatives of Victims presented their evidence on 21-27 September 2023 and on 12 February 2024.<sup>3</sup> The two Defence teams presented their evidence

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<sup>1</sup> See the “Eleventh Periodic Report on the Victims Admitted to Participate in the Proceedings”, No. [ICC-01/14-01/18-2623](#), 12 August 2024 (the “Eleventh Periodic Report”), para. 15.

<sup>2</sup> See the “Order Setting the Commencement Date of the Prosecution’s Presentation of Evidence” (Trial Chamber V), No. [ICC-01/14-01/18-817](#), 13 January 2021 and the “Prosecution’s Notice of the Close of its Case-in-Chief”, No. [ICC-01/14-01/18-2089](#), 11 September 2023.

<sup>3</sup> See the “Further Directions on the Conduct of the Proceedings (Presentation of Evidence by the CLR V and the Defence)” (Trial Chamber V), No. [ICC-01/14-01/18-1892](#), 29 May 2023; the “Further Directions on the Conduct of the Proceedings (End of Defence Presentation of Evidence and Closure of Evidence)” (Trial Chamber V), No. [ICC-01/14-01/18-2342](#), 2 February 2024; and the “Ngaïssona Defence Notice of the Conclusion of its Presentation of Evidence”, No. [ICC-01/14-01/18-2690](#), 13 September 2024.

between 11 December 2023 and 13 September 2024.<sup>4</sup> Subsequently, the Chamber rejected the requests for rebuttal evidence presented by the Prosecution and the Legal Representative of the former child soldiers.<sup>5</sup>

9. On 2 February 2024, the Chamber instructed the parties and participants to file their closing briefs eight weeks after the declaration of the closure of the submission of evidence in accordance with rule 141(1) of the Rules of Procedure and Evidence (the “Rules”).<sup>6</sup>

10. On 18 September 2024, the Chamber declared the closure of the submission of evidence in the case.<sup>7</sup> On 22 October 2024, by e-mail, the Chamber extended the deadline to file closing briefs to 15 November 2024.<sup>8</sup>

### III. CONFIDENTIALITY

11. Pursuant to regulation 23*bis*(1) of the Regulations of the Court, the present submission is classified “confidential” since it contains confidential information. A public redacted version will be filed in due course.<sup>9</sup>

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<sup>4</sup> See the “Further Directions on the Conduct of the Proceedings (End of Defence Presentation of Evidence and Closure of Evidence)”, *supra* note 3; the “Ngaïssona Defence Notice of the Conclusion of its Presentation of Evidence”, *supra* note 3; and the “Yekatom Defence Notice of the End of Defence Presentation of Evidence”, No. [ICC-01/14-01/18-2691](#), 13 September 2024.

<sup>5</sup> See the “Decision on the Prosecution Request for the Submission of Rebuttal Evidence” (Trial Chamber V), No. ICC-01/14-01/18-2694-Conf, 17 September 2024 and the “Decision on the Common Legal Representative of the Former Child Soldiers Request to Present Evidence in Rebuttal” (Trial Chamber V), No. ICC-01/14-01/18-2695-Conf, 18 September 2024.

<sup>6</sup> See the “Further Directions on the Conduct of the Proceedings (End of Defence Presentation of Evidence and Closure of Evidence)”, *supra* note 3, para. 9.

<sup>7</sup> See the “Declaration on the Closure of the Submission of Evidence” (Trial Chamber V), No. [ICC-01/14-01/18-2697](#), 18 September 2024.

<sup>8</sup> See e-mail from the Chamber dated 22 October 2024 at 15:12.

<sup>9</sup> Following a request by the Prosecution, the Chamber instructed the participants to file a public redacted version of their respective closing briefs by 22 November 2024. See e-mail from the Chamber dated 6 November 2024 at 12:37.

#### IV. VICTIMS PARTICIPATING IN THE CASE

12. In accordance with the spirit of the Statute, Victims have the right to seek for justice and the right to contribute to the search for the truth. While their interests are, to some extent, common with those of the Prosecutor, Victims undoubtedly have an independent, unique<sup>10</sup> role and voice in the Court's proceedings.<sup>11</sup>

13. In fact, their participation in the criminal process in an effective and efficient manner is an essential mechanism to implement their right to justice.<sup>12</sup> Such participation can only be deemed meaningful, as opposed to purely symbolic, if Victims are entitled to positively contribute to the search for the truth – which may, in turn, eventually lead to the conviction of the perpetrators and the reparation of the harm caused.<sup>13</sup> This form of positive contribution from Victims appears indispensable for the accomplishment of the Court's function.<sup>14</sup>

14. In these proceedings, Victims still wait for justice to be done more than 10 years after the events. Many of them have continued to suffer the consequences of the harms inflicted upon them at the behest of the Accused. Others have already passed away. In some cases, their relatives have been allowed to participate on their behalf in order to obtain the justice that has come too late for their deceased family members.

15. Throughout the trial, Victims have made an extensive contribution on all matters of fact and law, and they have explained what happened to them and how the events have had an

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<sup>10</sup> See the “Judgment on the appeal of Mr. Thomas Lubanga Dyilo against the decision of Pre-Trial Chamber I entitled ‘Décision sur la demande de mise en liberté provisoire de Thomas Lubanga Dyilo’” (Appeals Chamber), No. [ICC-01/04-01/06-824 OA7](#), 13 February 2007, para. 55.

<sup>11</sup> See e.g. the “Decision on the Applications for Participation in the Proceedings of VPRS 1, VPRS 2, VPRS 3, VPRS 4, VPRS 5 and VPRS 6” (Pre-Trial Chamber I), No. [ICC-01/04-101-tEN-Corr](#), 17 January 2006, para. 51 and the “Decision on ‘Prosecutor's Application to attend 12 February hearing’” (Pre-Trial Chamber II), No. [ICC-02/04-01/05-155](#), 9 February 2007, p. 4.

<sup>12</sup> See DONAT-CATTIN (D.), “Article 68”, in TRIFFTERER (O.), et AMBOS (K.) (eds.), *Rome Statute of the International Criminal Court: A Commentary*, 3<sup>rd</sup> Edition, C.H. Beck, Hart, Nomos, München / Oxford, 2016, pp. 1686 and 1698-1700. See also e.g. the “Judgment on the Appeals of The Prosecutor and The Defence against Trial Chamber I's Decision on Victims' Participation of 18 January 2008” (Appeals Chamber) No. [ICC-01/04-01/06-1432 OA9 OA10](#), 11 July 2008, para. 97; and the “Decision on the Set of Procedural Rights Attached to Procedural Status of Victim at the Pre-Trial Stage of the Case”, (Pre-Trial Chamber I), No. [ICC-01/04-01/07-474](#), 13 May 2008, para. 42.

<sup>13</sup> See the “Decision on victims' representation and participation” (Trial Chamber V), No. [ICC-01/09-01/11-460](#), 3 October 2012, para. 10; the “Decision on victims' representation and participation” (Trial Chamber V), No. [ICC-01/09-02/11-498](#), 3 October 2012, para. 9; and the “Decision on common legal representation of victims for the purpose of trial” (Trial Chamber III), No. [ICC-01/05-01/08-1005](#), 10 November 2010, para. 9(a).

<sup>14</sup> See DONAT-CATTIN (D.), *supra* note 12, p. 1687.

enormous impact on their lives and their communities. Victims have also presented evidence on the extent and degree of victimisation they have suffered.<sup>15</sup>

16. This contribution has been possible through the gathering of their views and concerns. Said exercise was and is an intense task while providing daily legal representation in court. In order to discharge their mandate meaningfully, the CLRV were assisted by members of the team based in the Central African Republic (the “CAR”) and in Chad, and travelled to the different locations where the Victims reside as often as possible whenever the proceedings allowed for it. In doing so, they managed to bring Victims – who live thousands of kilometres away from The Netherlands – closer to the Court, making them a part of the process of justice.

17. The attempt by the CLRV to convey said views and concerns in an articulate closing brief is not an easy task. Indeed, the trial proceedings often gave rise to frustrations on the part of the Victims, sometimes to hopes which are difficult to convey in a legal brief. Nonetheless, the CLRV posit that the developments *infra* are the result of the trust relationship that has been built over the years with the Victims they represent.

18. Before addressing the evidence presented at trial, the CLRV provide an overview of the Victims participating in the proceedings in order for the Chamber to appreciate their stories and expectations.

### 1. Overview of the Victims participating in the case

19. A total of 1,965 Victims participate in this case.<sup>16</sup> Amongst them 1,673 are Victims of other crimes (as opposed to the former child soldiers).<sup>17</sup> In particular,

- 972 Victims suffered from the Anti-Balaka attack in Bangui on 5 December 2013;<sup>18</sup>
- 279 Victims suffered from the Anti-Balaka attack in Bossangoa on 5 December 2013 and in the subsequent days and weeks; and<sup>19</sup>

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<sup>15</sup> The CLRV refer, in particular, to the testimony of V44-0001 and of dual status individuals P-0967 (a/40087/23); P-1666 (a/06658/19); P-1676 (a/65012/19); P-1704 (a/40698/23); P-1705 (a/40079/23); P-1716 (a/40680/23); P-1823 (a/40002/23); P-2049 (a/70287/22); P-2324 (a/65354/19); P-2353 (a/15305/20); P-2354 (a/66170/19); P-2389 (a/65974/19); P-2419 (a/40001/23); P-2657 (a/70288/22); P-2658 (a/40645/23); and P-2682 (a/40088/23).

<sup>16</sup> See the [Eleventh Periodic Report](#), *supra* note 1, para. 15 and the “Tenth Periodic Report on the Victims Admitted to Participate in the Proceedings”, No. [ICC-01/14-01/18-2443](#), 11 April 2024, para. 16 (the “Tenth Periodic Report”).

<sup>17</sup> See the [Tenth Periodic Report](#), *supra* note 16, para. 19.

<sup>18</sup> *Idem*, para. 20.

<sup>19</sup> *Ibid.*

- 422 Victims suffered events committed along the PK9-Mbaïki axis during the advance of the Anti-Balaka between January and February 2014.<sup>20</sup>

20. The CLRV note that the number of Victims affected by the crimes is considerably higher than the number of Victims actually participating in the proceedings. While the attack against the Muslim population in the CAR from September 2013 to December 2014 was widespread,<sup>21</sup> as developed *infra*,<sup>22</sup> only a limited number of persons applied to participate in the proceedings and an even smaller number were authorised to participate, in light of the interpretation by the Chamber of the scope of the case following the Decision Confirming the Charges.<sup>23</sup>

21. In this regard, the CLRV wish to recall that Victims described crimes committed in the whole Bangui town, *inter alia*, along the *avenue de l'indépendance* axis – where the Anti-Balaka arrived early in the morning of 5 December 2013 –, in Sica 1, Camp Fidèle Obrou, 200 Villas, 36 Villas, Boy Rabe, Fouh and its neighbourhood (including Combattants and Miskine), Gobongo and its neighbourhood (including Sinistré and Galabadja), Kpéténé, Sara, Kina, Malimaka, PK10, PK11 and PK12. Certain insider witnesses also gave indications about the road taken by the Anti-Balaka to attack Bangui on 5 December 2013, including some of the *quartiers* affected.<sup>24</sup> A number of crime-base witnesses identified as well the locations where the alleged crimes were committed during the 5 December 2013 attack.<sup>25</sup> An insider witness

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<sup>20</sup> *Ibid.*

<sup>21</sup> See the “Corrected version of Public Redacted Version of ‘Decision on the confirmation of charges against Alfred Yekatom and Patrice-Edouard Ngaïssona’” (Pre-Trial Chamber II), No. [ICC-01/14-01/18-403-Corr](#), 14 May 2020, para. 70.

<sup>22</sup> See *infra* under Section VI (2).

<sup>23</sup> See the “Twenty-Eighth Registry Assessment Report on Victim Applications for Participation in Trial Proceedings”, No. [ICC-01/14-01/18-2081](#), 7 September 2023 (the “Twenty-Eighth Registry Assessment Report”), paras. 17-20. See also the [Eleventh Periodic Report](#), *supra* note 1, para. 15, referring to the [Tenth Periodic Report](#), *supra* note 16. See also the “Corrected version of ‘Decision on the confirmation of charges against Alfred Yekatom and Patrice-Edouard Ngaïssona’” (Pre-Trial Chamber II), No. [ICC-01/14-01/18-403-Corr-Red](#), 28 June 2021, para. 7.

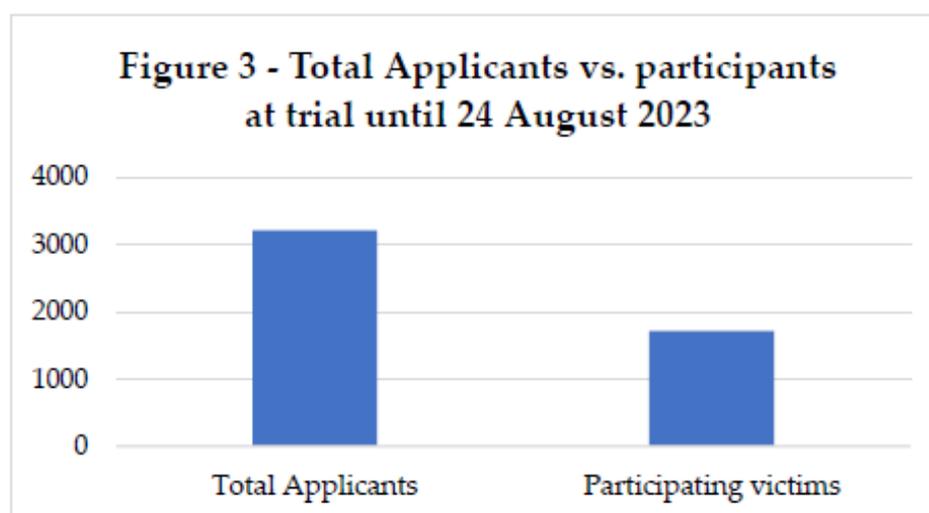
<sup>24</sup> See e.g. **P-1339**: [T-152 \[ENG\]](#), p. 70, lines 21-23 (indicating that the Anti-Balaka sub-group from Boy Rabe went to the National Assembly; some groups were based in Ouango in Boy Rabe; and another at Cattin road) and p. 71, lines 22-24 (stating that “*the destruction of the mosques, that wasn’t just in Boeing, also in Boy-Rabe, Combattant, Kina*”). See also **P-2251**: [CAR-OTP-2093-0045-R01](#), at 0057, para. 79 to 0058, para. 82; 0059, paras. 91 and 93; and 0060, paras. 94-100.

<sup>25</sup> P-1584 also confirmed that Muslims who were stopped at the barricades and checkpoints disappeared (**P-1584**: [CAR-OTP-2056-0447-R03](#) at 0453-0454, para. 41) and identified the places of the crimes as Gobongo, Combattant, Boy Rabe, Boeing, Lakouanga, Castor, and Sarah (**P-1584**: [CAR-OTP-2056-0447-R03](#), at 0460, para. 84). See also **P-0461**: [CAR-OTP-2031-0190-R01](#), at 0195, para. 27 and **P-2232**: [T-075 \[ENG\]](#), p. 14, lines 10-15 (**P-2232** mentioned that barricades and checkpoints to identify Muslims were erected *throughout* Bangui).

provided details about the locations attacked along the PK9-Mbaïki axis<sup>26</sup> in a similar way as some other crime-base witnesses did.<sup>27</sup>

22. While the Chamber did not authorise a number of Victims to participate at trial considering that the places of certain events are not covered by the charges, the CLRV posit that the Chamber should acknowledge that the campaign against the Muslim population (and those perceived to have supported the Seleka) extended beyond the localities expressly mentioned in the Decision Confirming the Charges. This fact reinforces the evidence about the widespread and systematic attack against the Muslim population during the period covered by the charges.

23. By way of illustration, the table below compares the total number of applications from Victims received by the Registry and the actual number of Victims participating in the proceedings.<sup>28</sup>



24. As underlined in the Registry reports filed during the trial, security and logistical reasons were also factors limiting the number of individuals who were able to apply to participate in the proceedings.<sup>29</sup> The CLRV themselves had difficulties in reaching some Victims located in very remote areas in the CAR because of the prevailing security situation in the country or

<sup>26</sup> **P-1647**: [CAR-OTP-2050-0654-R02](#), at 0659, para. 37 and 0660-0661, paras. 39, 43-45 (indicating that the Anti-Balaka were active in the Lobaye Prefecture along the Bangui-Mbaïki axis; that they attacked PK9, Sekia, Ndangala, Bimo, Kapou, Pissa and that he was “mobile in the area from PK9 to MONGOUMBA, BODA and M’BAIKI”).

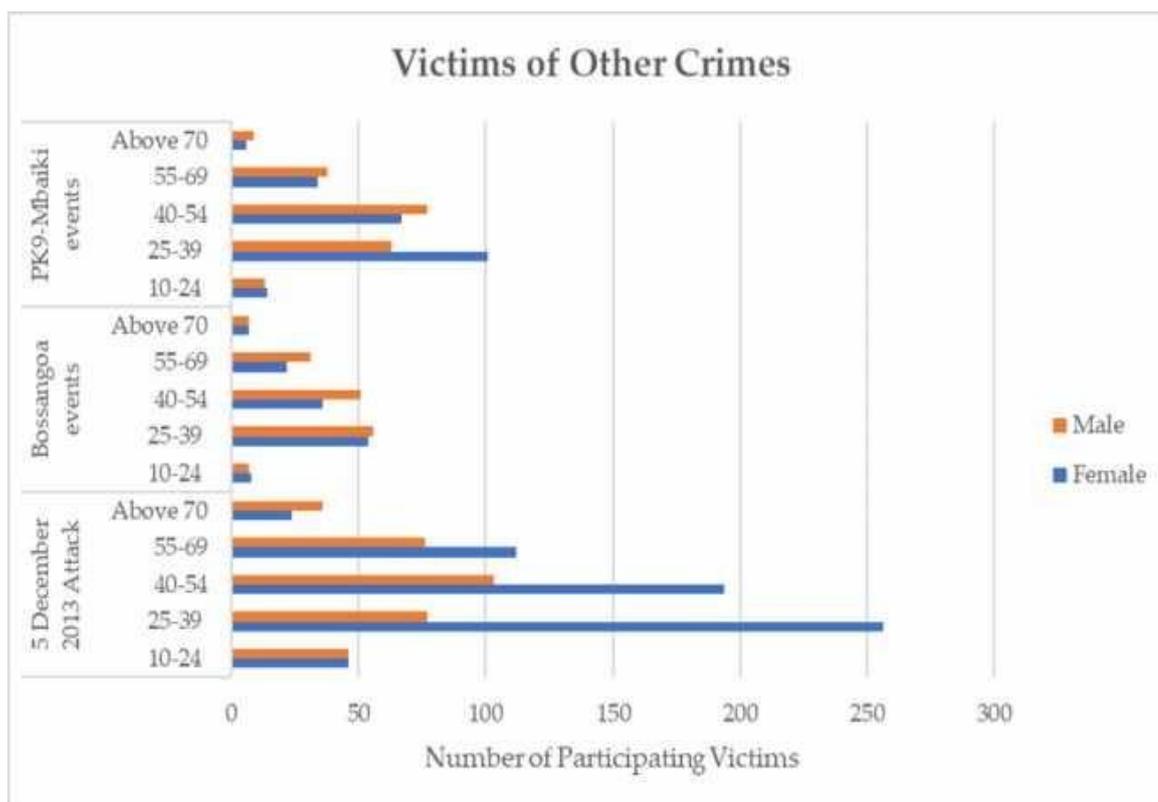
<sup>27</sup> **P-1813**: [CAR-OTP-2069-0035-R02](#), at 0041, para. 37 (indicating that all the Muslims in Mbata moved to Mbaïki. In addition, Muslims fled from Scad, Dolobo, Pissa, Bagando and Boboua). **P-1823**: [CAR-OTP-2063-0369-R02](#), at 0375, para. 33 (indicating that Muslims fled from: Mougouba Mbata, Mbatalimo, Bagandou, Scad, Boukoko, Bolimba and Boboua).

<sup>28</sup> See the [Twenty-Eighth Registry Assessment Report](#), *supra* note 23, para. 20.

<sup>29</sup> *Idem*, para. 40.

impassable roads, particularly during the rainy season; or due to the challenges in accessing some of the refugee camps near the CAR-Chad border where there is no ICC field presence.

25. As illustrated by the table below<sup>30</sup> – which shows the age and gender of the participating Victims at the time of the events, according to the location of the alleged crimes – the events affected a broad spectrum of the Muslim population, with children and people aged over 70 years old being most affected by the crimes. With regard to gender, the number of women and girls affected by the crimes is higher than that of men and boys.



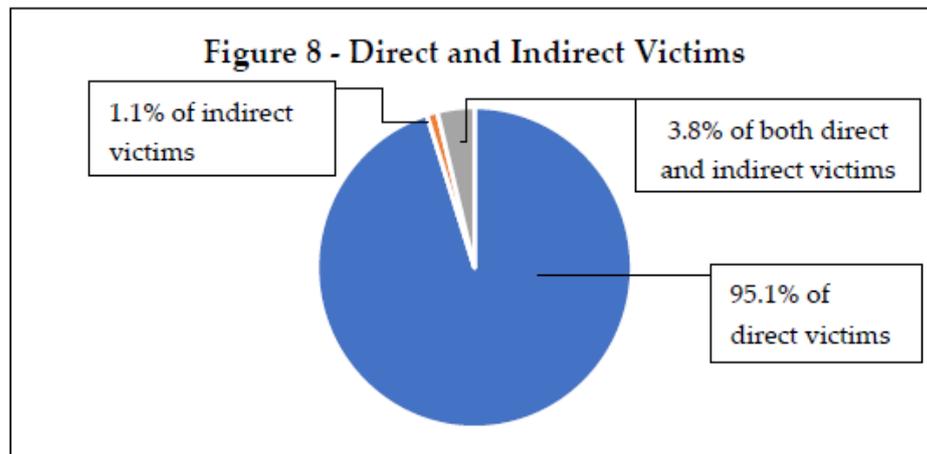
26. These data show that the crimes intentionally targeted the civilian population in the geographical areas referred to in the charges and particularly vulnerable individuals. Moreover, as developed *infra*,<sup>31</sup> the crimes had the result of making many individuals or families even more vulnerable, particularly as a result of the death of one or more relatives.

27. In this regard, as illustrated by the table below, while the majority of the participating Victims are direct victims of the crimes, some are indirect victims, mainly family members of persons killed, including children of young age.<sup>32</sup>

<sup>30</sup> See the [Tenth Periodic Report](#), *supra* note 16, para. 21.

<sup>31</sup> See *infra* Section 0.

<sup>32</sup> See the [Twenty-Eighth Registry Assessment Report](#), *supra* note 23, para. 23 and the “Registry Assessment Report on Victim Applications for Participation in Trial Proceedings pursuant to ICC-01/14-01/18-2148”, No. [ICC-01/14-01/18-2385](#), 29 February 2024, paras. 34-35.



28. All the Victims belong to the Muslim community, comprised of different ethnic groups, namely, Arabe, Foulata, Foulbe, Haoussa, Mbororo, Peul, and Rounga.

29. They are all of Central African nationality, from Bangui, Bossangoa, Mbaïki and from villages on or near the PK9-Mbaïki axis, including Sekia, Ndangala, Bimon, Kapou, Bossongo and Pissa, where most of them had been living with their families for years, and some for several generations.

30. In this regard, V44-0001 testified: “[m]y grandfather, my father, my children, myself, we’ve all been born in the Central African Republic. [...] I cannot change my nationality. I’m Central African by heart”.<sup>33</sup>

31. P-1577 similarly stated: “[f]rom what I could see, the Muslims that had been targeted were from the Central African Republic. They had [...] established businesses and homes and life and, you know, from the ones we spoke about, they had been there for several generations, [...], there was no knowledge of them being [from] anywhere else. So as far as I’m aware, they were Central African nationals”.<sup>34</sup>

32. Questioned about which country he considered to be his homeland, dual status P-2049, who is now a refugee in Chad, answered: “I am a native of Bossangoa. I was born in Bossangoa. My grandfather was born, died and was buried in Bossangoa. All my grandparents were buried in Bossangoa. I do not have any other country”.<sup>35</sup>

<sup>33</sup> V44-0001: T-267 [ENG], p. 21, lines 5-8.

<sup>34</sup> P-1577: T-027 [ENG], p. 29, lines 2-7.

<sup>35</sup> P-2049: T-101 [ENG], p. 51, lines 18-20.

33. Eloquently, P-0475 explained that the Muslims affected by the crisis were Central African: *“I told you that it is when the crisis happened that this confusion began. There are Central Africans who are of Chadian origin who were born here, who have lived here, who have had children here and have had grandchildren here. And it is only after the crisis that they were forced to [...] be displaced”*.<sup>36</sup>

34. Prior to the crisis, the Muslim community was extremely dynamic, composed mainly of traders running businesses of all sizes, ranging from retail to semi-wholesale and wholesale. It also included mineral collectors (diamonds and gold). Said community, which enjoyed a certain degree of wealth, represented an economic engine for the CAR, and their presence in the country was not a problem at all.

35. As testified by dual status P-2049, *“[i]n Bossangoa, 97 per cent of the traders were Muslims and had shops where they sold clothes [...], sugar. That's the business of the Muslims”*.<sup>37</sup>

36. P-1577 also stated that the centre of Bossangoa was predominantly composed of Muslim traders,<sup>38</sup> including of diamond merchants well known for their business on the Boda axis.<sup>39</sup>

37. In fact, from independence until the crisis of 2012-2013, Muslims were most interested in trading.<sup>40</sup> A fact confirmed by D29-5012, who indicated that, in Mbaïki, Muslim traders were more advanced in the field of commerce.<sup>41</sup>

38. As a result of the attacks carried out against them by the Anti-Balaka, the Victims had to flee their homes to find refuge in various places, either within the CAR or in neighbouring countries such as Chad and Cameroon. To date, some of them live in the CAR as internally displaced persons (“IDP”), while others still live in Chad (or in other countries) as refugees. While finding themselves outside the CAR, they still retain their Central African nationality.

<sup>36</sup> P-0475: [T-090 \[ENG\]](#), p. 48, line 24 to p. 49, line 3.

<sup>37</sup> P-2049: [T-101 \[ENG\]](#), p. 27, lines 22-24.

<sup>38</sup> P-1577: [T-027 \[ENG\]](#), p. 18, lines 16-18.

<sup>39</sup> P-1577: [T-027 \[ENG\]](#), p. 80, line 8 to p. 81, line 2.

<sup>40</sup> P-2625: [T-188 \[ENG\]](#), p. 27, lines 14-16.

<sup>41</sup> D29-5012: [T-294 \[ENG\]](#), p. 5, lines 20-22 (Conf).

39. The vast majority of the Victims have not returned to their place of origin and explained in their testimonies or in their application forms the various reasons preventing them from doing so.

40. V44-0001, who found refuge in Chad, described that: “[e]veryone with whom I grew up, from Bangui to Bossangoa, are no longer there. Some of them were killed. Others left the country and fled abroad. I don't know my future, and I really don't know what can actually push me to go back and live in the Central African Republic”.<sup>42</sup>

41. Some Victims do not even think of returning. As put by dual status P-2657, “[a]fter having suffered these atrocities, I'm scared to go back”.<sup>43</sup>

42. A feeling of sadness permeates the account of the Victims when they describe the impossibility of returning to their homeland and the fate of being obliged to live in a refugee camp: “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”.<sup>44</sup>

43. This sentiment is echoed by many Victims. Dual status P-1666, who now lives in Bangui, recounted having gone back to Mbaïki only for very short periods of time (24/48 hours),<sup>45</sup> because “[i]t's not easy for me. Before, we lived together, we cohabited, so to live alone over there, it's not very easy for me. I'm not ready for that yet”.<sup>46</sup>

44. After having lost their relatives, properties and personal belongings, the main reason why Victims cannot (or do not wish) to return to their places of origin is the fear that what they suffered could happen again. Dual status P-2353, who now lives in Bangui, explained said worry as follows: “[REDACTED]”.<sup>47</sup>

<sup>42</sup> V44-0001: [T-267 \[ENG\]](#), p. 21, line 24 to p. 22, line 3.

<sup>43</sup> P-2657: [T-104 \[ENG\]](#), p. 39, lines 13-15.

<sup>44</sup> P-2049: [T-101 \[ENG\]](#), p. 52, lines 1-7.

<sup>45</sup> P-1666: [T-231 \[ENG\]](#), p. 50, lines 16-19.

<sup>46</sup> P-1666: [T-231 \[ENG\]](#), p. 50, lines 17-19.

<sup>47</sup> P-2353: [T-161 \[ENG\]](#), p. 38, lines 12-16 (Conf).

45. Dual status P-2354, who currently lives [REDACTED] in Bangui – and whose family lives in a refugee camp in Chad –,<sup>48</sup> was very clear about the impossibility to return to Mbaïki: “[n]ow, going back to Mbaïki is something which is not on the cards. I don't think so. It's not possible [...] I'm old and I have ambitions and I can only wish that peace be restored in the Central African Republic. Now if there is peace, I can take my children and go back to the country, but for the moment and -- this is really not the case”.<sup>49</sup>

46. A number of Victims continue to live separated from their family members because they cannot afford to have them travelling back to the CAR from the places where they sought refuge. In this regard, P-1528, who lost everything and was forced to flee as a result of the attack of 5 December 2013, testified that he is currently staying with a friend and is separated from his family members, who are elsewhere in Bangui because they have no home and no means of supporting themselves.<sup>50</sup>

## 2. Motivation and expectations of the Victims

47. Throughout the trial, Victims expressed a number of reasons justifying their involvement in the process, as well as expectations about their participation in the proceedings, their quest for truth and the process of justice by either testifying or submitting an application form.

48. From the testimonies and the application forms, it appears that Victims want to tell their story, to make the Judges understand what happened to them by explaining the nature and circumstances of the crimes committed, and of their individual and collective losses, in order to shed light on what happened in the CAR during the period covered by the charges.

49. Victims hope that the Chamber listens to their views and concerns; recognises the extent of their suffering and harm, whose effects continue to this day; and delivers a judgment that takes into account their opinions. They live the experience of the trial as cathartic. In participating in the criminal process, they can move forward in a more peaceful manner and without feelings of revenge. In particular, Victims wish to:

- Contribute to the uncovering of the truth by presenting their experiences and the suffering associated with the commission of the charged crimes;

<sup>48</sup> P-2354: T-210 [ENG], p. 30, lines 16-24.

<sup>49</sup> P-2354: T-210 [ENG], p. 22, lines 13-20.

<sup>50</sup> P-1528: T-178 [ENG], p. 51, lines 10-21.

- Speak on behalf of their loved ones, and more specifically in memory of their family members/relatives who were killed or disappeared;
- Speak on behalf of their community, notably the Muslim community extremely affected by the crimes;
- Have all their individual and collective harms recognised;
- Claim reparations for the harms suffered as a result of the crimes; and
- Contribute to the process of justice, and through said process partake in building a durable peace in the CAR and the reconstruction of the social fabric destroyed by so many years of conflict and insecurity in the country.

50. In this regard, V44-0001 declared: *“I’m in front of this Court just to say the truth, so that I can actually find peace, and this is why I’ve taken an oath to speak the truth”*.<sup>51</sup>

51. Dual status P-1666 expressed his hopes for the future in these words: *“[w]hat I expect of the Court is justice so that what happened yesterday no longer happens in the future, so that the victims might triumph, so that reparations might lessen the pain, the suffering, the violence that the victims have experienced. The most important thing is that what happened should never happen ever again”*.<sup>52</sup>

52. Similarly, dual status P-2049 stated: *“I have stayed alive and I have the possibility to provide testimony in front of your court so that the truth is found”*,<sup>53</sup> “[REDACTED]”.<sup>54</sup> In relation to his expectations about the trial, he added: “[REDACTED]”.<sup>55</sup>

53. Indeed, Victims attach great value to justice. P-1528 explained in this regard: *“if justice is not done properly, then people always turn to vengeance. And vengeance will continue and continue. There will never be any peace. What we want is peace. We want peace. And peace will be produced by justice. And this is what you are doing, and this is what you are doing very well”*.<sup>56</sup>

<sup>51</sup> V44-0001: [T-267 \[ENG\]](#), p. 4, lines 3-5.

<sup>52</sup> P-1666: [T-231 \[ENG\]](#), p. 56, lines 9-13.

<sup>53</sup> P-2049: [T-100 \[ENG\]](#), p. 10, lines 4-5.

<sup>54</sup> P-2049: [T-101 \[ENG\]](#), p. 49, line 21 to p. 50, line 4 (Conf).

<sup>55</sup> P-2049: [T-103 \[ENG\]](#), p. 20, lines 16-23 (Conf).

<sup>56</sup> P-1528: [T-178 \[ENG\]](#), p. 53, lines 9-12.

## V. ASSESSMENT OF THE EVIDENCE

54. Pursuant to article 66 of the Statute, the Accused is entitled to the benefit of the doubt. If guilt has not been proved beyond reasonable doubt at the end of the trial, in accordance with article 66(3), a conviction cannot be entered.

55. According to article 74(2) of the Statute, the Chamber “*shall base its evaluation on the evidence and the entire proceedings*”. An item of evidence submitted at trial can influence the decision of the Chamber in two different ways: (a) it may help reach a conclusion about the existence or non-existence of a material fact; or (b) it may help assess the reliability of other evidence.

56. The CLRV submit that in its consideration of the evidence and the factual findings in the case, the Chamber should rely on the jurisprudence according to which:

- Reasonable doubt must be based on logic and common sense; and have a rational link to the evidence, lack of evidence or inconsistencies in the evidence;<sup>57</sup>
- The “*beyond reasonable doubt*” standard cannot be contested invoking frivolous doubt based on empathy or prejudice;<sup>58</sup>
- Not each and every fact in the judgment must be proved beyond reasonable doubt, but only those on which a conviction depends, including facts constituting the elements of the crime and the modes of liability as charged;<sup>59</sup> or “*material facts*” as opposed to subsidiary or “*collateral facts*”<sup>60</sup> or other sets of facts introduced by different types of evidence;<sup>61</sup>

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<sup>57</sup> See the “Judgment on the Prosecutor’s appeal against the decision of Trial Chamber II entitled ‘Judgment pursuant to article 74 of the Statute’” (Appeals Chamber), No. [ICC-01/04-02/12-271-Corr A](#), 7 April 2015 (the “*Ngudjolo Appeal Judgment*”), paras. 109 *et seq.* See also ICTR, *Rutaganda*, Case No. ICTR-96-3-A, [Judgment](#) (Appeals Chamber), 26 May 2003, para. 488.

<sup>58</sup> See the [Ngudjolo Appeal Judgment](#), *supra* note 57, para. 109.

<sup>59</sup> See the “Judgment on the appeal of Mr Thomas Lubanga Dyilo against his conviction” (Appeals Chamber), No. [ICC-01/04-01/06-3121-Red A5](#), 1 December 2014 (the “*Lubanga Appeal Judgment*”), para. 22.

<sup>60</sup> See the “Judgment on the appeals of Mr Lubanga Dyilo and the Prosecutor against the Decision of Trial Chamber I of 14 July 2009 entitled ‘Decision giving notice to the parties and participants that the legal characterisation of the facts may be subject to change in accordance with Regulation 55(2) of the Regulations of the Court’” (Appeals Chamber), No. [ICC-01/04-01/06-2205 OA15 OA16](#), 8 December 2009, footnote 163. See also the “Judgment on the appeal of Mr Germain Katanga against the decision of Trial Chamber II of 21 November 2012 entitled ‘Decision on the implementation of regulation 55 of the Regulations of the Court and severing the charges against the accused persons’” (Appeals Chamber), No. [ICC-01/04-01/07-3363 OA13](#), 27 March 2013, para. 50.

<sup>61</sup> See the [Ngudjolo Appeal Judgment](#), *supra* note 57, para. 125 and the “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’” (Appeals Chamber), No. [ICC-01/05-01/13-2275-Red A A2 A3 A4 A5](#), 8 March 2018 (the “*Bemba et al. Appeal Judgment*”), para. 868.

- The Chamber shall not take a piecemeal approach to the assessment of the evidence; but is rather required to carry out a holistic evaluation and weighing of all the evidence taken together in relation to the fact at issue;<sup>62</sup>
- Inferences adverse to the accused can be entered so long as, based on the record of the case, they represent the only reasonable conclusion that could be drawn from the evidence;<sup>63</sup>
- The determination of whether an item of evidence is credible and reliable depends on the extent to which it is corroborated by other pieces of evidence taken cumulatively;<sup>64</sup>
- Trauma<sup>65</sup> and passage of time<sup>66</sup> are factors that must be taken into account before rejecting the evidence of any witness on the basis of his or her inability to recount fully or adequately all details of the relevant events;<sup>67</sup>
- The Chamber may rely on part of a witness's testimony and reject other parts;<sup>68</sup> and
- The fact that evidence is contested by the Defence does not mean that reasonable doubt is casted. Rather, the Chamber has the responsibility to resolve any inconsistencies that may arise within and/or among witnesses' testimonies.<sup>69</sup>

<sup>62</sup> See the [Bemba et al. Appeal Judgment](#), *supra* note 61, paras. 598, 1195 and 1540. See also the [Lubanga Appeal Judgment](#), *supra* note 59, para. 22.

<sup>63</sup> See the [Bemba et al. Appeal Judgment](#), *supra* note 61, para. 868. See also the "Judgment on the appeal of the Prosecutor against the 'Decision on the Prosecution's Application for a Warrant of Arrest against Omar Hassan Ahmad Al Bashir'" (Appeals Chamber), No. [ICC-02/05-01/09-73 OA](#), 3 February 2010, para. 33.

<sup>64</sup> See ICTY, *Limaj et al.*, Case No. IT-03-66-A, [Judgement](#) (Appeals Chamber), 27 September 2007, paras. 153-154.

<sup>65</sup> For witnesses who experienced great *trauma*, revisiting what happened to them is source of pain and may affect their ability to fully or adequately recount the relevant events in a judicial context. Accordingly, the evidence of vulnerable witnesses should not be rejected despite reticence or circuitousness. See **P-0925**: "Mental Health Outcomes of Trauma in Central African Republic: Child Soldiering, Forcible Displacement, Rape and Sexual Violence", [CAR-OTP-2127-6805-PRV](#) ("P-0925's Expert Report") at 6822-6823. See also ICTR, *Musema*, Case No. ICTR-96-13-T, [Judgment and Sentence](#) (Trial Chamber I), 27 January 2000 (the "*Musema* Trial Judgement"), paras. 100 and 104.

<sup>66</sup> The passage of time may affect the witnesses' memories. Other individual circumstances of each witness may also affect the testimony, including the "*relationship to the Accused, the age, vulnerability, any involvement in the events under consideration, the risk of self-incrimination, sincerity, possible bias toward or against the Accused and motives for telling the truth or giving false testimony*". See the "Judgment pursuant to article 74 of the Statute" (Trial Chamber II), No. [ICC-01/04-01/07-3436-tENG](#), 7 March 2014 (the "*Katanga* Trial Judgment"), paras. 83 and 85.

<sup>67</sup> Trauma's relation to memory does not necessarily diminish a witness' ability to recall events and witnesses with PTSD and other trauma related mental health outcomes are very capable of providing accurate and detailed accounts of events. However, a trauma survivor's presentation of information about the trauma may be disorganised or appear incoherent, due to the emotional dysregulation associated with trauma recall. See [P-0925's Expert Report](#), *supra* note 65, at 6823.

<sup>68</sup> See the "Judgment pursuant to Article 74 of the Statute" (Trial Chamber I), No. [ICC-01/04-01/06-2842](#), 14 March 2012, para. 339; the [Katanga Trial Judgment](#), *supra* note 66, para. 84 and the "Judgment pursuant to Article 74 of the Statute" (Trial Chamber VII), No. [ICC-01/05-01/13-1989-Red](#), 19 October 2016 (the "*Bemba et al.* Trial Judgment"), paras. 202 and 204. See also ICTY, *Haradinaj et al.*, Case No. IT-04-84-A, [Judgment](#) (Appeals Chamber), 19 July 2010 (the "*Haradinaj* Appeal Judgement"), para. 201.

<sup>69</sup> See the [Lubanga Appeal Judgment](#), *supra* note 59, para. 23, citing ICTY, *Kupreškić et al.*, Case No. IT-95-16-A, [Judgement](#) (Appeals Chamber), 23 October 2001 (the "*Kupreškić et al.* Appeal Judgement"), para. 31.

57. In relation to the issue of Defence witnesses who may “corroborate” each other in respect of the evidence they provide, the CLRV submit that this fact is not binding on the Chamber. In the *Bemba* case, for instance, nine Defence witnesses testified consistently that the *Mouvement de Libération du Congo* troops in the CAR fell under the operational control of the Central African authorities;<sup>70</sup> a factual finding that in the submission of the Bemba Defence would have been exonerating. The Chamber rejected said finding addressing – on a factor-by-factor basis – the considerations that weighed against the credibility of the witnesses concerned.<sup>71</sup> The CLRV ask the Chamber to follow said approach and reject Defence evidence, even where various Defence witnesses corroborate each other, on the basis of considerations such as:

- The evidence is generally evasive, lacking spontaneity, qualified,<sup>72</sup> defensive,<sup>73</sup> exaggerated<sup>74</sup> or implausible;<sup>75</sup> with responses being illogical, improbable, or contradictory;<sup>76</sup>
- The witness’s responses were contrary to the evidence presented to him or her, but without any satisfactory explanation for such discrepancies;<sup>77</sup>
- The evidence is internally contradictory<sup>78</sup> or contradicted by other evidence in the record of the case;<sup>79</sup>
- Despite abundant public information about the crimes, the witness claimed to have had no information;<sup>80</sup>
- The witness claimed not to have had information about issues which, actually, fell squarely within his or her alleged area of competence and knowledge;<sup>81</sup> and
- The witness’s source of knowledge was unclear and questionable.<sup>82</sup>

58. It is for the Chamber to determine whether the ultimate weight of all the evidence adduced is sufficient to establish beyond reasonable doubt the elements of the crimes charged

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<sup>70</sup> See the “Judgment pursuant to Article 74 of the Statute” (Trial Chamber III), No. [ICC-01/05-01/08-3343](#), 21 March 2016 (the “*Bemba* Trial Judgment”), para. 430.

<sup>71</sup> *Idem*, para. 445.

<sup>72</sup> *Idem*, para. 435.

<sup>73</sup> *Idem*, para. 352.

<sup>74</sup> *Idem*, para. 357.

<sup>75</sup> *Idem*, para. 359.

<sup>76</sup> *Idem*, para. 348.

<sup>77</sup> *Idem*, para. 438.

<sup>78</sup> *Idem*, para. 433.

<sup>79</sup> *Idem*, para. 366.

<sup>80</sup> *Idem*, para. 350.

<sup>81</sup> *Idem*, para. 349.

<sup>82</sup> *Idem*, paras. 430 and 441.

and the responsibility of the Accused.<sup>83</sup> In assessing witnesses' evidence, the Chamber needs to evaluate their credibility, the reliability of their testimonies and ultimately determine the weight to be afforded to their evidence.<sup>84</sup>

59. The CLRV recall that the testimony of a single witness on a material fact does not, as a matter of law, require corroboration.<sup>85</sup> A Chamber may enter a conviction on the basis of a single witness, although such evidence must be assessed with the appropriate caution.<sup>86</sup> Insignificant discrepancies between the evidence of different witnesses or between the evidence of a particular witness in court and his or her prior statement(s) should not discredit such evidence.<sup>87</sup>

60. Finally, the CLRV note that the information provided by the Victims in the application forms for participation has the sole purpose of substantiating their request to participate in the proceedings before the Court, but not to give evidence on either points of fact or law in the case.<sup>88</sup> As such, said documents cannot be assimilated to evidence. In case of inconsistencies between the accounts of dual status individuals contained in their application forms and their statements, the CLRV underline the distinct purposes of each process and stress that applying to participate cannot be assimilated to giving a witness statement.

61. In this regard, victims' applications, “[u]nlike evidence collected to support or challenge the substantive criminal charges in the case, [...] are administrative in nature and [...] are intended to serve a limited purpose: to provide the Chamber with a basis for determining whether individual victims should be permitted to participate in the proceedings”.<sup>89</sup> Therefore, the Chamber cannot rely on said documents when ruling on the innocence or guilt of the Accused.

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<sup>83</sup> See the [Bemba Trial Judgment](#), *supra* note 70, paras. 228-230 and the [Katanga Trial Judgment](#), *supra* note 66, para. 79. See also *e.g.* ICTY, [Karadžić](#), Case No. IT-95-5/18-T, [Judgement](#) (Trial Chamber), 24 March 2016, para. 10 (the “*Karadžić Trial Judgment*”).

<sup>84</sup> See *e.g.* the [Lubanga Appeal Judgment](#), *supra* note 59, para. 239. See also ICTR, [Ndahimana](#), Case No. ICTR-01-68-A, [Judgment](#) (Appeals Chamber), 16 December 2013, para. 45 and ICTR, [Ntawukulilyayo](#), Case No. ICTR-05-82-A, [Judgment](#) (Appeals Chamber) 14 December 2011, para. 21.

<sup>85</sup> See the [Karadžić Trial Judgment](#), *supra* note 83, para. 12. See also ICTR, [Nyiramasuhuko et al.](#), Case No. ICTR-98-42-A, [Judgment](#) (Appeals Chamber), 14 December 2015, para. 2063 and the [Kupreškić et al. Appeal Judgment](#), *supra* note 69, para. 33.

<sup>86</sup> See the [Haradinaj Appeal Judgment](#), *supra* note 68, para. 145.

<sup>87</sup> See the [Karadžić Trial Judgment](#), *supra* note 83, para. 12.

<sup>88</sup> See the “Decision on the Defence Requests in Relation to the Victims' Applications for Participation in the Present Case” (Pre-Trial Chamber II, Single Judge), No. [ICC-01/09-01/11-169](#), 8 July 2011, para. 9.

<sup>89</sup> See the “Public redacted version of the First decision on the prosecution and defence requests for the admission of evidence, dated 15 December 2011” (Trial Chamber III), No. [ICC-01/05-01/08-2012-Red](#), 9 February 2012, para. 100.

62. The CLRV further recall that – as general practice – Victims are assisted by so-called “intermediaries” when filling in their application forms. Said intermediaries are identified at the stage of the opening of a case, or even before at the situation stage, by the Victims Participation and Reparations Section (the “VPRS”). Intermediaries are usually members of national organisations advocating for victims’ rights, known in the situation country for that reason, and assist the VPRS in approaching the affected communities and potential victims. Intermediaries receive training from the VPRS on the Court’s mandate and on how to assist victims in completing application forms – which are ultimately verified by the VPRS before being transmitted to the relevant Chamber.<sup>90</sup>

63. The CLRV refer to the recent jurisprudence in the *Ntaganda* case according to which: *“The Chamber further notes that the credibility of certain witnesses who are also participating victims (dual status) has been challenged on the basis of inconsistencies between their testimony and the information provided in their victim application forms. In this regard, the Chamber notes that, with the exception of two witnesses, the dual status witnesses in this case were, as most applicants, assisted by intermediaries in completing their application forms. While certain intermediaries have received general guidance and information by the VPRS prior to assisting applicants, stressing that statements should be read back to the applicants for their acknowledgement before signing, the VPRS also emphasised the limits of the training it provided, and was not in a position to indicate whether the intermediaries did in fact read back the statements to the relevant applicants. In this regard, the Chamber also notes that a number of dual status witnesses testified that the forms had not been read back to them, and/or that the intermediaries had inaccurately recorded aspects of their statements. As such, the conditions of production of victim applications differ from those of formal witness statements, which are taken by a party, assisted by staff qualified to do so, and recorded after having been read back to the witness. Accordingly, the Chamber has generally attributed less weight to inconsistencies between a witness’s testimony and a victim application, than to inconsistencies with a formal witness statement. Major identified inconsistencies have been assessed on a case-by-case basis, considering, inter alia, the nature and scope of the inconsistencies, the explanations provided by the witness in this regard, and the conditions of production of the application, including, in particular, whether the form was completed with the assistance of an intermediary or individuals formally connected to the Court”*.<sup>91</sup>

<sup>90</sup> See the “Second decision on issues related to the victims’ application process” (Pre-Trial Chamber I, Single Judge), No. [ICC-02/11-01/11-86](#), 5 April 2012, para. 38.

<sup>91</sup> See the “Judgment” (Trial Chamber VI), No. [ICC-01/04-02/06-2359](#), 8 July 2019 (the “*Ntaganda* Trial Judgment”), para. 85 and footnote 346 (emphasis added).

64. Accordingly, the CLRV ask the Chamber to follow the same approach and note that, where inconsistencies were detected during testimonies between the application form and the witness's statement of dual status individuals, said inconsistencies were either explained in a logical manner by the persons concerned or are otherwise understandable in light of the circumstances in which the application forms were completed.

## VI. SUBMISSIONS ON THE CHARGED CRIMES

### 1. The applicable law and the context in which the crimes were committed

#### a) Contextual elements of crimes against humanity

65. Article 7(1) of the Statute sets the contextual elements of crimes against humanity as requiring “*a widespread or systematic attack directed against any civilian population, with knowledge of the attack*”, while article 7(2)(a) clarifies that: “[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*”. Article 7(3) and (6) of the Elements of Crimes further indicates that “[such] acts need not constitute a military attack. It is understood that ‘policy to commit such attack’ requires that the State or organization actively promote or encourage such an attack against a civilian population. [In addition] [a] policy which has a civilian population as the object of the attack would be implemented by State or organizational action”.

66. In the established jurisprudence of the Court, the requirement that the acts form part of a “*course of conduct*” means that the provision covers a series of events or overall flow of events, as opposed to a mere aggregate of random or isolated acts,<sup>92</sup> while the requirement of a “*multiple commission of acts*” sets a quantitative threshold involving a certain number of conducts.<sup>93</sup> However, where it is established that the conduct(s) involved such multiple commission of acts, a single event may well constitute an attack within the meaning of article 7(2)(a), provided that the other elements of the provision are met.<sup>94</sup> Accordingly, there is no general minimum threshold defining the number of acts required, since this number may differ

<sup>92</sup> See the “Trial Judgment” (Trial Chamber X), No. [ICC-01/12-01/18-2594-Red](#), 26 June 2024 (the “*Al Hassan Trial Judgment*”), para. 1105; the “Trial Judgment” (Trial Chamber IX), No. [ICC-02/04-01/15-1762-Red](#), 4 February 2021 (the “*Ongwen Trial Judgment*”), para. 2674; the “Judgment on the appeals of Mr Bosco Ntaganda and the Prosecutor against the decision of Trial Chamber VI of 8 July 2019 entitled ‘Judgment’” (Appeals Chamber), No. [ICC-01/04-02/06-2666-Red A A2](#), 30 March 2021 (the “*Ntaganda Appeals Judgment*”), paras. 8 and 416; and the [Ntaganda Trial Judgment](#), *supra* note 91, para. 662.

<sup>93</sup> See the [Al Hassan Trial Judgment](#), *supra* note 92, para. 1105; the [Ntaganda Trial Judgment](#), *supra* note 91, paras. 662-663; the [Ongwen Trial Judgment](#), *supra* note 92, para. 2674, and the [Ntaganda Appeals Judgment](#), *supra* note 92, para. 416.

<sup>94</sup> See the [Katanga Trial Judgment](#), *supra* note 66, para. 1101.

depending on the case and its circumstances, including the size of the organisation, the duration of the attack, the geographical area involved and the size of the civilian population targeted.<sup>95</sup>

67. The term “*civilian population*” must be interpreted broadly and refers to a population that is predominantly civilian in nature.<sup>96</sup> It denotes a collective, as opposed to individual civilians, and the presence of certain non-civilians in its midst does not change the character of the population.<sup>97</sup> The requirement that the attack be directed against the civilian population means that the civilians must be the *primary* – as opposed to incidental – object of the attack but it does not mean that the *main aim* or object of the relevant acts was to attack civilians.<sup>98</sup> The defining factor of crimes against humanity is not the State or organisation behind the crimes, but the impact the attack had on the affected civilian population’s fundamental rights, and in particular the question whether the civilian population was targeted.<sup>99</sup> Further, and although the attack must be directed against a civilian population, it is not necessary to prove the status of individual victims as civilians, as the Elements of Crimes only refer to “persons”.<sup>100</sup>

68. The term “*widespread*” connotes the large-scale nature of the attack and the number of targeted persons.<sup>101</sup> 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.<sup>102</sup> The term encompasses “*the large scale nature of the attack, which should be massive, frequent, carried out collectively with the considerable seriousness and directed against a multiplicity of victims*”.<sup>103</sup>

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<sup>95</sup> See the “Public Redacted Version of Dissenting Opinion Judge Herrera Carbuccia”, No. [ICC-02/11-01/15-1263-AnxC-Red](#), 16 July 2019 (the “Dissenting Opinion Judge Herrera Carbuccia”), para. 56, referring to the “Separate opinion of Judge Van den Wyngaert and Judge Morrison”, No. [ICC-01/05-01/08-3636-Anx2 A](#), 8 June 2018, para. 59.

<sup>96</sup> See the [Al Hassan Trial Judgment](#), *supra* note 92, para. 1106; the [Dissenting Opinion Judge Herrera Carbuccia](#), *supra* note 95, para. 58, referring to ICTY, *Limaj et al.*, Case No. IT-03-66-T, [Judgement](#) (Trial Chamber II), 30 November 2005 (the “*Limaj et al. Trial Judgement*”), para. 186 and ICTY, *Kordić and Čerkez*, Case No. IT-95-14/2-T, [Judgement](#) (Trial Chamber), 26 February 2001, para. 180; the [Ongwen Trial Judgment](#), *supra* note 92, para. 2675; the [Ntaganda Appeals Judgment](#), *supra* note 92, paras. 7 and 417-425; the [Ntaganda Trial Judgment](#), *supra* note 91, para. 668; and the [Katanga Trial Judgment](#), *supra* note 66, para. 1105.

<sup>97</sup> See the [Al Hassan Trial Judgment](#), *supra* note 92, para. 1106 and the [Ntaganda Trial Judgment](#), *supra* note 91, para. 667.

<sup>98</sup> See the [Al Hassan Trial Judgment](#), *supra* note 92, para. 1107 and the [Ntaganda Trial Judgment](#), *supra* note 91, paras. 668-669.

<sup>99</sup> See the [Dissenting Opinion Judge Herrera Carbuccia](#), *supra* note 95, para. 55.

<sup>100</sup> See the [Al Hassan Trial Judgment](#), *supra* note 92, para. 1106; the [Ongwen Trial Judgment](#), *supra* note 92, para. 2675; and the [Ntaganda Trial Judgment](#), *supra* note 91, para. 669.

<sup>101</sup> See the [Al Hassan Trial Judgment](#), *supra* note 92, para. 1113; the [Ongwen Trial Judgment](#), *supra* note 92, para. 2681; the [Ntaganda Appeals Judgment](#), *supra* note 92, para. 430; the [Ntaganda Trial Judgment](#), *supra* note 91, para. 691; and [Katanga Trial Judgment](#), *supra* note 66, para. 1123.

<sup>102</sup> See the [Al Hassan Trial Judgment](#), *supra* note 92, para. 1113; the [Ongwen Trial Judgment](#), *supra* note 92, para. 2681; and the [Ntaganda Trial Judgment](#), *supra* note 91, para. 691.

<sup>103</sup> See the “Decision Pursuant to Article 15 of the Rome Statute on the Authorisation of an Investigation into the Situation in the Republic of Côte d’Ivoire” (Pre-Trial Chamber III), No. [ICC-02/11-14](#), 3 October 2011, para. 53.

69. 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.<sup>104</sup> The following are relevant factors in deciding whether an attack was systematic: (a) the existence of a policy; (b) the establishment of “parallel” institutions meant to implement the policy; (c) the involvement of high-level political or military authorities; (d) the use of considerable financial, military or other resources; and (e) the scale or nature of the violence against the civilian population.<sup>105</sup>

70. The course of conduct involving a multiplicity of acts must be committed “pursuant to or in furtherance of a State or organizational policy to commit such an attack” requiring a link between the attack and the policy.<sup>106</sup> 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”.<sup>107</sup>

71. As regards the concept of “organization” under article 7(2)(a) of the Statute, the definition established by Trial Chamber II in the *Katanga* case is relevant to the present case:

“[...] 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”.<sup>108</sup>

72. Although a policy under article 7(2)(a) of the Statute may include a pre-established design or plan, it may also crystallise and develop only as actions are undertaken by the perpetrators.<sup>109</sup> The existence of a policy may be inferred from a number of factors, including for example: (a) a recurrent pattern of violence; (b) the existence of preparations or collective

<sup>104</sup> See the [Al Hassan Trial Judgment](#), *supra* note 92, para. 1114; the [Ongwen Trial Judgment](#), *supra* note 92, para. 2682; the [Ntaganda Appeals Judgment](#), *supra* note 92, para. 430; the [Ntaganda Trial Judgment](#), *supra* note 91, para. 692; and the [Katanga Trial Judgment](#), *supra* note 66, para. 1123.

<sup>105</sup> See the [Dissenting Opinion Judge Herrera Carbuccion](#), *supra* note 95, para. 68, referring to ICTY, *Jelisić*, Case No. IT-95-10-T, [Judgement](#) (Trial Chamber), 14 December 1999, para. 53. See also ICTY, *Kunarac et al.*, Case No. IT-96-23 & IT-96-23/1-A, [Judgement](#) (Appeals Chamber), 12 June 2002 (the “*Kunarac et al.* Appeal Judgement”), para. 95; the [Limaj et al. Trial Judgement](#), *supra* note 96, para. 183; ICTY, *Simić et al.*, Case No. IT-95-9-T, [Judgement](#) (Trial Chamber II), 17 October 2003, para. 43; and ICTY, *Blagojević and Jokić*, Case No. IT-02-60-T, [Judgement](#) (Trial Chamber I), 17 January 2005 (the “*Blagojević and Jokić* Trial Judgement”), para. 546.

<sup>106</sup> See the [Ntaganda Trial Judgment](#), *supra* note 91, para. 673.

<sup>107</sup> See the [Elements of Crimes](#), Introduction to article 7, para. 3.

<sup>108</sup> See the [Katanga Trial Judgment](#), *supra* note 66 para. 1119. See also the [Al Hassan Trial Judgment](#), *supra* note 92, para. 1109 and the [Ongwen Trial Judgment](#), *supra* note 92, para. 2677.

<sup>109</sup> See [Ongwen Trial Judgment](#), *supra* note 92, para. 2679; the [Ntaganda Appeals Judgment](#), *supra* note 92, para. 375; the [Ntaganda Trial Judgment](#), *supra* note 91, para. 674; and the [Katanga Trial Judgment](#), *supra* note 66, para. 1110.

mobilisation orchestrated and coordinated by the organisation; (c) the use of public or private resources to further the policy; (d) the involvement of organisational forces in the commission of crimes; (e) statements, instructions or documentation attributable to the organisation condoning or encouraging the commission of crimes; and (f) an underlying motivation.<sup>110</sup> In principle, an organisation committing a systematic attack against a civilian population will presuppose the policy requirement.<sup>111</sup> It is also possible to infer or deduce the existence of a policy from the way in which the acts occurred.<sup>112</sup> Pursuant to the Elements of Crimes, a policy may also “*be implemented by a deliberate failure to take action, which is consciously aimed at encouraging [the] attack*”.<sup>113</sup>

73. The evidence demonstrates beyond reasonable doubt that, from September 2013 onwards, the Anti-Balaka carried out a widespread or systematic attack directed against the civilian population in the CAR. The attack was carried out under an organisational policy to target the Muslim population who, based on their religious or ethnic affiliation, were perceived as collectively responsible for, complicit with, and/or supportive of, the Seleka.<sup>114</sup> The large scale Anti-Balaka attacks against the Muslim population,<sup>115</sup> extended over a wide geographical area and a considerable period of time; and involved a large number of acts of violence victimising a large number of civilians. The attacks were also systematic since they were deliberate and planned, fuelled by rampant hate speech used by the Anti-Balaka, which justified the crimes committed against Muslims and conflated the Seleka forces and the Muslim population.<sup>116</sup>

<sup>110</sup> See the [Al Hassan Trial Judgment](#), *supra* note 92, para. 1110; the [Ongwen Trial Judgment](#), *supra* note 92, para. 2679; the [Ntaganda Appeals Judgment](#), *supra* note 92, paras. 375; the [Ntaganda Trial Judgment](#), *supra* note 91, para. 674; and the [Katanga Trial Judgment](#), *supra* note 66, paras. 1108-1110.

<sup>111</sup> See the [Al Hassan Trial Judgment](#), *supra* note 92, para. 1110; the [Ongwen Trial Judgment](#), *supra* note 92, para. 2679; and the [Katanga Trial Judgment](#), *supra* note 66, para. 1111.

<sup>112</sup> See the [Dissenting Opinion Judge Herrera Carbucciona](#), *supra* note 95, para. 64, referring to ICTY, [Kupreškić et al.](#), Case No. IT-95-16-T, [Judgement](#) (Trial Chamber), 14 January 2000 (the “*Kupreškić et al. Trial Judgment*”), para. 551; ICTY, [Tadić](#), Case No. IT-94-1-T, [Opinion and Judgement](#) (Trial Chamber), 7 May 1997, para. 653; ICTR, [Akayesu](#), Case No. ICTR-96-4-T, [Judgement](#) (Trial Chamber I), 2 September 1998, para. 580; ICTR, [Rutaganda](#), Case No. ICTR-96-03-T, [Judgement and Sentence](#) (Trial Chamber I), 6 December 1999, para. 69; and the [Musema Trial Judgment](#), *supra* note 65, para. 204.

<sup>113</sup> See the [Elements of Crimes](#), footnote 6.

<sup>114</sup> **V44-0001: T-267 [ENGL]**, p. 13, line 10 to p. 15 line 10 and p. 25 line 4 to p. 27 line 17 (Conf); **P-2193: T-019 [ENGL]**, p. 31, line 1 to p. 32, line 1; **P-0287: T-020 [ENGL]**, p. 15, line 5 to p. 18, line 21; **P-1577: T-027 [ENGL]**, p. 26, line 18 to p. 29, line 7; **P-0291: T-051 [ENGL]**, p. 67, line 2 to p. 69, line 2; **P-0475: T-090 [ENGL]**, p. 13, line 23 to p. 20, line 9 (Conf).

<sup>115</sup> **V44-0001: T-267 [ENGL]**, p. 7, line 1 to p. 15, line 10 (Conf); **P-2193: T-019 [ENGL]**, p. 31, line 1 to p. 32, line 1; **P-0287: T-020 [ENGL]**, p. 15, line 5 to p. 18, line 21; **P-1577: T-027 [ENGL]**, p. 26, line 18 to p. 29, line 7; **P-0291: T-051 [ENGL]**, p. 67, line 2 to p. 69, line 2; **P-0475: T-090 [ENGL]**, p. 13, line 23 to p. 20, line 9 (Conf).

<sup>116</sup> **P-1847: T-022 [ENGL]**, p. 51, line 4 to p. 61, line 7; **P-1577: T-027 [ENGL]**, p. 92, lines 5-24; **T-028 [ENGL]**, p. 16, line 25 to p. 17, line 21 (Conf); **P-2926: T-031 [ENGL]**, p. 47, line 5 to p. 48, line 3 (Conf); **P-2625: T-189 [ENGL]**, p. 65, line 17 to p. 68, line 5 (Conf).

74. The evidence also demonstrates beyond reasonable doubt that the multiple acts which comprised the attack involved similar conduct, tactics, and crimes, such as forced displacement, killings, rape, torture and cruel treatment, and the destruction of mosques, homes, and businesses of the Muslim community.<sup>117</sup> The Anti-Balaka had resources, means and capacity to carry out the attacks.<sup>118</sup>

75. Crimes against humanity must have been committed with the required nexus and awareness of the perpetrator. When assessing such a nexus, due regard must be given to the characteristics, aims, nature and consequences of the acts concerned.<sup>119</sup> These nexus requirements find their subjective equivalent in the requisite knowledge or awareness of the perpetrator.<sup>120</sup> The perpetrator must know that the behaviour was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population.<sup>121</sup> However, it is not necessary that the perpetrator be aware of the precise details of the plan or policy of the State or organisation.<sup>122</sup> The element of discriminatory intent is not required in general for crimes against humanity, although it is required for the crime of persecution.<sup>123</sup>

76. The evidence demonstrates beyond reasonable doubt that both Accused knew that their conduct was part of a widespread or systematic attack against the Muslim civilian population pursuant to or in furtherance of the organisational policy.

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<sup>117</sup> **V44-0001: T-267 [ENG]**, p. 7, line 1 to p. 15 line 10 (Conf); **P-2193: T-019 [ENG]**, p. 31 line 1 to p. 32, line 1; **P-0287: T-020 [ENG]**, p. 15, line 5 to p. 18, line 21; **P-1577: T-027 [ENG]**, p. 26, line 18 to p. 29, line 7; **P-0291: T-051 [ENG]**, p. 67, line 2 to p. 69, line 2; **P-0475: T-090 [ENG]**, p. 13, line 23 to p. 20, line 9 and p. 38, line 4 to p. 39, line 17 (Conf).

<sup>118</sup> **V44-0001: T-267 [ENG]**, p. 13, line 10 to p. 15 line 10; **P-2012: T-025 [ENG]**, p. 8, line 19 to p. 9, line 12.

<sup>119</sup> See the *Al Hassan Trial Judgment*, *supra* note 92, para. 1116; the *Ongwen Trial Judgment*, *supra* note 92, para. 2688; the *Ntaganda Trial Judgment*, *supra* note 91, para. 696; and the *Katanga Trial Judgment*, *supra* note 66, para. 1124.

<sup>120</sup> See the *Al Hassan Trial Judgment*, *supra* note 92, para. 1117 and the *Ongwen Trial Judgment*, *supra* note 92, para. 2690.

<sup>121</sup> See the last element in the *Elements of Crimes* of the individual crimes against humanity with which Mr Yekatom and Mr Ngaïssona have been charged. See also paragraph 2 of the Introduction to article 7 of the *Elements of Crimes*: “[h]owever, the last element should not be interpreted as requiring proof that the perpetrator had knowledge of all characteristics of the attack or the precise details of the plan or policy of the State or organization. In the case of an emerging widespread or systematic attack against a civilian population, the intent clause of the last element indicates that this mental element is satisfied if the perpetrator intended to further such attack”. See also the *Al Hassan Trial Judgment*, *supra* note 92, para. 1117; the *Ongwen Trial Judgment*, *supra* note 92, para. 2691 and the *Katanga Trial Judgment*, *supra* note 66, para. 1125.

<sup>122</sup> See the *Elements of Crimes*, Introduction to article 7, para. 2.

<sup>123</sup> See AMBOS (K.), *Treatise on International Criminal Law*, Vol. II, Oxford University Press, Oxford, 2014, p. 64; and CRYER (R.) et al., *An introduction to International Criminal Law and Procedure*, Cambridge University Press, Cambridge, 2<sup>nd</sup> ed., 2010, p. 235.

**b) Contextual elements of war crimes**

77. The war crimes charged in the case exclusively concern a non-international armed conflict.<sup>124</sup> Pursuant to article 8(2)(f) of the Statute, 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.<sup>125</sup> In order to distinguish it from situations of lower intensity such as internal disturbances, there must be at least two organised armed groups involved and the armed violence must reach a certain intensity.<sup>126</sup> Pursuant to article 8(2)(d) and (f), an armed conflict exceeds situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of similar nature.

78. In order to constitute an “*organised armed group*”, Chambers<sup>127</sup> have taken into consideration the following factors: (a) the existence of a command structure, the existence of headquarters, the issuing of political statements, and the use of official spokespersons; (b) the military (operational) capacity of the armed group;<sup>128</sup> (c) the logistical capacity of the armed group;<sup>129</sup> (d) the existence of an internal disciplinary system and the ability to implement international humanitarian law; and (e) the group’s ability to speak with one voice.<sup>130</sup>

79. As for the intensity of the conflict, to determine its “*protracted*” character, Chambers<sup>131</sup> have considered the following factors: (a) the seriousness and frequency of attacks and armed clashes; (b) the spread of clashes over territory and the group’s ability to control territory over a period of time; (c) whether any ceasefire orders had been issued or agreed to; (d) the type and number of armed forces deployed, including any involvement of the government; (e) the type

<sup>124</sup> See articles 8(2)(c)(i) and 8(2)(e)(i), (iv), (v), (vi), (vii), (viii) and (xii) of the Statute.

<sup>125</sup> See the [Al Hassan Trial Judgment](#), *supra* note 92, para. 1095; the [Ongwen Trial Judgment](#), *supra* note 92, para. 2683; the [Ntaganda Trial Judgment](#), *supra* note 91, para. 701; the “Judgment and Sentence” (Trial Chamber VIII), No. [ICC-01/12-01/15-171](#), 27 September 2016 (the “Al Mahdi Trial Judgment”), para. 17; the [Katanga Trial Judgment](#), *supra* note 66, para. 1183; and the “Judgment pursuant to Article 74 of the Statute” (Trial Chamber I), No. [ICC-01/04-01/06-2842](#), 14 March 2012 (the “Lubanga Trial Judgment”), para. 533.

<sup>126</sup> See the [Ntaganda Trial Judgment](#), *supra* note 91, para. 703.

<sup>127</sup> See the [Al Hassan Trial Judgment](#), *supra* note 92, para. 1096; the [Ongwen Trial Judgment](#), *supra* note 92, para. 2685; the [Ntaganda Trial Judgment](#), *supra* note 91, para. 704; the [Lubanga Trial Judgment](#), *supra* note 125, para. 537; and the [Katanga Trial Judgment](#), *supra* note 66, para. 1186.

<sup>128</sup> 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 the territory, and having a territorial division into zones of responsibility.

<sup>129</sup> For example, the existence of a supply chain for military equipment or the group’s ability to move troops around and to recruit and train personnel.

<sup>130</sup> For example, 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.

<sup>131</sup> See the [Al Hassan Trial Judgment](#), *supra* note 92, para. 1097; the [Ongwen Trial Judgment](#), *supra* note 92, para. 2684. See also the [Ntaganda Trial Judgment](#), *supra* note 91, paras. 716-717; the [Lubanga Trial Judgment](#), *supra* note 125, para. 538; and the [Katanga Trial Judgment](#), *supra* note 66, para. 1187.

of weapons used; (f) whether the situation had attracted the attention of the UN Security Council, or involvement of other international organisations; (g) whether those fighting considered themselves bound by international humanitarian law; and (h) 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. Although exercise of control over a part of the territory is not required, this factor may become more important in the absence of active hostilities.<sup>132</sup> Similarly, it is not necessary to find that violence is continuous and uninterrupted; it is sufficient to prove that violence goes beyond isolated or sporadic acts.<sup>133</sup>

80. Pursuant to the Elements of Crimes, the war crimes must have been committed “*in the context of*” and be “*associated with an armed conflict not of an international character*”. However, the perpetrator’s conduct need not always take place as part of hostilities and the nexus requirement could still be satisfied for crimes temporally or geographically remote from the actual fighting.<sup>134</sup> Chambers<sup>135</sup> have determined that what is required is a sufficiently close link to the hostilities, including, amongst others, the following factors: (a) the status of the perpetrator and the victim (*i.e.* whether they had a role in the fighting); (b) whether the act may be said to serve the ultimate goal of a military campaign; and (c) whether the crime is committed as part of, or in the context of, the perpetrator’s official duties. As regards the knowledge or awareness of the perpetrator, he or she must have been aware of factual circumstances that established the existence of an armed conflict.<sup>136</sup>

81. The evidence demonstrates beyond reasonable doubt that, from at least March 2013,<sup>137</sup> a protracted armed conflict not of an international character between the FACA/pro-Bozize

<sup>132</sup> See the [Al Hassan Trial Judgment](#), *supra* note 92, para. 1097; the [Ongwen Trial Judgment](#), *supra* note 92, para. 2684; and the [Ntaganda Trial Judgment](#), *supra* note 91, para. 717.

<sup>133</sup> See the [Al Hassan Trial Judgment](#), *supra* note 92, para. 1097; the [Ongwen Trial Judgment](#), *supra* note 92, para. 2684; and the [Bemba Trial Judgment](#), *supra* note 70, para. 140.

<sup>134</sup> See the [Al Hassan Trial Judgment](#), *supra* note 92, para. 1099; the [Ongwen Trial Judgment](#), *supra* note 92, para. 2689; the [Ntaganda Trial Judgment](#), *supra* note 91, para. 731; the [Al Mahdi Trial Judgment](#), *supra* note 125, para.18; the [Katanga Trial Judgment](#), *supra* note 66, para. 1176; the [Lubanga Trial Judgment](#), *supra* note 125, para. 571; and the [Kunarac et al. Appeal Judgement](#), *supra* note 105, para. 57.

<sup>135</sup> See the [Al Hassan Trial Judgment](#), *supra* note 92, para. 1100; the [Ongwen Trial Judgment](#), *supra* note 92, para. 2689; the [Ntaganda Trial Judgment](#), *supra* note 91, para. 732; and the [Bemba Trial Judgment](#), *supra* note 70, para. 143.

<sup>136</sup> Paragraph 3 of the Introduction to article 8 of the [Elements of Crimes](#) reads: “[w]ith respect to the last two elements listed for each crime: (a) There is no requirement for a legal evaluation by the perpetrator as to the existence of an armed conflict or its character as international or non-international; (b) In that context there is no requirement for awareness by the perpetrator of the facts that established the character of the conflict as international or non-international; (c) There is only a requirement for the awareness of the factual circumstances that established the existence of an armed conflict that is implicit in the terms “took place in the context of and was associated with”. See also the last element in the [Elements of Crimes](#) of the individual war crimes with which Mr Yekatom and Mr Ngaïssona have been charged.

<sup>137</sup> **V44-0001: T-267 [ENGI]**, p. 7, line 8 to p. 13, line 9; **P-1847: T-022 [ENGI]**, p. 29, line 10 to p. 37, line 3; **P-0291: T-051 [ENGI]**, p. 29, line 3 to p. 30, line 12.

forces and Seleka forces existed in the CAR, and that said conflict continued between the Anti-Balaka and the Seleka until at least December 2014. The Anti-Balaka and Seleka forces operated with the requisite level of organisation, possessed military equipment and weapons and demonstrated the ability to carry out sustained military operations over a prolonged period of time.<sup>138</sup>

82. The evidence also demonstrates beyond reasonable doubt that both Accused, having held positions of authority during the period covered by the charges, were aware of the factual circumstances that established the existence of the non-international armed conflict. Consequently, their conduct took place in the context of and was associated with the armed conflict not of an international character existing in the CAR at the time.<sup>139</sup>

## 2. The attack against the civilian population

83. According to the Victims' account of events, the attack was well-planned and well-executed. Victims also put emphasis on the brutality with which the attack was conducted, terrorising, murdering, raping, torturing and inflicting severe treatment, destroying mosques, houses and shops belonging to Muslims and pillaging them. Those who survived the attack had to leave their homes, to flee and take refuge far away from their places of residence because of their fear for reprisals.<sup>140</sup>

84. Victims indicate that they were targeted because they were perceived as supporting the Seleka. Therefore, according to them, the recognition of the crime of persecution<sup>141</sup> in connection with the attack is an important element shown by the evidence presented at trial.

<sup>138</sup> **V44-0001:** [T-267 \[ENG\]](#), p. 13, line 10 to p. 15, line 10; **P-1847:** [T-022 \[ENG\]](#), p. 29, line 10 to p. 37, line 3; **P-2012:** [T-025 \[ENG\]](#), p. 38, lines 2-14 (Conf); **P-0291:** [T-051 \[ENG\]](#), p. 29, line 3 to p. 30, line 12; **P-0475:** [T-091 \[ENG\]](#), p. 55, line 3 to p. 56, line 24 (Conf).

<sup>139</sup> **P-1847:** [T-022 \[ENG\]](#), p. 29, line 10 to p. 37, line 3 (Conf); **P-2012:** [T-025 \[ENG\]](#), p. 41, line 19 to p. 42, line 5; **P-0291:** [T-051 \[ENG\]](#), p. 29, line 3 to p. 30, line 12; **P-0475:** [T-091 \[ENG\]](#), p. 55, line 3 to p. 56, line 24 (Conf); **V44-0001:** [T-267 \[ENG\]](#), p. 7, line 1 to p. 15, line 10 (Conf); **P-2193:** [T-019 \[ENG\]](#), p. 31, line 1 to p. 32, line 1.

<sup>140</sup> See the [Elements of Crimes](#) of article 7(1)(d) Crime against humanity of deportation or forcible transfer of population, footnotes 12 and 13: “*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*” and “*‘Deported or forcibly transferred’ is interchangeable with ‘forcibly displaced’*”.

<sup>141</sup> Article 7(1)(h) of the Statute criminalizes persecution as a crime against humanity. For the interpretation of the provision, see the [Ntaganda Trial Judgment](#), *supra* note 91, paras. 991, 993-994. See also the “Decision on the confirmation of charges against Charles Blé Goudé” (Pre-Trial Chamber I), No. [ICC-02/11-02/11-186](#), 11 December 2014 (the “*Blé Goudé Confirmation Decision*”), paras. 122-123; the “Decision on the confirmation of charges against Laurent Gbagbo” (Pre-Trial Chamber I), No. [ICC-02/11-01/11-656-Red](#), 12 June 2014, paras. 204-205; the “Decision on the Confirmation of Charges Pursuant to Article 61(7)(a) and (b) of the Rome Statute” (Pre-Trial Chamber II), No. [ICC-01/09-01/11-373](#), 23 January 2012, paras. 273-274; and the “Decision on the Confirmation of Charges Pursuant to Article 61(7)(a) and (b) of the Rome Statute” (Pre-Trial Chamber II), No.

85. In this regard, the CLRV recall that the crime of persecution covers a range of crimes constituting a serious violation of the fundamental rights of every human being, perpetrated on discriminatory grounds. The crime is committed either in one act or in a series of acts.<sup>142</sup>

86. In the present case, Victims are individuals of Muslim faith and/or individuals perceived as collectively responsible for, complicit with or supportive of the Seleka or having a connection with Muslims, because of family ties, businesses, or other reasons. Therefore, the Chamber should appraise the particular political, social, and cultural context and take into consideration both the objective factors relevant to the discriminatory ground alleged, as well as the subjective perception of the Victims as belonging to the discriminated group.<sup>143</sup> Indeed, the crime of persecution focuses on the specific acts committed against a specific group, namely acts that severely deprive victims of their fundamental rights.

87. During the trial, many witnesses testified that the Muslim civilian population was systematically targeted by the Anti-Balaka.

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[ICC-01/09-02/11-382-Red](#), 23 January 2012, para. 283. Persecution takes into account the perpetrator's perspective when defining the group that is the object of persecution. Thus, it is not required that the members of the targeted group hold common views or consider themselves as an identifiable group. A target group can be defined in a negative manner, as the perpetrator may also target individuals for not belonging to a certain group. What is relevant is the identification of the victim by the perpetrator - the victim's actual membership or affiliation to the targeted group is thus not dispositive. See the [Ongwen Trial Judgment](#), *supra* note 92, para. 2735; the [Ntaganda Trial Judgment](#), *supra* note 91, para. 1011; the "Corrected Version of 'Décision relative à la confirmation des charges portées contre Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud'" (Pre-Trial Chamber I), No. [ICC-01/12-01/18-461-Corr-Red-tENG](#), 13 November 2019 (the "*Al Hassan* Confirmation Decision"), para. 665; ECCC, *Chea and Samphan*, Case No. 002/01, [Appeal Judgement](#) (Supreme Court Chamber), 23 November 2016, paras. 668, 677-680; ECCC, *Duch*, Case No. 001, [Appeal Judgement](#) (Supreme Court Chamber), 3 February 2012 (the "*Duch* Appeal Judgement"), paras. 272-273; ECCC, *Meas Muth*, Case No. 003, [Closing Order](#) (International Co-Investigating Judge), 28 November 2018, para. 57; the [Ntaganda Trial Judgment](#), *supra* note 91, paras. 1009-1010; the "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'" (Pre-Trial Chamber III), No. [ICC-01/17-9-Red](#), 9 November 2017, para. 133; and the "Decision Pursuant to Article 15 of the Rome Statute on the Authorisation of an Investigation into the Situation in the People's Republic of Bangladesh/Republic of the Union of Myanmar" (Pre-Trial Chamber III), No. [ICC-01/19-27](#), 14 November 2019 (the "*Bangladesh/Myanmar* Investigation Decision"), para. 103. Similarly the [Blagojević and Jokić Trial Judgement](#), *supra* note 105, para. 583. For the intent of the perpetrator, the perpetrator must perceive the victim as belonging or not belonging to a particular group or collectivity. The intent may be inferred from the general behaviour of the perpetrator as well as the circumstances surrounding the commission of the crime. See the [Ongwen Trial Judgment](#), *supra* note 92, para. 2739; the [Al Hassan Confirmation Decision](#), para. 671; ICTY, *Popović et al.*, Case No. IT-05-88-T, [Judgement \(Volume I\)](#) (Trial Chamber II), 10 June 2010, para. 969; ICTY, *Popović et al.*, Case No. IT-05-88-A, [Judgement](#) (Appeals Chamber), 30 January 2015, para. 713; ICTY, *Kvočka et al.*, Case No. IT-98-30/1-A, [Judgement](#) (Appeals Chamber), 28 February 2005, para. 460; and paragraph 4 of the 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").

<sup>142</sup> See the [Al Hassan Confirmation Decision](#), *supra* note 141, para. 663, referring to the [Kupreškić et al. Trial Judgment](#), *supra* note 112, para. 621. See also the [Ongwen Trial Judgment](#), *supra* note 92, para. 2733; the [Bangladesh/Myanmar Investigation Decision](#), *supra* note 141, para. 100; the [Duch Appeal Judgement](#), *supra* note 141, para. 258; and the [Kupreškić et al. Appeal Judgement](#), *supra* note 69, para. 97.

<sup>143</sup> See the [Ntaganda Trial Judgment](#), *supra* note 91, para. 1010.

88. P-1577 explained: *“it appeared to me at the time quite systematic. [...] [T]he Anti-Balaka [...], they had targeted, for example, mosques or businesses that were owned by Muslim groups and burnt those houses or areas of the town that would be identified as a Muslim part of town. So it seemed at the time quite systematic that they were targeting the general Muslim population”*.<sup>144</sup>

89. P-0884 also stated that *“when the Anti-Balaka arrived, they mixed up things and took all Muslims to be Séléka. So they confused Séléka and Muslim to be one and the same thing and that is how they ended up attacking even the innocent Muslims and even looting their property”*.<sup>145</sup>

90. [REDACTED] explained that, because she belonged to Djotodia’s ethnic group (the Vangaka) and was a Muslim, the Anti-Balaka considered her responsible for the Seleka crimes. As a consequence, [REDACTED].<sup>146</sup> She declared: *“the attacks were much more upon Muslims, mainly natives of the Vakaga area. In the 7<sup>th</sup> arrondissement, there were many Muslim people. [...]. And many left their houses and went to the provinces because, at that time, people were saying that all the natives of the Vakaga should be sent out of the Central African Republic”*.<sup>147</sup>

91. Dual status P-2354 similarly testified: *“The murders of Muslims – everyone was talking about them. People were calling one another on the telephone, and when I was told about that, it might have been several days after the events. It is true that the Muslims were being killed along the roads. Everyone knew about it. [...] During those events, when they found a Muslim in a village or on the road, they would kill them systematically”*.<sup>148</sup>

92. The fact that a multitude of ethnic groups within the Muslim population were targeted – in particular Arabe, Foulata, Foulbe, Haoussa, Mbororo, Peul, and Rounga<sup>149</sup> – is corroborated by the information found in the application forms.<sup>150</sup>

<sup>144</sup> P-1577: [T-027 \[ENG\]](#), p. 28, lines 5-10.

<sup>145</sup> P-0884: [T-055 \[ENG\]](#), p. 53, lines 16-19.

<sup>146</sup> P-0967: [T-199 \[ENG\]](#), p. 35, line 18 to p. 36, line 3; p. 39, lines 8-17; p. 41, lines 1-5; and p. 42, lines 13-19 (Conf); P-0967: [T-200 \[ENG\]](#), p. 39, lines 21-24 (Conf).

<sup>147</sup> P-0967: [T-199 \[ENG\]](#), p. 63, line 25 to p. 64, line 7.

<sup>148</sup> P-2354: [T-210 \[ENG\]](#), p. 14, lines 3-8 and p. 12, lines 19-24.

<sup>149</sup> See *supra* para. 28. P-1666: [T-230 \[ENG\]](#), p. 34, lines 17-18, explained that in Mbaïki, “[t]here were Arabs, there were Foulata, there were Haoussa and [sic] Borno”.

<sup>150</sup> See for instance a/15406/20 and a/15427/20 who are Peul; a/20773/21, a/20758/21, a/20806/21 and a/ 66052/10 who are Arabe; a/15312/20, a/66210/19 and a/15072/20 who are Rounga; a/15348/20 who is Foulata.

93. As revealed during the trial, before the crisis, members of the Muslim community lived in great harmony with the Central African Christians, whether in Bangui,<sup>151</sup> in Mbaïki,<sup>152</sup> or in Bossangoa.<sup>153</sup>

94. P-2682, [REDACTED], testified that relations between the Christian and Muslim communities were good and that there was no animosity.<sup>154</sup>

95. P-0967, [REDACTED]<sup>155</sup> [REDACTED], explained: *“I arrived in the 7<sup>th</sup> arrondissement in [1973]. And as a Muslim, [...] I met other Muslims when I arrived over there. I'd like to specify that I am a girl [whose] father was a Muslim and mother was a Christian. Before, there were no problems. There were no concerns and difficulties between the different religions”*.<sup>156</sup>

96. Dual status P-2353, who was born, raised and lived in Mbaïki at the time of the events, recalled that in Mbaïki: *“we were living in perfect harmony. [...] [C]lashes between communities ”*.<sup>157</sup>

97. Dual status P-2049 testified about the peaceful cohabitation between communities in Bossangoa, indicating that *“[b]efore the conflict broke out, we were living rather well. There was peaceful coexistence. We were living like brothers and sisters of the same family”*.<sup>158</sup>

98. A number of the Victims had developed friendly relations with the Christian population, to the point that some members of the latter helped them during the Anti-Balaka attacks. In this regard, V44-0001 testified that she fled with the help of his Christian neighbour who was a soldier and *“advised [her] to go with him and [her] children to the field. [...] The neighbour, his wife and another neighbour, all four of them were not Muslims”*.<sup>159</sup> She fled with her neighbours *“who have become like family to [her]. They are Christians, with their wives and children”*.<sup>160</sup>

99. In conclusion, there is ample evidence before the Chamber supporting the brutality of the attacks, the targeting and persecution of the Muslim population, the murders and attempted

<sup>151</sup> P-2682: [T-017 \[ENG\]](#), p. 39, lines 4-8.

<sup>152</sup> See *infra* para. 141. See also D29-5012: [T-294 \[ENG\]](#), p. 5, lines 18-20 (Conf).

<sup>153</sup> See *infra* para. 158.

<sup>154</sup> P-2682: [T-017 \[ENG\]](#), p. 17, lines 1-2 and p. 39, lines 4-8 (Conf).

<sup>155</sup> P-0967: [T-199 \[ENG\]](#), p. 8, lines 17-24 (Conf).

<sup>156</sup> P-0967: [T-199 \[ENG\]](#), p. 12, lines 18-24.

<sup>157</sup> P-2353: [T-161 \[ENG\]](#), p. 58, lines 1-7 (Conf).

<sup>158</sup> P-2049: [T-100 \[ENG\]](#), p. 9, lines 19-21. See also V44-0001: [T-267 \[ENG\]](#), p. 7, line 13: *“[t]here was peace between the two communities”*.

<sup>159</sup> V44-0001: [T-267 \[ENG\]](#), p. 9, line 16 to p. 10, line 8.

<sup>160</sup> V44-0001: [T-267 \[ENG\]](#), p. 10, lines 21-22.

murders,<sup>161</sup> the torture,<sup>162</sup> the cruel treatment,<sup>163</sup> the imprisonment and other severe deprivation of physical liberty,<sup>164</sup> the attack and the destruction of mosques<sup>165</sup> and of private and commercial properties of Muslims, the pillaging<sup>166</sup> and the rapes.<sup>167</sup>

<sup>161</sup> Article 7(1)(a) of the Statute criminalizes the crime of murder. For the interpretation of the provision, see the [Ntaganda Trial Judgment](#), *supra* note 91, para. 862 and the [Ongwen Trial Judgment](#), *supra* note 92, paras. 2696, 2698-2699.

<sup>162</sup> 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 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 (paragraph 3 of the [Elements of Crimes](#) of article 7(1)(f) of the Statute). In contrast, for torture as a war crime under article 8(2)(c)(i) of the Statute, the custody/control element is not required. However, torture as a war crime requires that the crime is 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*. For torture as a war crime to exist, the perpetrator must also have been aware of the factual circumstances that established the status of the victim (paragraph 4 of the [Elements of Crimes](#) of article 8(2)(c)(i)-4). Also, torture as a war crime must be perpetrated with an objective, namely, to obtain information or a confession, punishment, intimidation or coercion or for any reason based on discrimination of any kind. In this regard, the Inter-American Court of Human Rights has established that torture includes 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. See paragraph 1 of the [Elements of Crimes](#) of articles 7(1)(f) and 8(2)(c)(i)-4 of the Statute; and IACtHR, *Maritza Urrutia v. Guatemala*, [Judgment \(Merits, reparations and costs\)](#), 27 November 2003, para. 91. For the interpretation of the provision, see the [Ongwen Trial Judgment](#), *supra* note 92, paras. 2700-2707; the [Al Hassan Confirmation Decision](#), *supra* note 141, paras. 230-232; ICTY, *Brđanin*, Case No. IT-99-36-A, [Judgement](#) (Appeals Chamber), 3 April 2007, paras. 244-251; ECCC, *Duch*, Case No. 001, [Judgement](#) (Trial Chamber), 26 July 2010, para. 355; and ECtHR, *Ireland v. United Kingdom*, [Judgment](#) (Plenary), 18 January 1978, para. 162. The crime is committed either by act or omission and has a common material element, namely that “[t]he perpetrator inflicted severe physical or mental pain or suffering upon one or more persons”. The severity implies an important degree of pain and suffering and may be met by a single act or by a combination of acts when viewed as a whole. See the [Al Hassan Trial Judgment](#), *supra* note 92, para. 1128; the [Ongwen Trial Judgment](#), *supra* note 92, para. 2701; the [Al Hassan Confirmation Decision](#), *supra* note 141, para. 230; the “Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor Against Jean-Pierre Bemba Gombo” (Pre-Trial Chamber II), No. [ICC-01/05-01/08-424](#), 15 June 2009, para. 193; ICTY, *Krnojelac*, Case No. IT-97-25-T, [Judgment](#) (Trial Chamber II), 15 March 2002, paras. 181-182, 219, 222, 224, 236; ECtHR, *El Masri v. Former Yugoslav Republic of Macedonia*, [Judgment](#) (Grand Chamber), 13 December 2012, paras. 196-197; ECtHR, *Gäfgen v. Germany*, [Judgment](#) (Grand Chamber), 1 June 2010, para. 90; ECtHR, *Selmouni v. France*, [Judgment](#) (Grand Chamber), 28 July 1999, paras. 100, 105; ICTY, *Naletilić and Martinović*, Case No. IT-98-34-A, [Judgement](#) (Appeals Chamber), 3 May 2006, para. 299; ECtHR, *Aydın v. Turkey*, [Judgment](#) (Grand Chamber), 25 September 1997, para. 86. See also IACtHR, *Lori Berenson-Mejía v. Peru*, [Judgment \(Merits, reparations and costs\)](#), 25 November 2004, para. 100; and United Nations, Human Rights Committee, [General comment No. 20: Article 7 \(Prohibition of torture, or other cruel, inhuman or degrading treatment or punishment\)](#), 10 March 1992, para. 5.

<sup>163</sup> Article 8(2)(c)(i)-3 of the Statute criminalizes cruel and inhumane treatment as a war crime. For the interpretation of the provision, see the [Al Hassan Trial Judgment](#), *supra* note 92, paras. 1149-1150 and the [Ongwen Trial Judgment](#), *supra* note 92, para. 2754. See also the [Limaj et al. Trial Judgement](#), *supra* note 96, para. 232; IACtHR, *Espinoza González v. Peru*, [Judgment \(Preliminary objections, merits, reparations and costs\)](#), 20 November 2014, para. 142; IACtHR, *Fleury et al. v. Haiti*, [Judgment \(Merits and reparations\)](#), 23 November 2011, para. 73; IACtHR, *Torres Millacura et al. v. Argentina*, [Judgment \(Merits, reparations, and costs\)](#), 26 August 2011, para. 86; and IACtHR, *Loayza-Tamayo v. Peru*, [Judgment \(Merits\)](#), 17 September 1997, para. 57.

<sup>164</sup> Article 7(1)(e) of the Statute criminalizes the crime of imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law. See the [Elements of Crimes](#): “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. 3. The perpetrator was aware of the factual circumstances that established the gravity of the conduct. 4. The conduct was committed as part of a widespread or systematic attack directed against a civilian population. 5. 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”.

100. The persecutory intent and the type of crimes committed against the Muslim population are proven for all the events charged.

**a) Crimes committed in Bangui (including Cattin) and Boeing**

101. The evidence demonstrates beyond reasonable doubt that in the early morning hours of 5 December 2013, the Anti-Balaka mounted a coordinated attack in Bangui on Cattin and Boeing.<sup>168</sup> The evidence also establishes beyond reasonable doubt that the crimes of (a) murder; (b) persecution; (c) attack against building dedicated to religion; (d) attack against the civilian population; (e) displacement; and (f) forcible transfer and deportation were committed at said locations during the relevant period, as detailed *infra*.

102. The attack was conducted by Anti-Balaka elements assembled and trained at Gobere under the leadership of FACA members and others, to whom Mr Bernard Mokom and Mr Ngaïssona provided, *inter alia*, money and weapons.<sup>169</sup> They proceeded simultaneously from different directions, under the command of Mr Yekatom and others,<sup>170</sup> attacking multiple

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<sup>165</sup> Article 8(2)(e)(iv) of the Statute criminalizes intentionally directing an attack against a building dedicated to religion as a war crime. For the interpretation of the provision, see the [Al Hassan Confirmation Decision](#), *supra* note 141, para. 522; the [Al Mahdi Trial Judgment](#), *supra* note 125, paras. 14-17 and footnote 29; and the [Ntaganda Trial Judgment](#), *supra* note 91, para. 1136, footnote 3147. See also the [Second Protocol to the Hague Convention of 1954 for the protection of cultural property during armed conflict](#), 26 March 1999, articles 1 and 6-8. On the perpetrator's intent, it solely requires having launched an attack against a protected object and it need not to be established that the attack damaged or destroyed the object in question. See the [Ntaganda Trial Judgment](#), *supra* note 91, para. 1136.

<sup>166</sup> Article 8(2)(e)(v) of the Statute criminalizes the crime of pillage. For the interpretation of the provision, see the [Ntaganda Trial Judgment](#), *supra* note 91, para. 1028 and the [Ongwen Trial Judgment](#), *supra* note 92, paras. 2762-2767.

<sup>167</sup> Article 7(1)(g) and article 8(2)(e)(vi) of the Statute criminalize rape respectively as a crime against humanity and as a war crime. For the interpretation of the provision, see the [Al Hassan Trial Judgment](#), *supra* note 92, para. 1198 and the [Ntaganda Trial Judgment](#), *supra* note 91, para. 934. Based on this jurisprudence, the CLRV recall that the victim's lack of consent need not be proven; the establishment of at least one of the coercive circumstances or conditions is sufficient for penetration to amount to rape; 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; moreover, coercion may also be inherent in certain circumstances such as an armed conflict; and it must be proven that the perpetrator's conduct involved "taking advantage" of such a coercive environment. See also the [Al Hassan Confirmation Decision](#), *supra* note 141, paras. 533-542, 638, 639-643 and the [Ongwen Trial Judgment](#), *supra* note 92, paras. 2708-2710.

<sup>168</sup> **P-2682: T-017 [ENG]**, p. 25, line 3 to p. 33, line 19; **P-2682: T-018 [ENG]**, p. 39, line 18 to p. 48, line 17 (Conf); **P-2193: T-019 [ENG]**, p. 31, line 1 to p. 32, line 1; **P-0291: T-051 [ENG]**, p. 67, line 2 to p. 69, line 2 (Conf); **P-0884: T-056 [ENG]**, p. 23, line 5 to p. 24, line 13 (Conf).

<sup>169</sup> **P-0965: T-061 [ENG]**, p. 15, line 8 to p. 30, line 18 and p. 38, lines 1-12 (Conf).

<sup>170</sup> **P-1339: T-152 [ENG]**, p. 69, line 10 to p. 85, line 20 (Conf).

locations, targeting Seleka positions and Muslim civilians.<sup>171</sup> Hundreds were killed as a result.<sup>172</sup>

103. In fact, these operations were conducted with the intention to push all the Muslims to PK5 and Miskine.<sup>173</sup> Christians were warned in advance and advised to place palm branches in front of their houses, signalling to the attacking Anti-Balaka which houses to spare.<sup>174</sup> Mr Yekatom, who had agreed with Mr Mokom to participate in the offensive, moved his troops from Kalangoi to Boeing.<sup>175</sup> Then, the Accused and his elements moved on to attack Cattin, killing at least four Muslims.<sup>176</sup>

104. Among the victims were Hassan Mahamat and his family members.<sup>177</sup> The bodies of some of the Muslim civilians killed (including traders murdered at the Boeing market) were brought to the Ali Babolo Mosque in PK5. Dual status P-2682 testified that at least sixty bodies were laid down at the mosque.<sup>178</sup> P-2050 and P-1576 provided a detailed description of the dead bodies of Muslim civilians at the mosque.<sup>179</sup>

105. As a consequence of the Anti-Balaka attacks, from 5 December 2013 onwards, Muslim residents of Cattin and Boeing were forced to flee their homes and communities to the predominantly Muslim neighbourhood of PK5, to other parts of the CAR, or to neighbouring countries, fearing for their safety and the one of their families.<sup>180</sup> The attack directly contributed to the Muslim exodus from the CAR.<sup>181</sup> Many Muslim remained confined to PK5, unable to leave without risking death.<sup>182</sup>

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<sup>171</sup> P-2682: [T-017 \[ENG\]](#), p. 25, line 3 to p. 33, line 19; P-0291: [T-051 \[ENG\]](#), p. 67, line 2 to p. 69, line 2 (Conf); P-0954: [T-168 \[ENG\]](#), p. 53, line 4 to p. 54, line 10 (Conf); P-2625: [T-190 \[ENG\]](#), p. 28, line 18 to p. 29, line 19; P-0884: [T-056 \[ENG\]](#), p. 23, line 5 to p. 24, line 13 (Conf); P-1528: [T-178 \[ENG\]](#), p. 28, line 17 to p. 31, line 19; P-1339: [T-154 \[ENG\]](#), p. 40, line 7 to p. 53, line 9 (Conf).

<sup>172</sup> P-1576: [T-239 \[ENG\]](#), p. 57, line 25 to p. 59, line 13 (Conf); P-1719: [T-142 \[ENG\]](#), p. 22, line 5 to p. 23, line 22 (Conf).

<sup>173</sup> P-2841: [T-030 \[ENG\]](#), p. 44, line 22 to p. 52, line 3 (Conf).

<sup>174</sup> P-1528: [T-178 \[ENG\]](#), p. 27, line 16 to p. 28, line 12.

<sup>175</sup> P-0291: [T-151 \[ENG\]](#), p. 25, line 19 to p. 37, line 11 (Conf).

<sup>176</sup> P-2682: [T-017 \[ENG\]](#), p. 25, line 3 to p. 33, line 19; P-0884: [T-056 \[ENG\]](#), p. 23, line 5 to p. 24, line 13 (Conf); P-1528: [T-178 \[ENG\]](#), p. 28, line 17 to p. 31, line 19; P-1339: [T-154 \[ENG\]](#), p. 40, line 7 to p. 53, line 9 (Conf).

<sup>177</sup> P-2682: [T-017 \[ENG\]](#), p. 37, line 10 to p. 42, line 16; P-1528: [T-179 \[ENG\]](#), p. 49, line 13 to p. 50, line 8 (Conf).

<sup>178</sup> P-2682: [T-017 \[ENG\]](#), p. 25, line 3 to p. 33, line 19 and p. 34, line 1 to p. 36, line 25.

<sup>179</sup> P-2050: [T-240 \[ENG\]](#), p. 17, line 22 to p. 20, line 24 (Conf); P-1576: [T-239 \[ENG\]](#), p. 15, lines 3-25 (Conf).

<sup>180</sup> P-2682: [T-017 \[ENG\]](#), p. 37, line 10 to p. 42, line 16 and p. 43, line 23 to p. 48, line 23; P-2193: [T-019 \[ENG\]](#), p. 31, line 1 to p. 32, line 1; P-1577: [T-027 \[ENG\]](#), p. 70, line 23 to p. 74, line 6 (Conf); P-0965: [T-061 \[ENG\]](#), p. 27, line 9 to p. 28, line 10 (Conf); P-0475: [T-090 \[ENG\]](#), p. 40, line 9 to p. 63, line 16 (Conf); P-2050: [T-240 \[ENG\]](#), p. 20, line 4 to p. 22, line 25 (Conf); P-1528: [T-178 \[ENG\]](#), p. 34, line 23 to p. 37, line 3; P-1647: [T-194 \[ENG\]](#), p. 15, line 23 to p. 16, line 9; P-2556: [T-145 \[ENG\]](#), p. 29, line 12 to p. 31, line 6 (Conf); P-0291: [T-051 \[ENG\]](#), p. 67, line 2 to p. 69, line 2 (Conf).

<sup>181</sup> P-0954: [T-166 \[ENG\]](#), p. 83, line 5 to p. 84, line 8; P-1647: [T-194 \[ENG\]](#), p. 15, line 23 to p. 16, line 9.

<sup>182</sup> P-1647: [T-194 \[ENG\]](#), p. 15, line 23 to p. 16, line 9.

106. Indeed, after the 5 December 2013 attack, the 3<sup>rd</sup> *arrondissement* and PK5 became a Muslim enclave and those who lived there could not exit the area because of fear of being killed.<sup>183</sup> In turn, those who lived outside PK5 could not have access to their neighbourhoods.<sup>184</sup> Most of the Muslim civilians decided to install themselves in PK5 under the assumption that the Rwandan or Burundi contingent and MINUSCA soldiers were protecting the area.<sup>185</sup> The majority of Muslims who attempted to leave PK5 died.<sup>186</sup> As a consequence of being “trapped” in the enclave, the living conditions of the Muslim population became extremely challenging, with food being very difficult to find, and with a significant deterioration of the health and hygienic situation.<sup>187</sup>

107. Properties of Muslim civilians and buildings dedicated to their religion were also attacked. By 20 December 2013 at the latest, Mr Yekatom ordered the destruction of the Boeing Mosque,<sup>188</sup> which was indeed destroyed by his elements using rockets and grenades and then burned down.<sup>189</sup> This attack forced the imam of the mosque and his extended family to flee the area.<sup>190</sup>

108. In conclusion, the crimes were committed by Mr Yekatom, his group and other Anti-Balaka elements in a coordinated effort to cleanse Boeing and Cattin of the Muslim population. The Anti-Balaka’s attack on and murder of Muslim civilians in Boeing and Cattin,<sup>191</sup> their expulsion,<sup>192</sup> and the destruction of their place of worship<sup>193</sup> severely deprived Muslim civilians in Boeing and Cattin of their fundamental rights.

***b) Crimes committed at the Yamwara school in Bangui***

<sup>183</sup> P-0475: [T-091 \[ENG\]](#), p. 58, lines 4-8.

<sup>184</sup> P-0475: [T-091 \[ENG\]](#), p. 58, lines 4-8.

<sup>185</sup> P-1528: [T-178 \[ENG\]](#), p. 36, line 2 to p. 37, line 3.

<sup>186</sup> P-1528: [T-178 \[ENG\]](#), p. 36, line 2 to p. 37, line 3.

<sup>187</sup> P-1528: [T-178 \[ENG\]](#), p. 38, lines 8-23. See *infra*, para. 135.

<sup>188</sup> P-1528: [T-178 \[ENG\]](#), p. 15, line 21 to p. 17, line 2; P-1339: [T-154 \[ENG\]](#), p. 81, line 21 to p. 86, line 10 (Conf).

<sup>189</sup> P-2682: [T-017 \[ENG\]](#), p. 37, line 10 to p. 42, line 16; P-2193: [T-019 \[ENG\]](#), p. 31, line 1 to p. 32, line 1; P-0475: [T-090 \[ENG\]](#), p. 40, lines 9-14 (Conf); P-1339: [T-154 \[ENG\]](#), p. 81, line 21 to p. 86, line 10 (Conf).

<sup>190</sup> P-1528: [T-179 \[ENG\]](#), p. 5, line 20 to p. 6, line 4 (Conf).

<sup>191</sup> P-2682: [T-017 \[ENG\]](#), p. 25, line 3 to p. 33, line 19; P-0884: [T-056 \[ENG\]](#), p. 23, line 5 to p. 24, line 13 (Conf); P-0954: [T-168 \[ENG\]](#), p. 53, line 3 to p. 54, line 10 (Conf); P-2050: [T-240 \[ENG\]](#), p. 17, line 22 to p. 20, line 24 (Conf); P-1576: [T-239 \[ENG\]](#), p. 57, line 25 to p. 59, line 13 (Conf).

<sup>192</sup> P-2682: [T-017 \[ENG\]](#), p. 37, line 10 to p. 42, line 16 and p. 43, line 23 to p. 48, line 23; P-2193: [T-019 \[ENG\]](#), p. 31, line 1 to p. 32, line 1; P-2050: [T-240 \[ENG\]](#), p. 17, line 22 to p. 20, line 24 (Conf).

<sup>193</sup> P-2682: [T-017 \[ENG\]](#), p. 37, line 10 to p. 42, line 16; P-2193: [T-019 \[ENG\]](#), p. 31, line 1 to p. 32, line 1; P-0475: [T-090 \[ENG\]](#), p. 40, line 9 to p. 43, line 22 (Conf); P-1576: [T-239 \[ENG\]](#), p. 61, line 1 to p. 62, line 1 (Conf); P-1339: [T-154 \[ENG\]](#), p. 81, line 21 to p. 86, line 10 (Conf).

109. The evidence demonstrates beyond reasonable doubt that, after the 5 December 2013 attack, Mr Yekatom established his base at the Yamwara School in Bangui.<sup>194</sup> Several witnesses confirmed that the Accused was in charge of the Yamwara school base.<sup>195</sup> The evidence also establishes beyond reasonable doubt that the crimes of (a) cruel treatment, other inhuman acts, torture, imprisonment and other forms of severe deprivation of physical liberty; as well as (b) murder and (c) persecution, were committed at said location during the relevant period, as detailed *infra*.

110. On 24 December 2013, [REDACTED]<sup>196</sup> [REDACTED].<sup>197</sup> [REDACTED],<sup>198</sup> [REDACTED],<sup>199</sup> [REDACTED]<sup>200</sup> [REDACTED].<sup>201</sup> [REDACTED],<sup>202</sup> [REDACTED].<sup>203</sup>

111. On their way to the main road, the group was stopped at a checkpoint close to the Yamwara school<sup>204</sup> manned by a group of Anti-Balaka.<sup>205</sup> [REDACTED],<sup>206</sup> [REDACTED].<sup>207</sup> The Anti-Balaka were armed with weapons, machetes, knives and clubs, and started insulting them, saying that they were going to kill them,<sup>208</sup> [REDACTED].<sup>209</sup> The men were forced to undress and kneel on the ground in a line, with their hands behind their heads<sup>210</sup> while the Anti-

<sup>194</sup> **P-0884:** [T-056 \[ENG\]](#), p. 13, lines 18-19 (Conf); **P-1839:** [T-170 \[ENG\]](#), p. 20, line 19 to p. 21, line 12; **P-1716:** [T-147 \[ENG\]](#), p. 9, lines 7-12; **P-1990:** [CAR-OTP-2124-0247-R02](#), at 0253, paras. 25-26.

<sup>195</sup> **P-1811:** [CAR-OTP-2058-0003-R05](#), at 0009-0010, para. 38; **T-114 [ENG]**, p. 18, line 25 to p. 19, line 9 (Conf); **P-0967:** [T-200 \[ENG\]](#), p. 54, lines 8-10 (Conf); **P-1990:** [CAR-OTP-2124-0247-R02](#), at 0253-0254, paras. 28; **P-1716:** [T-147 \[ENG\]](#), p. 16, line 1 to p. 18, line 12 (Conf); **P-0954:** [T-166 \[ENG\]](#), p. 42, lines 2-9.

<sup>196</sup> [REDACTED]. [REDACTED].

<sup>197</sup> **P-1654:** [CAR-OTP-2053-0112-R04](#), at 0115, para. 23; **P-1811:** [T-115 \[ENG\]](#), p. 6, lines 21-23 (Conf).

<sup>198</sup> [REDACTED].

<sup>199</sup> [REDACTED].

<sup>200</sup> [REDACTED].

<sup>201</sup> **P-1654:** [CAR-OTP-2053-0112-R04](#), at 0115, para. 25; **P-1811:** [CAR-OTP-2058-0003-R05](#), at 0006-0007, para. 22.

<sup>202</sup> [REDACTED] (**P-1704:** [T-128 \[ENG\]](#), p. 28, lines 16-21 (Conf)).

<sup>203</sup> **P-1654:** [CAR-OTP-2053-0112-R04](#), at 0115, para. 25; **P-1716:** [CAR-OTP-2053-0062-R05](#), at 0066-0067, para. 23; **P-1811:** [CAR-OTP-2058-0003-R05](#), at 0006-0007, para. 22; **P-1704:** [CAR-OTP-2054-1136-R05](#), at 1140-1141, para. 25.

<sup>204</sup> **P-1704:** [CAR-OTP-2054-1136-R05](#), at 1142, para. 31; **P-1654:** [CAR-OTP-2053-0112-R04](#), at 0116, para. 26; **P-1811:** [CAR-OTP-2058-0003-R05](#), at 0008, para. 23.

<sup>205</sup> **P-1716:** [T-147 \[ENG\]](#), p. 7, line 7 to p. 9, line 12 (Conf); [CAR-OTP-2053-0062-R05](#), at 0066-0067, para. 26; **P-1705:** [T-211 \[ENG\]](#), p. 20, line 23 to p. 21, line 11 (Conf); **P-1704:** [CAR-OTP-2054-1136-R05](#), at 1140-1141, paras. 25-26; [T-128 \[ENG\]](#), p. 10, line 11 to p. 12, line 8 (Conf).

<sup>206</sup> **P-1811:** [CAR-OTP-2058-0003-R05](#), at 0007, para. 26; [T-114 \[ENG\]](#), p. 16, line 25 to p. 17, line 18 (Conf); **P-1716:** [CAR-OTP-2053-0062-R05](#), at 0067, para. 28; **P-0967:** [T-199 \[ENG\]](#), p. 35, lines 16-24 (Conf); **P-1705:** [T-212 \[ENG\]](#), p. 20, lines 16-23 (Conf).

<sup>207</sup> **P-1811:** [CAR-OTP-2058-0003-R05](#), at 0007, para. 26; **P-0967:** [T-199 \[ENG\]](#), p. 35, lines 22-24 (Conf).

<sup>208</sup> **P-0967:** [T-199 \[ENG\]](#), p. 35, line 18 to p. 36, line 3 (Conf); **P-1811:** [CAR-OTP-2058-0003-R05](#), at 0007-0008, paras. 26-27; [T-114 \[ENG\]](#), p. 17, line 23 to p. 18, line 3 (Conf).

<sup>209</sup> **P-1705:** [T-211 \[ENG\]](#), p. 14, line 25 to p. 15, line 2 and p. 21, line 12 to p. 22, line 8 (Conf); **P-0967:** [T-200 \[ENG\]](#), p. 39, lines 21-24 (Conf).

<sup>210</sup> **P-1716:** [CAR-OTP-2053-0062-R05](#), at 0067, paras. 27-28; [T-148 \[ENG\]](#), p. 24, lines 7-20 (Conf); **P-0967:** [T-199 \[ENG\]](#), p. 36, lines 4-5 (Conf).

Balaka elements threatened them, calling them B2s, traitors, and telling that they were already dead.<sup>211</sup>

112. The leader of the checkpoint<sup>212</sup> called his chief, [REDACTED] identified as Mr Yekatom, and the abductees were brought to the Yamwara school base,<sup>213</sup> suffering beatings along the way and receiving death threats.<sup>214</sup>

113. Saint Cyr Lapo N’Gomat was tied up in *arbatachar* style and was severely beaten.<sup>215</sup> A [REDACTED] Anti-Balaka element [REDACTED] cut his ear off,<sup>216</sup> and his legs were broken.<sup>217</sup> The other men [REDACTED] were also severely beaten, questioned about their ethnicity,<sup>218</sup> [REDACTED]<sup>219</sup> [REDACTED],<sup>220</sup> [REDACTED],<sup>221</sup> and threatened with death.<sup>222</sup>

114. Coeur de Lion – who was present during the event – encouraged [REDACTED] saying: “[REDACTED]”.<sup>223</sup> [REDACTED] had no choice but to commit these acts.<sup>224</sup> Mr Yekatom was aware of what happened to the abductees and later told [REDACTED] had done a “*great job*”.<sup>225</sup>

<sup>211</sup> **P-1716:** [CAR-OTP-2053-0062-R05](#), at 0067, para. 28; [T-147 \[ENG\]](#), p. 7, line 20 to p. 8, line 7 (Conf); **P-0967:** [T-199 \[ENG\]](#), p. 39, lines 8-17 (Conf).

<sup>212</sup> P-1704 and P-1839 identified him as [REDACTED]; **P-1704:** [CAR-OTP-2054-1136-R05](#), at 1141, para. 27; **P-1839:** [T-170 \[ENG\]](#), p. 29, lines 9-15 (Conf).

<sup>213</sup> **P-1811:** [T-114 \[ENG\]](#), p. 18, line 5 to p. 19, line 8 (Conf).

<sup>214</sup> **P-1716:** [CAR-OTP-2053-0062-R05](#), at 0068, para. 32; [T-148 \[ENG\]](#), p. 26, lines 20-22 (Conf); **P-1704:** [CAR-OTP-2054-1136-R05](#), at 1141-1142, paras. 30-31.

<sup>215</sup> **P-1705:** [T-211 \[ENG\]](#), p. 16, lines 6-10; p. 31, lines 17-19; and p. 34 line 23 to p. 35, line 17 (Conf); **T-1716:** [CAR-OTP-2053-0062-R05](#), at 0069-0070, paras. 39, 42-43; [T-147 \[ENG\]](#), p. 13, line 22 to p. 14, line 7 (Conf); **P-1839:** [T-170 \[ENG\]](#), p. 30, lines 7-8 (Conf).

<sup>216</sup> **P-1839:** [T-170 \[ENG\]](#), p. 30, lines 7-21 (Conf); **P-1704:** [CAR-OTP-2054-1136-R05](#), at 1143, para. 38; **P-1705:** [T-211 \[ENG\]](#), p. 36, line 23 to p. 37, line 20 (Conf); **P-1716:** [T-147 \[ENG\]](#), p. 13, line 22 to p. 14, line 7 (Conf).

<sup>217</sup> **P-1716:** [CAR-OTP-2053-0062-R05](#), at 0069-0070, para. 43; [T-147 \[ENG\]](#), p. 14, lines 3-4 (Conf); **P-1705:** [T-211 \[ENG\]](#), p. 35, lines 9-15 (Conf).

<sup>218</sup> **P-1705:** [T-211 \[ENG\]](#), p. 39, line 23 to p. 41, line 12 (Conf); **P-1716:** [T-147 \[ENG\]](#), p. 14, lines 8-14 (Conf); [T-148 \[ENG\]](#), p. 28, lines 15-19 (Conf); **P-1704:** [CAR-OTP-2054-1136-R05](#), at 1143-1144, paras. 39-43.

<sup>219</sup> **P-1704:** [CAR-OTP-2054-1136-R05](#), at 1143-1144, para. 40; **P-1705:** [T-211 \[ENG\]](#), p. 19, lines 13-18 (Conf); **P-1716:** [CAR-OTP-2053-0062-R05](#), at 0068, paras. 36-37.

<sup>220</sup> **P-1705:** [T-211 \[ENG\]](#), p. 14, line 23 to p. 15, line 10 (Conf); **P-1704:** [CAR-OTP-2054-1136-R05](#), at 1143-1144, para. 40; **P-1716:** [CAR-OTP-2053-0062-R05](#), at 0070, para. 46.

<sup>221</sup> **P-1705:** [T-211 \[ENG\]](#), p. 23, lines 22-25 and p. 24, lines 3-8 (Conf).

<sup>222</sup> **P-1705:** [T-211 \[ENG\]](#), p. 15, lines 6-23 (Conf); **P-1716:** [CAR-OTP-2053-0062-R05](#), at 0070, para. 45; **P-1704:** [CAR-OTP-2054-1136-R05](#), at 1144, para. 41.

<sup>223</sup> **P-1839:** [T-170 \[ENG\]](#), p. 30, lines 12-18 (Conf). See also **P-1716:** [CAR-OTP-2053-0062-R05](#), at 0069, para. 42; **P-1839:** [T-173 \[ENG\]](#), p. 76, lines 6-16 (Conf) and [T-173 \[FR\]](#), p. 82, lines 15-26 (Conf).

<sup>224</sup> **P-1839:** [T-173 \[ENG\]](#), p. 76, lines 6-16 (Conf) and [T-173 \[FR\]](#), p. 82, lines 15-26 (Conf).

<sup>225</sup> **P-1839:** [T-171 \[ENG\]](#), p. 15, line 16-23 and p. 16, lines 12-14 (Conf). See also **P-2475:** [T-129 \[ENG\]](#), p. 63, lines 14-21 (Conf) (P-2475 indicates that Yekatom was aware of all that was happening at Yamwara school, and specifically about people abducted and brought back to the Yamwara school base; and that Yekatom and Coeur de Lion were the ones who gave instructions for these things to take place). See also **P-0954:** [CAR-OTP-2048-0171-R03](#), at 0185-0186, para. 86; [T-166 \[ENG\]](#), p. 42, lines 2-9; **P-1704:** [CAR-OTP-2054-1136-R05](#), at 1143, para. 38; **P-1704:** [T-128 \[ENG\]](#), p. 47, line 25 to p. 48, line 11 (Conf).

115. The three women were brought to the veranda of a house, and then inside [REDACTED].<sup>226</sup> The Anti-Balaka elements continued to insult them and to swear at them, accusing them [REDACTED],<sup>227</sup> while one of them pointed his weapon in their direction.<sup>228</sup> They were threatened with death and told that the country belonged to Christians.<sup>229</sup> Three [REDACTED] Anti-Balaka frisked the women and took their money.<sup>230</sup> They were forced to undress,<sup>231</sup> and remained undressed, at gunpoint, [REDACTED].<sup>232</sup>

116. At a certain point, Mr Yekatom entered the house and questioned the three women.<sup>233</sup> After the questioning, they were [REDACTED] told that they would be “*peeled off like a papaya*”, meaning that they would be killed.<sup>234</sup>

117. [REDACTED] was separated from the group, questioned by Coeur de Lion [REDACTED]<sup>235</sup> and told that his fate was dependant on Rambo’s (Mr Yekatom) decision.<sup>236</sup> [REDACTED].<sup>237</sup> Dual status P-1716 testified that Mr Yekatom was aware of “*everything that was happening*” and that he gave instructions [REDACTED].<sup>238</sup>

118. Later during the night, the abductees, still captive, were escorted towards [REDACTED].<sup>239</sup> The subsequent morning, they were transferred to [REDACTED], where Mr Yekatom came to visit them.<sup>240</sup> [REDACTED].<sup>241</sup>

<sup>226</sup> **P-1811:** [CAR-OTP-2058-0003-R05](#), at 0008-0009, paras. 30-31, 35; **P-0967:** [T-199 \[ENG\]](#), p. 40, lines 2-23 (Conf).

<sup>227</sup> **P-0967:** [T-199 \[ENG\]](#), p. 40, line 12 to p. 41, line 2 (Conf).

<sup>228</sup> **P-0967:** [T-199 \[ENG\]](#), p. 40, lines 11-12 (Conf); **P-1811:** [CAR-OTP-2058-0003-R05](#), at 0008, para. 31 and 0008-0009, para. 33.

<sup>229</sup> **P-0967:** [T-199 \[ENG\]](#), p. 41, lines 1-5 (Conf); **P-1811:** [T-114 \[ENG\]](#), p. 21, lines 11-15 (Conf).

<sup>230</sup> **P-1811:** [T-114 \[ENG\]](#), p. 21, lines 3-10 (Conf); [CAR-OTP-2058-0003-R05](#), at 0008, para. 32.

<sup>231</sup> **P-1811:** [T-114 \[ENG\]](#), p. 21, lines 8-10 (Conf); [CAR-OTP-2058-0003-R05](#), at 0008, paras. 31-32; **P-0967:** [T-199 \[ENG\]](#), p. 42, lines 13-19 (Conf).

<sup>232</sup> **P-1811:** [CAR-OTP-2058-0003-R05](#), at 0008 para. 33 to 0009, para. 34 and 0009-0010, para. 38. See also **P-0967:** [T-199 \[ENG\]](#), p. 41, lines 12-15 (Conf).

<sup>233</sup> **P-1811:** [CAR-OTP-2058-0003-R05](#), at 0009-0010, para. 38; [T-115 \[ENG\]](#), p. 20, lines 1-6 (conf); **P-0967:** [T-199 \[ENG\]](#), p. 41, lines 6-18 (Conf).

<sup>234</sup> **P-1811:** [CAR-OTP-2058-0003-R05](#), at 0010, para. 39; [T-114 \[ENG\]](#), p. 29, lines 7-11 (Conf). See also **P-0967:** [T-199 \[ENG\]](#), p. 52, line 17 to p. 53, line 5 (Conf).

<sup>235</sup> **P-1716:** [CAR-OTP-2053-0062-R05](#), at 0070, para. 46.

<sup>236</sup> **P-1716:** [T-147 \[ENG\]](#), p. 16, line 18 to p. 18, line 12 (Conf).

<sup>237</sup> **P-1716:** [T-147 \[ENG\]](#), p. 20, lines 10-13 (Conf); [CAR-OTP-2053-0062-R05](#), at 0070, para. 49.

<sup>238</sup> **P-1716:** [T-147 \[ENG\]](#), p. 19, line 15 to p. 21, line 6 (Conf); **P-1716:** [CAR-OTP-2135-4118-R01](#).

<sup>239</sup> **P-1811:** [CAR-OTP-2058-0003-R05](#), at 0010, para. 41 to 0011, para. 43; [T-114 \[ENG\]](#), p. 29, lines 12-23 (Conf).

<sup>240</sup> **P-1811:** [CAR-OTP-2058-0003-R05](#), at 0011, para. 45 to 0012, para. 48; [T-114 \[ENG\]](#), p. 29, line 24 to p. 30, line 20 (Conf); **P-1704:** [CAR-OTP-2054-1136-R05](#), at 1146, para. 55.

<sup>241</sup> **P-1811:** [CAR-OTP-2058-0003-R05](#), at 0011, para. 47; **P-1705:** [T-211 \[ENG\]](#), p. 49, line 14 to p. 50, line 21 (Conf).

119. Finally, on 27 December 2013, [REDACTED],<sup>242</sup> the abductees, except for Saint Cyr, were [REDACTED] set free.<sup>243</sup>

120. The evidence establishes beyond a reasonable doubt that Saint Cyr Lapo N’Gomat was murdered on or about 24 December 2013. The beatings that he endured were so severe and his situation so critical [REDACTED] that it was unlikely he would survive.<sup>244</sup> After being taken away, Saint Cyr was never seen again.<sup>245</sup>

121. The account is corroborated by the testimony of [REDACTED].<sup>246</sup> He testified that, during their conversation, the Accused confirmed that his elements had “*peeled the papaya*”, meaning that they had killed Saint Cyr,<sup>247</sup> and that he had been decapitated,<sup>248</sup> because he was a traitor.<sup>249</sup>

122. The evidence further establishes that other murders were committed at the Yamwara school base around the date of Lapo N’Gomat’s killing,<sup>250</sup> as demonstrated by the exhumations of several bodies in 2015.<sup>251</sup>

123. In conclusion, the events were committed on the basis of political, ethnic and religious grounds. [REDACTED]<sup>252</sup> [REDACTED].<sup>253</sup> The Anti-Balaka elements continuously threatened the abductees, telling them they were traitors, B2s [REDACTED].<sup>254</sup> The crimes were committed by Mr Yekatom’s group in the framework of the plan of persecuting Muslim civilians.

<sup>242</sup> **P-0884**: [T-056 \[ENG\]](#), p. 14, lines 17-24 (Conf); **P-1811**: [CAR-OTP-2058-0003-R05](#), at 0012, para. 50; **P-0967**: [T-199 \[ENG\]](#), p. 57, lines 11-16 (Conf).

<sup>243</sup> **P-1811**: [CAR-OTP-2058-0003-R05](#), at 0012, para. 49 to 0013, para. 53; **P-1704**: [CAR-OTP-2054-1136-R05](#), at 1147, paras. 60-61.

<sup>244</sup> **P-1716**: [T-148 \[ENG\]](#), p. 27, lines 10-14 (Conf); **P-1704**: [CAR-OTP-2054-1136-R05](#), at 1143, para. 38.

<sup>245</sup> **P-1716**: [T-147 \[ENG\]](#), p. 15, lines 21-25 (Conf); [CAR-OTP-2053-0062-R05](#), at 0069-0070, para. 43; **P-1705**: [T-211 \[ENG\]](#), p. 38, lines 14-16 (Conf); **P-1704**: [CAR-OTP-2054-1136-R05](#), at 1143, para. 38; **P-0967**: [T-199 \[ENG\]](#), p. 51, lines 6-8 (Conf); **P-1654**: [CAR-OTP-2053-0112-R04](#), at 0118, para. 48; **P-1811**: [CAR-OTP-2058-0003-R05](#), at 0009, para. 37.

<sup>246</sup> [REDACTED].

<sup>247</sup> [REDACTED].

<sup>248</sup> [REDACTED].

<sup>249</sup> [REDACTED].

<sup>250</sup> **P-1839**: [T-170 \[ENG\]](#), p. 37, line 5 to p. 39, line 14 (Conf); **P-2475**: [T-133 \[ENG\]](#), p. 8, lines 3-5 (Conf); p. 9, lines 6-14 (Conf); [T-129 \[ENG\]](#), p. 58, line 12 to p. 61, line 16 (Conf); **P-1716**: [CAR-OTP-2053-0062-R05](#), at 0070, para. 45.

<sup>251</sup> **P-1990**: [CAR-OTP-2124-0249-R02](#), at 0256-0257, paras. 38-46; [T-236 \[ENG\]](#), p. 36, lines 2-15.

<sup>252</sup> **P-0967**: [T-200 \[ENG\]](#), p. 39, lines 21-24 (Conf).

<sup>253</sup> **P-1811**: [CAR-OTP-2058-0003-R05](#), at 0007, para. 26; [T-114 \[ENG\]](#), p. 16, line 25 to p. 17, line 18 (Conf); **P-1716**: [CAR-OTP-2053-0062-R05](#), at 0067, para. 28; **P-0967**: [T-199 \[ENG\]](#), p. 35, lines 16-24 (Conf); **P-1705**: [T-212 \[ENG\]](#), p. 20, line 16-23 (Conf).

<sup>254</sup> **P-1716**: [CAR-OTP-2053-0062-R05](#), at 0067, para. 28; [T-147 \[ENG\]](#), p. 7, line 20 to p. 8, line 7 (Conf); and p. 19, line 15 to p. 21, line 6 (Conf); **P-0967**: [T-199 \[ENG\]](#), p. 39, lines 8-17 (Conf); p. 40, line 12 to p. 41, line 2 (Conf), and p. 52, line 17 to p. 52, line 5 (Conf). See also **P-1716**: [CAR-OTP-2135-4118-R01](#).

**c) Crimes committed along the PK9-Mbaïki axis**

124. The evidence demonstrates beyond reasonable doubt that on or about 10 January 2014, Mr Yekatom ordered the takeover of the PK9-Mbaïki axis in the Lobaye Prefecture.<sup>255</sup> From said date onwards, Mr Yekatom's group advanced from PK9 to Mbaïki,<sup>256</sup> taking over a number of villages, including Sekia,<sup>257</sup> Ndangala,<sup>258</sup> Bimon,<sup>259</sup> Kapou<sup>260</sup> and Pissa.<sup>261</sup> The evidence establishes beyond reasonable doubt that the crimes of (a) displacement or forcible transfer and deportation; (b) murder; and (c) persecution, were committed at said locations and during the relevant period as detailed *infra*.

125. Each village in the PK9-Mbaïki axis was taken over without resistance because the Seleka had withdrawn by the time the Anti-Balaka, headed by Mr Yekatom, arrived.<sup>262</sup> Several witnesses, including dual status P-1666 and P-2354, testified that the advance of Mr Yekatom's

<sup>255</sup> **P-1666:** [T-232 \[ENG\]](#), p. 31, lines 1-3; **P-1786:** [T-197 \[ENG\]](#), p. 84, lines 7-10; [CAR-OTP-2058-0200-R03](#), at 0207-0208, para. 42; **P-0446:** [T-096 \[ENG\]](#), p. 48, line 20 to p. 49, line 4; [CAR-OTP-2059-1672-R02](#), at 1690-1692, lines 659-764; **P-1647:** [T-194 \[ENG\]](#), p. 51, line 25 to p. 52, line 7; [CAR-OTP-2050-0654-R02](#), at 0660, para. 38; **P-1823:** [T-183 \[ENG\]](#), p. 11, lines 9-12; **P-1838:** [T-215 \[ENG\]](#), p. 11, lines 19-24; [CAR-OTP-2100-0252-R05](#), at 0269, paras. 95-96; **P-1962:** [T-139 \[FR\]](#), p. 39, lines 2-9; [CAR-OTP-2068-0037-R04](#), at 0045, para. 34; **P-1839:** [T-171 \[ENG\]](#), p. 61, lines 11-23; **P-1858:** [T-185 \[ENG\]](#), p. 20, lines 22-24; [CAR-OTP-2063-0050-R04](#), at 0060, para. 60; **P-2328:** [CAR-OTP-2099-0255](#), at 0255; **P-1558:** [CAR-OTP-2105-0195-R01](#), at 0204, para. 50; **P-2084:** [CAR-OTP-2094-0968-R02](#), at 0985, para. 86; **D29-5013:** [T-286 \[ENG\]](#), p. 37, lines 11-16 (Conf).

<sup>256</sup> **P-1666:** [T-230 \[ENG\]](#), p. 36, lines 20-21 and [T-231 \[ENG\]](#), p. 12, lines 4-9; **P-2354:** [CAR-OTP-2105-0991-R03](#), at 0997, para. 33 and at 0998, para. 39; **P-2419:** [T-176 \[ENG\]](#), p. 14, lines 4-10; [CAR-OTP-2112-0036-R03](#), at 0052, para. 90; **P-1813:** [T-180 \[ENG\]](#), p. 9, lines 16-22; **P-1838:** [T-215 \[ENG\]](#), p. 9, lines 2-3; [CAR-OTP-2100-0252-R05](#), at 0260-0261, para. 47 and at 0262, para. 53; **P-1858:** [T-185 \[ENG\]](#), p. 20, line 25 to p. 21, line 17; [CAR-OTP-2063-0050-R04](#), at 0063, para. 83.

<sup>257</sup> **P-0954:** [T-166 \[ENG\]](#), p. 49, line 18 to p. 50, line 1; [CAR-OTP-2048-0171-R03](#), at 0184-0185, para. 79; **P-1647:** [T-194 \[ENG\]](#), p. 52, lines 22-24; [T-195 \[ENG\]](#), p. 43, lines 13-15; [CAR-OTP-2050-0654-R02](#), at 0659-0660, paras. 37-39; **P-1839:** [T-170 \[ENG\]](#), p. 43, line 17 to p. 44, line 9; **P-1558:** [CAR-OTP-2105-0195-R01](#), at 0207, paras. 76-79.

<sup>258</sup> **P-0954:** [T-166 \[ENG\]](#), p. 49, line 18 to p. 50, line 1; [CAR-OTP-2048-0171-R03](#), at 0184-0185, para. 79; **P-1647:** [T-195 \[ENG\]](#), p. 43, lines 13-15; [CAR-OTP-2050-0654-R02](#), at 0660, para. 39.

<sup>259</sup> **P-1647:** [T-194 \[ENG\]](#), p. 52, lines 22-24; [CAR-OTP-2050-0654-R02](#), at 0660, para. 39; **P-2419:** [CAR-OTP-2112-0036-R03](#), at 0043, para. 36; at 0047-0048, paras. 63-65, 69; and at 0051, para. 85.

<sup>260</sup> **P-0954:** [T-166 \[ENG\]](#), p. 49, line 18 to p. 50, line 1; [CAR-OTP-2048-0171-R03](#), at 0184-0185, para. 79; **P-1647:** [T-194 \[ENG\]](#), p. 52, lines 22-24; [T-195 \[ENG\]](#), p. 43, lines 13-15; [CAR-OTP-2050-0654-R02](#), at 0660, para. 39; **P-1558:** [CAR-OTP-2105-0195-R01](#), at 0207, paras. 81-83; **P-1839:** [T-171 \[ENG\]](#), p. 61, lines 3-13.

<sup>261</sup> **P-1666:** [T-230 \[ENG\]](#), p. 44, line 2; **P-1786:** [T-197 \[ENG\]](#), p. 84, line 8; [CAR-OTP-2058-0200-R03](#), at 0207-0208, para. 42; **P-0954:** [T-166 \[ENG\]](#), p. 49, line 18 to p. 50, line 10; [CAR-OTP-2048-0171-R03](#), at 0184, para. 78; **P-1647:** [T-194 \[ENG\]](#), p. 52, lines 22-24; [CAR-OTP-2050-0654-R02](#), at 0660, para. 39; **P-1558:** [CAR-OTP-2105-0195-R01](#), at 0208, paras. 94-99.

<sup>262</sup> **P-0954:** [T-166 \[ENG\]](#), p. 60, lines 14-18; [CAR-OTP-2048-0171-R03](#), at 0184-0185, para. 79; **P-1647:** [T-194 \[ENG\]](#), p. 52, line 25 to p. 53, line 2; [CAR-OTP-2050-0654-R02](#), at 0660, para. 39; **P-1786:** [T-197 \[ENG\]](#), p. 84, line 11; [CAR-OTP-2058-0200-R03](#), at 0207-0208, para. 42; **P-1813:** [T-180 \[ENG\]](#), p. 14, line 17 and p. 16, lines 4-6; [CAR-OTP-2069-0035-R02](#), at 0040, para. 34; **P-2353:** [CAR-OTP-2100-0226-R03](#), at 0234-0235, paras. 49-50.

group forced Muslim civilians to flee their towns and villages in fear for their lives.<sup>263</sup> Thousands of Muslim civilians from neighbouring communes sought refuge in Mbaïki, with their own means of transportation or with the help of others.<sup>264</sup> Dual status P-1666 and P-2354 explained that they escaped to Mbaïki because it was safe with the military presence there and easy to call for help in case of difficulties.<sup>265</sup> Other Muslims fled to Bangui<sup>266</sup> or Boda,<sup>267</sup> where they were enclaved along with other Muslim civilians.

126. Dual status P-1666 testified that, at the time of the events, the majority of Mbaïki's population was Christian.<sup>268</sup> In Mbaïki, there were just two mosques and around 1,000 Muslims, less than one third of the population.<sup>269</sup> In turn, witnesses such as dual status P-1666, P-2353 and 2354 explained that the arrival of thousands of displaced Muslims significantly

<sup>263</sup> **P-1666:** [T-231 \[ENGL\]](#), p. 22, line 21 to p. 23, line 8 and p. 25, line 24 to p. 26, line 2; **P-2354:** [T-210 \[ENGL\]](#), p. 40, lines 10-15; [CAR-OTP-2105-0991-R03](#), at 0998 para. 38 and at 0998-0999, paras. 42, 45; **P-2419:** [T-176 \[ENGL\]](#), p. 16, lines 10-13 and p. 17, lines 20-21; [CAR-OTP-2112-0036-R03](#), at 0042-0043, paras. 35-37; at 0048, para. 68; and at 0054, paras. 103-104; **P-1647:** [T-194 \[ENGL\]](#), p. 52, lines 3-7 and p. 61, lines 16-24; **P-1962:** [T-139 \[FR\]](#), p. 39, lines 15-17; [CAR-OTP-2068-0037-R04](#), at 0045, para. 35; **P-1823:** [T-183 \[ENGL\]](#), p. 11, line 19 to p. 12, line 15; [CAR-OTP-2063-0369-R02](#), at 0374, para. 26 and at 0375, para. 33; **P-1838:** [T-215 \[ENGL\]](#), p. 11, lines 1-3; [CAR-OTP-2100-0252-R05](#), at 0262, para. 53 and at 0263, para. 56; **P-2475:** [T-130 \[ENGL\]](#), p. 13, lines 16-25; **P-0954:** [T-166 \[ENGL\]](#), p. 83, line 9 to p. 84, line 8; [T-168 \[ENGL\]](#), p. 56, lines 7-17; [CAR-OTP-2048-0171-R03](#), at 0187, paras. 95-96; **P-2084:** [T-235 \[ENGL\]](#), p. 6, lines 15-17; [CAR-OTP-2094-0968-R02](#), at 0973-0974, para. 31; at 0980, para. 64; and at 0983, paras. 75, 77; **P-2041:** [T-229 \[ENGL\]](#), p. 79, lines 13-15; [CAR-OTP-2104-0003-R02](#), at 0009, paras. 41-42 and at 0011, para. 49; **D29-5015:** [T-254 \[ENGL\]](#), p. 51, lines 21-23; **P-2353:** [CAR-OTP-2100-0226-R03](#), at 0232-0234, paras. 37-38, 41, 44; **P-2389:** [CAR-OTP-2104-0033-R03](#), at 0038-0039, paras. 33, 37; at 0041, para. 43; and at 0042, paras. 47, 51; **P-2476:** [CAR-OTP-2114-0149-R05](#), at 0154, para. 31; **P-1838:** [CAR-OTP-2100-0252-R05](#), at 0262, para. 53 and at 0263, at 60.

<sup>264</sup> **P-1666:** [T-231 \[ENGL\]](#), p. 11, lines 20-24; p. 22, lines 21-24; p. 23, lines 13-23; p. 24, line 8 to p. 25, line 8; **P-2354:** [T-210 \[ENGL\]](#), p. 12, lines 23-25 and p. 41, lines 2-16; [CAR-OTP-2105-0991-R03](#), at 0996, para. 31 and at 0999, paras. 43-44; **P-1813:** [T-180 \[ENGL\]](#), p. 17, lines 15-19; [CAR-OTP-2069-0035-R02](#), at 0040, para. 34 and at 0041, para. 37; **P-1823:** [T-183 \[ENGL\]](#), p. 28, line 22 to p. 29, line 10; p. 63, lines 17-19 (Conf); and p. 65, lines 18-20; [CAR-OTP-2063-0369-R02](#), at 0374, para. 27 and at 0375, para. 33; **P-1838:** [T-215 \[ENGL\]](#), p. 11, lines 3-5; [CAR-OTP-2100-0252-R05](#), at 0262, para. 53; at 0263, paras. 56-57; and at 0269, para. 94; **P-2041:** [T-229 \[ENGL\]](#), p. 80, lines 3-17; [CAR-OTP-2104-0003-R02](#), at 0010-0011, paras. 44 and 48; **P-2084:** [T-233 \[ENGL\]](#), p. 10, lines 11-15; [T-235 \[ENGL\]](#), p. 6, lines 17-20; [CAR-OTP-2094-0968-R02](#), at 0983, para. 75; **P-2353:** [T-161 \[ENGL\]](#), p. 18, line 5 to p. 19, line 9 (Conf); p. 22, lines 9-12 (Conf); and p. 42, lines 16-23 (Conf); [T-162 \[ENGL\]](#), p. 10, lines 18-21 (Conf); [CAR-OTP-2100-0226-R03](#), at 0232-0234, paras. 37-38, 41, 44; **P-2389:** [CAR-OTP-2104-0033-R03](#), at 0038-0039, para. 33; at 0040, para. 41; and at 0041, para. 46; **D29-5015:** [T-255 \[ENGL\]](#), p. 37, lines 6-12; [T-256 \[ENGL\]](#), p. 30, lines 15-23; **D29-5012:** [T-294 \[ENGL\]](#), p. 41, line 20 to p. 42, line 3; **D29-5013:** [T-285 \[ENGL\]](#), p. 36, lines 9-13 (Conf); [T-286 \[ENGL\]](#), p. 47, lines 4-12.

<sup>265</sup> **P-1666:** [T-231 \[ENGL\]](#), p. 23, lines 8-10; p. 26, lines 6-17; **P-2354:** [T-210 \[ENGL\]](#), p. 42, lines 3-8; [CAR-OTP-2105-0991-R03](#), at 0999, para. 45; **P-2353:** [CAR-OTP-2100-0226-R03](#), at 0234, para. 44; **D29-5012:** [T-294 \[ENGL\]](#), p. 42, lines 3-5.

<sup>266</sup> **P-2419:** [T-176 \[ENGL\]](#), p. 17, line 24 to p. 18, line 3 and p. 19, lines 11-22 (Conf); [CAR-OTP-2112-0036-R03](#), at 0055, para. 112 and at 0057, para. 121; **D29-5015:** [T-254 \[ENGL\]](#), p. 80, line 23 to p. 81, line 4 and p. 81, lines 15-17; [T-256 \[ENGL\]](#), p. 30, lines 24-25 and p. 32, line 24 to p. 33, line 1; **P-1838:** [CAR-OTP-2100-0252-R05](#), at 0269, para. 94.

<sup>267</sup> **P-2084:** [CAR-OTP-2094-0968-R02](#), at 0982, para. 73; **P-2353:** [CAR-OTP-2100-0226-R03](#), at 0234, para. 45.

<sup>268</sup> **P-1666:** [T-230 \[ENGL\]](#), p. 34, lines 22-24.

<sup>269</sup> **P-1666:** [T-230 \[ENGL\]](#), p. 33, line 25 to p. 34, line 13; **D29-5015:** [T-254 \[ENGL\]](#), p. 19, line 21; **D29-5012:** [T-293 \[ENGL\]](#), p. 11, lines 4-7, 21-22; **P-1838:** [CAR-OTP-2100-0252-R05](#), at 0254, para. 15 and at 0267, para. 86.

swelled Mbaiki's Muslim population<sup>270</sup> and made daily life more difficult also for the local population, especially in terms of food and sanitation.<sup>271</sup> The majority of the displaced Muslim population were forced to take with them only what was absolutely necessary upon their departure.<sup>272</sup> Several witnesses, including dual status P-1666 and P-2354 and defence witness D29-5015, indicated that displaced Muslims slept in mosques and schools or were hosted by local Muslims in their houses, who provided for them while they stayed in Mbaiki.<sup>273</sup>

127. On or about 30 January 2014, Mr Yekatom and his elements entered Mbaiki.<sup>274</sup> By the time the Accused and his elements arrived, the Seleka had already fled.<sup>275</sup> Several witnesses, including dual status P-1666 and 2354, testified that as a result, Muslims in Mbaiki suffered threats by the Anti-Balaka and could not move around freely nor could they find food easily because of their fear for the Anti-Balaka.<sup>276</sup> Moreover, dual status P-1666, P-2353 and P-2354, and P-1823 testified that, at that time, it was difficult for them to go to the mosque and pray<sup>277</sup>

<sup>270</sup> **D29-5015:** [T-254 \[ENGL\]](#), p. 79, line 23 to p. 80, line 2; [T-256 \[ENGL\]](#), p. 31, lines 21-25; **D29-5013:** [T-286 \[ENGL\]](#), p. 29, lines 17-20 and p. 47, lines 14-16; **P-0974:** [CAR-OTP-2058-0165-R01](#), at 0178, para. 87; **P-1813:** [CAR-OTP-2069-0035-R02](#), at 0041, para. 39; **P-1823:** [CAR-OTP-2063-0369-R02](#), at 0375, para. 33; **P-1838:** [CAR-OTP-2100-0252-R05](#), at 0263, para. 57 and at 0273, para. 118; **P-2354:** [CAR-OTP-2105-0991-R03](#), at 0999, para. 46; **P-2389:** [CAR-OTP-2104-0033-R03](#), at 0042, para. 47.

<sup>271</sup> **P-1666:** [T-231 \[ENGL\]](#), p. 27, line 5 to p. 28, line 19 and p. 53, lines 15-18; **P-2353:** [T-161 \[ENGL\]](#), p. 23, lines 10-12 and p. 43, lines 10-17 (Conf); [CAR-OTP-2100-0226-R03](#), at 0234-0235, paras. 46, 54 and at 0237, para. 60; **P-2354:** [T-210 \[ENGL\]](#), p. 27, lines 19-22; [CAR-OTP-2105-0991-R03](#), at 0999, para. 46; **P-2041:** [T-229 \[ENGL\]](#), p. 82, lines 2-9; [CAR-OTP-2104-0003-R02](#), at 0010, para. 48; **D29-5015:** [T-255 \[ENGL\]](#), p. 69, lines 19-21; **D29-5013:** [T-286 \[ENGL\]](#), p. 31, lines 12-14; **P-2389:** [CAR-OTP-2104-0033-R03](#), at 0041, para. 45; **P-2084:** [CAR-OTP-2094-0968-R02](#), at 0982-0983, paras. 69, 75; [CAR-OTP-2008-0923](#), at 0924; **P-1838:** [CAR-OTP-2100-0252-R05](#), at 0263-0264, para. 61.

<sup>272</sup> **P-1666:** [T-231 \[ENGL\]](#), p. 24, lines 1-5; **P-2353:** [T-161 \[ENGL\]](#), p. 23, lines 5-7; **P-2354:** [CAR-OTP-2105-0991-R03](#), at 1000, para. 47; **P-2041:** [T-229 \[ENGL\]](#), p. 81, lines 10-11; **P-1838:** [CAR-OTP-2100-0252-R05](#), at 0263, para. 59; **P-2084:** [CAR-OTP-2094-0968-R02](#), at 0982, para. 69.

<sup>273</sup> **P-1666:** [T-231 \[ENGL\]](#), p. 27, lines 5-10 and p. 52, line 23 to p. 53, line 4; **P-2354:** [T-210 \[ENGL\]](#), p. 27, lines 5-11; [CAR-OTP-2105-0991-R03](#), at 1000, para. 47; **D29-5015:** [T-254 \[ENGL\]](#), p. 80, lines 4-8; **P-1823:** [T-183 \[ENGL\]](#), p. 30, lines 13-16 and p. 31, lines 13-19 (Conf); [CAR-OTP-2063-0369-R02](#), at 0375, para. 33; **P-2476:** [T-213 \[ENGL\]](#), p. 10, lines 12-25; [CAR-OTP-2114-0149-R05](#), at 0154, para. 31; **P-2353:** [CAR-OTP-2100-0226-R03](#), at 0234, para. 46; **P-2041:** [CAR-OTP-2104-0003-R02](#), at 0010, para. 48; **P-1838:** [CAR-OTP-2100-0252-R05](#), at 0263-0264, para. 61; **P-2084:** [CAR-OTP-2094-0968-R02](#), at 0982, para. 69; **P-2389:** [CAR-OTP-2104-0033-R03](#), at 0041, para. 46.

<sup>274</sup> **P-1666:** [T-230 \[ENGL\]](#), p. 42, lines 9-15; [T-232 \[ENGL\]](#), p. 19, lines 17-20; **P-2041:** [T-229 \[ENGL\]](#), p. 82, lines 15-17; [CAR-OTP-2104-0003-R02](#), at 0011, para. 50; **P-1786:** [T-197 \[ENGL\]](#), p. 83, lines 17-21 and p. 84, lines 16-17; [CAR-OTP-2058-0200-R03](#), at 0207, para. 41; **P-2354:** [CAR-OTP-2105-0991-R03](#), at 1001, para. 53.

<sup>275</sup> **P-1666:** [T-230 \[ENGL\]](#), p. 37, lines 15-16; p. 41, lines 8-11; p. 49, lines 24-25; and p. 58, line 22 to p. 59, line 2 (Conf); [T-231 \[ENGL\]](#), pp. 36-37; **P-1813:** [T-180 \[ENGL\]](#), p. 14, lines 13-17 and p. 25, lines 8-9; [CAR-OTP-2069-0035-R02](#), at 0042-0043, paras. 49-50; **P-1823:** [T-183 \[ENGL\]](#), p. 44, lines 6-9; **P-1838:** [T-215 \[ENGL\]](#), p. 18, lines 1-3; [CAR-OTP-2100-0252-R05](#), at 0261, para. 48; at 0262, para. 52; at 0268, para. 89; and at 0269, para. 97; **P-2084:** [T-234 \[ENGL\]](#), p. 71, lines 9-18; [CAR-OTP-2094-0968-R02](#), at 0981, para. 66; **P-2389:** [T-238 \[ENGL\]](#), p. 11, lines 19-20; **D29-5015:** [T-254 \[ENGL\]](#), p. 42, lines 19-21 and p. 43, lines 2-4; [T-255 \[ENGL\]](#), p. 38, lines 20-25; **D29-5012:** [T-293 \[ENGL\]](#), p. 41, lines 14-18; **P-2353:** [CAR-OTP-2100-0226-R03](#), at 0234, para. 47; at 0234-0235, para. 50; and at 0235, para. 52; **P-2354:** [CAR-OTP-2105-0991-R03](#), at 1000, paras. 48-49; **P-1647:** [CAR-OTP-2050-0654-R02](#), at 0663, para. 62.

<sup>276</sup> **P-1666:** [T-230 \[ENGL\]](#), p. 61, lines 18-20 and p. 62, line 23 to p. 63, line 12 (Conf); [T-231 \[ENGL\]](#), p. 27, line 14 to p. 28, line 8; **P-2354:** [T-210 \[ENGL\]](#), p. 15, lines 6-20; p. 16, lines 15-16; and p. 20, line 25 to p. 21, line 8; [CAR-OTP-2105-0991-R03](#), at 1000, para. 49 and at 1001, para. 53; **P-1823:** [T-183 \[ENGL\]](#), p. 32, lines 21-22; [CAR-OTP-2063-0369-R02](#), at 0375, para. 33.

<sup>277</sup> **P-1666:** [T-231 \[ENGL\]](#), p. 40, lines 9-11.

and there were no doctors or nurses and insufficient reserves of medicine in Mbaïki to attend sick or injured people.<sup>278</sup>

128. Several witnesses, including dual status P-1666, P-2354 and P-2389, testified that, when Mr Yekatom and some of his elements reached Mbaïki in late January 2014,<sup>279</sup> a meeting was held at the Sainte Jeanne-d'Arc Catholic church in Mbaïki.<sup>280</sup> The meeting had been arranged by a representative of the [REDACTED], the *préfet* of the Lobaye and bishop Perin to diffuse tensions and avoid clashes in Mbaïki<sup>281</sup> because, after the departure of the Seleka, the Anti-Balaka were ready to attack the Muslims in Mbaïki and take their property.<sup>282</sup> During the meeting, the *préfet* of the Lobaye,<sup>283</sup> who had previously negotiated with the Chadian authorities to have the Muslim population taken out of Mbaïki,<sup>284</sup> encouraged the Muslims to return to their localities of origin because he could not ensure the safety of the population.<sup>285</sup> In turn, as testified *inter alia* by dual status P-1666 and P-2353, Mr Yekatom, in military attire and carrying a pistol,<sup>286</sup> introduced himself as the chief of the Anti-Balaka and said that all elements on site between Mbaïki and PK9 belonged to his group.<sup>287</sup> Several witnesses, including dual status P-1666, P-2353 and P-2354, also explained that Mr Yekatom then made

<sup>278</sup> **P-2353:** [T-161 \[ENG\]](#), p. 23, lines 16-18; **P-2354:** [T-210 \[ENG\]](#), p. 26, lines 23-25; [CAR-OTP-2105-0991-R03](#), at 0999-1000, para. 46; **P-1823:** [T-183 \[ENG\]](#), p. 32, lines 21-22; [CAR-OTP-2063-0369-R02](#), at 0375, para. 32.

<sup>279</sup> **P-1666:** [T-232 \[ENG\]](#), p. 26, lines 16-22; **P-2354:** [CAR-OTP-2105-0991-R03](#), at 1000-1001, para. 51; **P-2389:** [T-238 \[ENG\]](#), p. 7, lines 2-18; [CAR-OTP-2104-0033-R03](#), at 0043, para. 54; **P-1823:** [T-183 \[ENG\]](#), p. 27, lines 12-25; [CAR-OTP-2063-0369-R02](#), at 0375, para. 32.

<sup>280</sup> **P-2389:** [T-238 \[ENG\]](#), p. 7, lines 7-9; **P-1813:** [T-180 \[ENG\]](#), p. 16, lines 3-16 and p. 25, lines 4-8; [CAR-OTP-2069-0035-R02](#), at 0043, para. 52; **P-2041:** [T-229 \[ENG\]](#), p. 84, lines 17-20 (Conf); [CAR-OTP-2104-0003-R02](#), at 0011-0012, paras. 52-53; **P-2084:** [T-233 \[ENG\]](#), p. 10, line 24; [CAR-OTP-2094-0968-R02](#), at 0981, para. 65; **D29-5012:** [T-293 \[ENG\]](#), p. 56, lines 6-8; **P-2354:** [CAR-OTP-2105-0991-R03](#), at 1001, para. 52.

<sup>281</sup> **P-1666:** [T-230 \[ENG\]](#), p. 44, line 6 to p. 45, line 3 (Conf); [T-232 \[ENG\]](#), p. 13, lines 14-18 and p. 20, lines 7-9; **P-2353:** [T-161 \[ENG\]](#), p. 24, lines 18-19; [CAR-OTP-2100-0226-R03](#), at 0235, para. 52; **P-2354:** [T-210 \[ENG\]](#), p. 16, lines 17-21; [CAR-OTP-2105-0991-R03](#), at 1000-1001, para. 51; **P-2389:** [T-238 \[ENG\]](#), p. 28, lines 18-21; **P-2084:** [T-233 \[ENG\]](#), p. 10, lines 15-18; [T-235 \[ENG\]](#), p. 8, line 22 to p. 9, line 18; [CAR-OTP-2094-0968-R02](#), at 0981, para. 67; **P-1838:** [T-215 \[ENG\]](#), p. 24, line 12 to p. 25, line 3; [CAR-OTP-2100-0252-R05](#), at 0264, paras. 66-67; **D29-5015:** [T-254 \[ENG\]](#), p. 41, lines 10-11 and p. 43, lines 12-13; [T-255 \[ENG\]](#), p. 6, lines 20-22 and p. 39, line 24 to p. 40, line 1; **D29-5012:** [T-293 \[ENG\]](#), p. 51, lines 2-5; p. 53, lines 23-24; and p. 54, lines 9-10; **D29-5013:** [T-285 \[ENG\]](#), p. 36, lines 13-17; p. 37, lines 17-25; p. 43, line 25 to p. 44, line 9; and p. 60, lines 11-18 (Conf); **P-2041:** [CAR-OTP-2104-0003-R02](#), at 0012, para. 54.

<sup>282</sup> **P-1813:** [T-180 \[ENG\]](#), p. 27, line 12 to p. 28, line 8; **P-1838:** [T-216 \[ENG\]](#), p. 8, lines 1-9; [CAR-OTP-2100-0252-R05](#), at 0266, para. 80; **P-2041:** [T-229 \[ENG\]](#), p. 91, lines 7-11 (Conf); [CAR-OTP-2104-0003-R02](#), at 0013, para. 56; **P-2084:** [T-233 \[ENG\]](#), p. 11, lines 6-13; [T-235 \[ENG\]](#), p. 6, lines 20-21 and p. 12, line 21 to p. 13, line 5; [CAR-OTP-2094-0968-R02](#), at 0981, paras. 65-67; **D29-5012:** [T-295 \[ENG\]](#), p. 48, line 20 to p. 49, line 5; **D29-5013:** [T-285 \[ENG\]](#), p. 38, lines 6-16 and p. 41, lines 3-5 (Conf).

<sup>283</sup> **P-1813:** [T-180 \[ENG\]](#), p. 24, lines 6-7.

<sup>284</sup> **P-1813:** [T-180 \[ENG\]](#), p. 17, lines 23-25; [T-182 \[ENG\]](#), p. 36, lines 9-21; [CAR-OTP-2069-0035-R02](#), at 0043, para. 53; **P-1838:** [T-215 \[ENG\]](#), p. 28, line 19 to p. 29, line 18; **P-2389:** [CAR-OTP-2104-0033-R03](#), at 0045, para. 65; **P-2084:** [CAR-OTP-2094-0968-R02](#), at 0981-0982, para. 68.

<sup>285</sup> **P-1666:** [T-230 \[ENG\]](#), p. 44, lines 13-18; [T-232 \[ENG\]](#), p. 15, lines 1-14.

<sup>286</sup> **P-1666:** [T-230 \[ENG\]](#), p. 48, lines 10-15; **D29-5015:** [T-254 \[ENG\]](#), p. 44, lines 21-23.

<sup>287</sup> **P-1666:** [T-230 \[ENG\]](#), p. 42, lines 9-11; **P-2353:** [T-161 \[ENG\]](#), p. 25, lines 1-2; [T-162 \[ENG\]](#), p. 4, lines 9-10 and p. 5, lines 23-25; [CAR-OTP-2100-0226-R03](#), at 0235, para. 53; **P-2041:** [T-229 \[ENG\]](#), p. 85, lines 12-15 and p. 88, lines 7-19 (Conf); [CAR-OTP-2104-0003-R02](#), at 0011-0012, para. 52.

assurances to the Muslim community that he was not there to hurt them, nor to destroy the mosques or to loot people's belongings, because he had come to protect the civilians<sup>288</sup> and to fight the Seleka.<sup>289</sup> He also asked his elements not to touch the Muslims and said that anyone attacking a Muslim would be killed immediately.<sup>290</sup>

129. Even if these words somehow reassured some of the Muslims, such as dual status P-1666,<sup>291</sup> these promises were empty because the Seleka had already left Mbaïki<sup>292</sup> and [REDACTED].<sup>293</sup> Moreover, several witnesses, including dual status P-1666, P-2353, P-2354 and P-2389, testified that Mr Yekatom was not based in Mbaïki<sup>294</sup> and when he was not there,<sup>295</sup> the Anti-Balaka elements who arrived in Mbaïki after his departure<sup>296</sup> forcibly took the possessions of the Muslim population<sup>297</sup> and threatened to kill Muslims,<sup>298</sup> telling them to leave and gesturing by running their fingers across their throats.<sup>299</sup> Dual status P-1666 also testified

<sup>288</sup> **P-2353:** [T-161 \[ENG\]](#), p. 25, lines 2-3; [CAR-OTP-2100-0226-R03](#), at 0235, para. 52 and at 0236, para. 58; **P-1838:** [T-215 \[ENG\]](#), p. 25, lines 6-8; [CAR-OTP-2100-0252-R05](#), at 0265, para. 72; **P-2389:** [CAR-OTP-2104-0033-R03](#), at 0043, para. 55.

<sup>289</sup> **P-1666:** [T-230 \[ENG\]](#), p. 45, lines 7-9; [T-232 \[ENG\]](#), p. 15, lines 19-22 and p. 21, lines 7-9; **P-2354:** [T-210 \[ENG\]](#), p. 17, lines 9-10; [CAR-OTP-2105-0991-R03](#), at 1000-1001, para. 51; **P-2041:** [T-230 \[ENG\]](#), p. 8, lines 24-25; **P-2084:** [T-233 \[ENG\]](#), p. 11, lines 14-18; [CAR-OTP-2094-0968-R02](#), at 0981-0982, para. 68; **P-2353:** [CAR-OTP-2100-0226-R03](#), at 0235, para. 52; **P-1838:** [CAR-OTP-2100-0252-R05](#), at 0265, para. 72; **D29-5012:** [T-293 \[ENG\]](#), p. 68, lines 4-7 and [T-294 \[ENG\]](#), p. 11, lines 19-21.

<sup>290</sup> **P-1666:** [T-230 \[ENG\]](#), p. 45, lines 22-24; **P-2353:** [T-161 \[ENG\]](#), p. 25, lines 5-7; [T-162 \[ENG\]](#), p. 4, lines 10-13 and p. 5, line 25 to p. 6, line 4; **P-2354:** [T-210 \[ENG\]](#), p. 16, lines 22-24; [CAR-OTP-2105-0991-R03](#), at 1001, para. 54; **P-2041:** [T-230 \[ENG\]](#), p. 8, lines 3-4; p. 10, lines 16-21; p. 13, lines 16-22; and p. 14, lines 8-10; **D29-5015:** [T-254 \[ENG\]](#), p. 44, lines 6-8; [T-255 \[ENG\]](#), p. 46, lines 1-3; **D29-5012:** [T-293 \[ENG\]](#), p. 65, lines 10-13.

<sup>291</sup> **P-1666:** [T-230 \[ENG\]](#), p. 52, line 20 to p. 53, line 3 (Conf); [T-232 \[ENG\]](#), p. 17, lines 6-7 (Conf); and p. 21, lines 2-6; **P-2084:** [T-233 \[ENG\]](#), p. 11, lines 19-20; [CAR-OTP-2094-0968-R02](#), at 0981, para. 67; **P-2354:** [CAR-OTP-2105-0991-R03](#), at 1001, para. 54.

<sup>292</sup> **P-1666:** [T-230 \[ENG\]](#), p. 49, lines 21-25 (Conf) and p. 58, line 25 to p. 59, line 2; **P-1838:** [CAR-OTP-2100-0252-R05](#), at 0265, para. 72.

<sup>293</sup> **P-1839:** [T-171 \[ENG\]](#), p. 54, lines 16-22 and p. 57, lines 18-21 (Conf).

<sup>294</sup> **P-1666:** [T-232 \[ENG\]](#), p. 31, line 2; **P-2353:** [CAR-OTP-2100-0226-R03](#), at 0234-0235, paras. 49-50; **P-2354:** [T-210 \[ENG\]](#), p. 16, lines 24-25 and p. 17, line 13; **P-2389:** [CAR-OTP-2104-0033-R03](#), at 0044, para. 61; **P-1838:** [T-215 \[ENG\]](#), p. 7, line 17 and p. 24, lines 3-4; [T-216 \[ENG\]](#), p. 21, lines 9-10; [CAR-OTP-2100-0252-R05](#), at 0268, para. 89; **P-2084:** [T-234 \[ENG\]](#), p. 71, line 24 to p. 72, line 4.

<sup>295</sup> **P-1666:** [T-230 \[ENG\]](#), p. 59, lines 6-7; [T-231 \[ENG\]](#), p. 21, lines 14-17 (Conf); **P-2353:** [T-162 \[ENG\]](#), p. 6, lines 11-15; [CAR-OTP-2100-0226-R03](#), at 0238, para. 66; **P-2354:** [T-210 \[ENG\]](#), p. 16, line 25 to p. 17, line 1; [CAR-OTP-2105-0991-R03](#), at 1002, para. 57; **P-2389:** [T-238 \[ENG\]](#), p. 31, line 24 to p. 32, line 1.

<sup>296</sup> **P-1666:** [T-230 \[ENG\]](#), p. 57, line 17 to p. 58, line 7; [T-232 \[ENG\]](#), p. 29, lines 9-10; **P-2353:** [CAR-OTP-2100-0226-R03](#), at 0236, para. 57; **P-2389:** [T-238 \[ENG\]](#), p. 8, lines 8-18 and p. 31, lines 17-19; [CAR-OTP-2104-0033-R03](#), at 0043, para. 56.

<sup>297</sup> **P-1666:** [T-230 \[ENG\]](#), p. 33, lines 14-19 and p. 66, lines 12-17; **P-2353:** [T-161 \[ENG\]](#), p. 27, lines 9-11; **P-2354:** [T-210 \[ENG\]](#), p. 18, lines 7-16; [CAR-OTP-2105-0991-R03](#), at 1002, para. 59.

<sup>298</sup> **P-1666:** [T-230 \[ENG\]](#), p. 32, line 20 to p. 33, line 1; **P-2353:** [T-161 \[ENG\]](#), p. 26, line 16 to p. 27, line 11; [CAR-OTP-2100-0226-R03](#), at 0235, para. 53; at 0236, para. 57; and at 0237, para. 60; **P-2354:** [T-210 \[ENG\]](#), p. 16, lines 7-10; [CAR-OTP-2105-0991-R03](#), at 1002, para. 57; [CAR-OTP-2055-1987](#), at 2159; **P-1813:** [T-180 \[ENG\]](#), p. 17, lines 15-25; [CAR-OTP-2069-0035-R02](#), at 0043, para. 53; **P-2389:** [T-238 \[ENG\]](#), p. 9, line 22 to p. 10, line 22; [CAR-OTP-2104-0033-R03](#), at 0043, para. 57 and at 0044, para. 63; **D29-5013:** [T-286 \[ENG\]](#), p. 51, line 23 to p. 52, line 3 (Conf).

<sup>299</sup> **P-2353:** [T-161 \[ENG\]](#), p. 26, lines 10-11; [CAR-OTP-2122-4377-R03](#), at 4388-4389, para. 55; [CAR-OTP-2100-0226-R03](#), at 0236, para. 55; **P-1823:** [T-183 \[ENG\]](#), p. 27, lines 4-11; p. 64, lines 18-23; and p. 65, lines 7-10;

that, [REDACTED],<sup>300</sup> [REDACTED].<sup>301</sup> The Anti-Balaka partially retreated from Mbaïki only after the Sangaris had disarmed them.<sup>302</sup>

130. Moreover, in order to prevent the Muslim population from moving back towards Bangui,<sup>303</sup> Mr Yekatom's elements took over Seleka barricades and installed new ones from January 2014,<sup>304</sup> *inter alia* at PK9,<sup>305</sup> Sekia,<sup>306</sup> Bimon,<sup>307</sup> Kapou<sup>308</sup> and Pissa.<sup>309</sup> As explained *inter alia* by dual status P-2354 and defence witness D29-5015, at these barricades, Muslims were arrested or killed and illegal "tolls" were exacted from them with threats under Mr Yekatom's supervision.<sup>310</sup> The Accused controlled and patrolled said barricades despite the

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[CAR-OTP-2063-0369-R02](#), at 0375, para. 32; **P-1839**: [T-171 \[ENG\]](#), p. 56, line 1 to p. 57, line 12 (Conf); **P-2389**: [T-238 \[ENG\]](#), p. 8, lines 21-23; [CAR-OTP-2104-0033-R03](#), at 0043, para. 57; **P-2354**: [CAR-OTP-2105-0991-R03](#), at 1002, para. 57.

<sup>300</sup> **P-1666**: [T-231 \[ENG\]](#), p. 20, lines 5-17 (Conf).

<sup>301</sup> **P-1666**: [T-231 \[ENG\]](#), p. 14, lines 6-10 and p. 16, line 6 to p. 18, line 21 (Conf).

<sup>302</sup> **P-1666**: [T-230 \[ENG\]](#), p. 65, lines 7-17; **P-2041**: [CAR-OTP-2104-0003-R02](#), at 0014, para. 61.

<sup>303</sup> **P-2041**: [T-229 \[ENG\]](#), p. 93, lines 6-7; [CAR-OTP-2104-0003-R02](#), at 0013-0014, para. 58; **P-2389**: [CAR-OTP-2104-0033-R03](#), at 0042, para. 48; **P-2419**: [CAR-OTP-2112-0036-R03](#), at 0042, para. 34; **P-2353**: [CAR-OTP-2100-0226-R03](#), at 0238, para. 67; **P-2041**: [CAR-OTP-2104-0003-R02](#), at 0013-0014, para. 58.

<sup>304</sup> **P-1838**: [T-215 \[ENG\]](#), p. 7, lines 2-25; **P-2041**: [CAR-OTP-2104-0003-R02](#), at 0013-0014, para. 58; **P-2084**: [T-234 \[ENG\]](#), p. 76, lines 10-15; [CAR-OTP-2094-0968-R02](#), at 0983-0984, paras. 78-79; **P-2354**: [CAR-OTP-2105-0991-R03](#), at 1003, para. 65; **P-0954**: [CAR-OTP-2048-0171-R03](#), at 0183-0184, para. 74; [CAR-OTP-2001-0835](#), at 0884; [CAR-OTP-2074-3246](#), at 3247.

<sup>305</sup> **P-1666**: [T-230 \[ENG\]](#), p. 36, lines 19-21; **P-0954**: [T-166 \[ENG\]](#), p. 43, lines 3-15 and p. 82, line 19 to p. 83, line 3; [CAR-OTP-2048-0171-R03](#), at 0186, para. 89; **P-1647**: [T-195 \[ENG\]](#), p. 46, lines 9-12; [CAR-OTP-2050-0654-R02](#), at 0660-0661, para. 44; **P-2475**: [T-130 \[ENG\]](#), p. 13, lines 4-5; **P-0974**: [CAR-OTP-2058-0165-R01](#), at 0179, para. 95; **P-2084**: [T-234 \[ENG\]](#), p. 66, lines 5-10; [CAR-OTP-2094-0968-R02](#), at 0983, para. 78; **P-1823**: [T-183 \[ENG\]](#), p. 15, lines 17-18; [CAR-OTP-2063-0369-R02](#), at 0374, para. 27; **P-1962**: [T-139 \[FR\]](#), p. 32, lines 1-14 (Conf); [CAR-OTP-2068-0037-R04](#), at 0061, para. 116; **P-2353**: [CAR-OTP-2100-0226-R03](#), at 0238, para. 67; **P-2389**: [CAR-OTP-2104-0033-R03](#), at 0042, para. 48; **P-1858**: [CAR-OTP-2063-0050-R04](#), at 0058, para. 50.

<sup>306</sup> **P-1839**: [T-170 \[ENG\]](#), p. 44, line 21 to p. 45, line 3; **P-2475**: [T-130 \[ENG\]](#), p. 13, lines 5-6; **P-1647**: [CAR-OTP-2050-0654-R02](#), at 0660-0661, para. 44; **P-1823**: [T-183 \[ENG\]](#), p. 21, lines 12-17; p. 22, lines 17-25; and p. 63, lines 2-6; [CAR-OTP-2063-0369-R02](#), at 0374, para. 27; **P-1962**: [T-139 \[FR\]](#), p. 32, lines 1-14 (Conf); [CAR-OTP-2068-0037-R04](#), at 0061, para. 116; **P-1858**: [CAR-OTP-2063-0050-R04](#), at 0058, para. 50; **P-2419**: [CAR-OTP-2112-0036-R03](#), at 0057-0058, paras. 122-123; **P-2084**: [CAR-OTP-2094-0968-R02](#), at 0983, para. 78; [CAR-OTP-2001-0835](#), at 0884; [CAR-OTP-2074-3246](#), at 3247; **P-1838**: [CAR-OTP-2100-0252-R05](#), at 0271, para. 106.

<sup>307</sup> **P-1823**: [T-183 \[ENG\]](#), p. 15, line 25 to p. 16, line 1; [CAR-OTP-2063-0369-R02](#), at 0374, para. 27.

<sup>308</sup> **P-2475**: [T-130 \[ENG\]](#), p. 13, lines 7-8.

<sup>309</sup> **P-1647**: [CAR-OTP-2050-0654-R02](#), at 0660-0661, para. 44; **P-1839**: [T-174 \[ENG\]](#), p. 51, lines 18-25 (Conf); **P-0487**: [T-201 \[ENG\]](#), p. 59, lines 2-6 (Conf); **P-1813**: [T-180 \[ENG\]](#), p. 18, lines 15-22; [CAR-OTP-2069-0035-R02](#), at 0046, para. 74; **P-2475**: [T-130 \[ENG\]](#), p. 13, line 7; **P-1838**: [T-215 \[ENG\]](#), p. 9, line 4; [CAR-OTP-2100-0252-R05](#), at 0271, para. 106; **P-1962**: [T-139 \[FR\]](#), p. 32, lines 1-14 (Conf); [CAR-OTP-2068-0037-R04](#), at 0061, para. 116; **P-1823**: [T-183 \[ENG\]](#), p. 15, lines 15-16; [CAR-OTP-2063-0369-R02](#), at 0374, para. 27; **P-2353**: [CAR-OTP-2100-0226-R03](#), at 0238, para. 65; **P-2084**: [CAR-OTP-2094-0968-R02](#), at 0983-0984, paras. 78-79; [CAR-OTP-2001-0835](#), at 0876 and at 0884; **P-2926**: [CAR-OTP-2001-5739](#), at 5798.

<sup>310</sup> **P-2354**: [CAR-OTP-2105-0991-R03](#), at 1003, para. 65; **D29-5015**: [T-255 \[ENG\]](#), p. 19, line 21 to p. 20, line 4; [T-256 \[ENG\]](#), p. 35, lines 10-18; **P-2419**: [T-177 \[ENG\]](#), p. 5, line 25 to p. 26, line 2; [CAR-OTP-2112-0036-R03](#), at 0057, para. 122; **P-1823**: [T-183 \[ENG\]](#), p. 16, lines 20-22; p. 61, lines 13-16; and p. 62, lines 15-16; **P-2475**: [T-130 \[ENG\]](#), p. 45, line 25 to p. 46, line 6 and p. 47, lines 18-21 (Conf); **P-1839**: [T-170 \[ENG\]](#), p. 48, lines 22-24 (Conf); p. 56, line 24 to p. 57, line 1 (Conf); p. 57, lines 20-24 (Conf); p. 58, lines 5-7 (Conf); and p. 60, lines 4-7 (Conf); **P-0954**: [T-166 \[ENG\]](#), p. 61, lines 6-11; [CAR-OTP-2063-0369-R02](#), at 0375, paras. 30-31; **P-1962**: [T-139 \[FR\]](#), p. 32, line 25 (Conf); **P-1858**: [T-185 \[ENG\]](#), p. 23, lines 15-16; [CAR-OTP-2063-0050-R04](#), at 0058, para. 50; **P-2389**: [CAR-OTP-2104-0033-R03](#), at 0042, para. 48; **P-1647**: [CAR-OTP-2050-0654-R02](#), at 0665, para. 79; **P-1813**: [CAR-OTP-2069-0035-R02](#), at 0046, para. 74; **P-2926**: [CAR-OTP-2001-5739](#), at 5798; **P-1838**: [CAR-OTP-2100-0252-R05](#), at 0268, para. 92 and at 0272, para. 108; **P-2084**: [CAR-OTP-2094-0968-R02](#), at 0983, para. 78.

presence of gendarmes,<sup>311</sup> where in addition to money, the Anti-Balaka collected goats, sheep and whatever else they could extort from people.<sup>312</sup>

131. The Muslim population of Mbaïki did not want a war and wanted to avoid any trouble with the Anti-Balaka.<sup>313</sup> As a result, as testified *inter alia* by dual status P-1666 and P-2354, Muslim traders collected money from the civilian population in Mbaïki and handed it over to Mr Yekatom's elements [REDACTED]<sup>314</sup> and subsequently to the Accused himself at Mama Malounga's bar<sup>315</sup> as [REDACTED] and as "*a form of insurance*" for peace and not to be harmed.<sup>316</sup> However, the situation did not change after the speech by Mr Yekatom at the Mbaïki station,<sup>317</sup> where, as testified *inter alia* by dual status P-1666 and P-2354, he asked his elements to "*stop hurting Muslims*"<sup>318</sup> and "*not to touch the Muslims*".<sup>319</sup> As explained by dual status P-1666, the situation remained the same despite [REDACTED]<sup>320</sup> and [REDACTED].<sup>321</sup>

132. Several witnesses, including dual status P-1666 and P-2353, testified that this increasingly hostile environment towards Muslims and the fear of attack by Mr Yekatom's elements caused Mbaïki's Muslim population to flee *en masse* in fear for their lives.<sup>322</sup> From

<sup>311</sup> **P-1823:** [T-183 \[ENG\]](#), p. 13, line 20 to p. 14, line 10 and p. 17, lines 5-8; [CAR-OTP-2063-0369-R02](#), at 0374-0375, paras. 28-29; **P-1838:** [T-215 \[ENG\]](#), p. 12, line 11 to p. 14, line 2; [CAR-OTP-2100-0252-R05](#), at 0269, para. 95 and at 0272, para. 109; **P-2353:** [CAR-OTP-2100-0226-R03](#), at 0238, para. 67; **P-2926:** [CAR-OTP-2001-5739](#), at 5798; [CAR-OTP-2074-3246](#), at 3247; **P-0974:** [CAR-OTP-2058-0165-R01](#), at 0179, para. 95; [CAR-OTP-2001-0835](#), at 0884.

<sup>312</sup> **P-1858:** [T-185 \[ENG\]](#), p. 23, lines 22-24; **P-1813:** [CAR-OTP-2069-0035-R02](#), at 0046, para. 74; **P-1647:** [CAR-OTP-2050-0654-R02](#), at 0665, para. 79; **P-1838:** [CAR-OTP-2100-0252-R05](#), at 0272, para. 109; [CAR-OTP-2074-3246](#), at 3247.

<sup>313</sup> **P-1666:** [T-230 \[ENG\]](#), p. 50, lines 20-21 (Conf); **P-2389:** [T-238 \[ENG\]](#), p. 9, lines 6-18; [CAR-OTP-2104-0033-R03](#), at 0043-0044, para. 58; **P-1838:** [T-215 \[ENG\]](#), p. 43, line 12; **D29-5013:** [T-286 \[ENG\]](#), p. 30, lines 8-11 and p. 51, lines 10-15 (Conf).

<sup>314</sup> **P-1666:** [T-230 \[ENG\]](#), p. 50, lines 7-15 (Conf); p. 51, lines 9-13 (Conf); and p. 55, lines 2-3 (Conf); **P-2041:** [T-229 \[ENG\]](#), p. 92, lines 4-9 and p. 92, line 21 to p. 93, line 1; [T-230 \[ENG\]](#), p. 15, lines 10-14; [CAR-OTP-2104-0003-R02](#), at 0013, para. 57.

<sup>315</sup> **P-1666:** [T-230 \[ENG\]](#), p. 55, line 21 to p. 56, line 8 (Conf); **P-2354:** [T-210 \[ENG\]](#), p. 17, lines 2-3, 11-12; and p. 20, lines 3-8; [CAR-OTP-2105-0991-R03](#), at 1001, para. 55.

<sup>316</sup> **P-1666:** [T-230 \[ENG\]](#), p. 50, lines 20-24 (Conf); **P-2041:** [T-229 \[ENG\]](#), p. 92, lines 12-20; [CAR-OTP-2104-0003-R02](#), at 0013, para. 57; **P-2354:** [CAR-OTP-2105-0991-R03](#), at 1001, para. 55.

<sup>317</sup> **P-1813:** [T-180 \[ENG\]](#), p. 16, lines 19-23; [T-182 \[ENG\]](#), p. 33, lines 8-10; [CAR-OTP-2069-0035-R02](#), at 0043, para. 55; **P-1838:** [T-215 \[ENG\]](#), p. 25, lines 12-16; [CAR-OTP-2100-0252-R05](#), at 0265, para. 73.

<sup>318</sup> **P-2354:** [T-210 \[ENG\]](#), p. 16, line 24.

<sup>319</sup> **P-1666:** [T-230 \[ENG\]](#), p. 45, line 22 to p. 46, line 3; **P-1813:** [T-180 \[ENG\]](#), p. 16, lines 19-21 and p. 19, lines 7-11, 19-20; [CAR-OTP-2069-0035-R02](#), at 0043-0044, paras. 55-56.

<sup>320</sup> **P-1666:** [T-230 \[ENG\]](#), p. 53, line 23 to p. 54, line 12 (Conf) and p. 56, lines 11-14 (Conf).

<sup>321</sup> **P-1666:** [T-230 \[ENG\]](#), p. 56, lines 5-8 (Conf).

<sup>322</sup> **P-1666:** [T-230 \[ENG\]](#), p. 31, lines 18-22; [T-231 \[ENG\]](#), p. 27, lines 21-25; **P-2353:** [T-161 \[ENG\]](#), p. 59, lines 17-20; [CAR-OTP-2100-0226-R03](#), at 0237, para. 61 and at 0238, para. 64; **P-2041:** [T-229 \[ENG\]](#), p. 93, lines 22-23; [CAR-OTP-2104-0003-R02](#), at 0015, para. 65; **P-1823:** [T-183 \[ENG\]](#), p. 26, lines 6-24; p. 33, lines 1-5, 19-24; and p. 37, lines 13-14; [CAR-OTP-2063-0369-R02](#), at 0375, para. 33; **D29-5015:** [T-255 \[ENG\]](#), p. 58, lines 10-14; **P-1838:** [T-215 \[ENG\]](#), p. 26, lines 17-21 and p. 28, lines 16-18; [CAR-OTP-2100-0252-R05](#), at 0258-0259, para. 36; at 0264, para. 65; and at 0265-0266, para. 75; **P-2354:** [CAR-OTP-2105-0991-R03](#), at 1003, para. 67; **P-2389:** [CAR-OTP-2104-0033-R03](#), at 0045, para. 65.

about 6 February 2014 onwards,<sup>323</sup> around 3,000 Muslims left from Mbaïki to other locations in the CAR<sup>324</sup> and to other countries such as Chad, Mali and Cameroon, on occasion without food or water.<sup>325</sup> In turn, since the commercial district was predominantly Muslim, the evacuation of the Muslim population led to a shortage of basic day-to-day items in Mbaïki.<sup>326</sup>

133. Several witnesses, including dual status P-1666, P-2353, P-2354 and P-2389, testified that, on 6 February 2014, Chadian forces evacuated the vast majority of the Muslim population from Mbaïki in escorted military trucks sent from Chad,<sup>327</sup> heavy-handedly and extremely quickly.<sup>328</sup> Muslims were sad, worried and upset when they left everything behind in Mbaïki in order to save their lives.<sup>329</sup> As testified *inter alia* by dual status P-1666, P-2353 and P-2354 and by defence witnesses D29-5013 and D29-5015, the possessions of most Muslims leaving Mbaïki were taken by the Christians, either because they did not fit or were not allowed in the Chadian vehicles<sup>330</sup> or because Muslims could not save their goods and their belongings were

<sup>323</sup> **P-2041:** [T-230 \[ENG\]](#), p. 15, lines 21-24; **P-2354:** [CAR-OTP-2105-0991-R03](#), at 1002-1003, para. 63; **P-1838:** [CAR-OTP-2100-0252-R05](#), at 0267, para. 82 and at 0271, para. 102; **P-2084:** [CAR-OTP-2094-0968-R02](#), at 0982, para. 69.

<sup>324</sup> **P-0954:** [T-166 \[ENG\]](#), p. 84, lines 7-8; [CAR-OTP-2048-0171-R03](#), at 0187, para. 95; **P-1813:** [T-180 \[ENG\]](#), p. 17, lines 23-25; [CAR-OTP-2069-0035-R02](#), at 0043, para. 53 and at 0044, para. 59; **P-1823:** [T-183 \[ENG\]](#), p. 33, line 3; [CAR-OTP-2063-0369-R02](#), at 0375, para. 33; **D29-5013:** [T-286 \[ENG\]](#), p. 49, lines 3-9.

<sup>325</sup> **P-1666:** [T-230 \[ENG\]](#), p. 31, lines 18-19; [T-231 \[ENG\]](#), p. 28, lines 20-21; p. 30, lines 7-9; **P-2041:** [T-229 \[ENG\]](#), p. 97, lines 4-12; [CAR-OTP-2104-0003-R02](#), at 0015, paras. 63-65 and at 0015-0016, paras. 65-67; **P-1647:** [T-194 \[ENG\]](#), p. 63, lines 10-12; [CAR-OTP-2050-0654-R02](#), at 0661, para. 48; **P-1823:** [T-183 \[ENG\]](#), p. 34, lines 16-18 and p. 36, lines 21-26; [CAR-OTP-2063-0369-R02](#), at 0375, para. 34; **D29-5013:** [T-286 \[ENG\]](#), p. 49, lines 3-15; [CAR-OTP-2117-0687](#), at 0687-0688; [CAR-OTP-2001-2248](#), at 2249; [CAR-OTP-2049-0462](#), at 0497; [CAR-OTP-2055-1987](#), at 2159; [CAR-OTP-2001-0409](#), at 0411; [CAR-OTP-2001-2308](#), at 2330, 2344; **P-2353:** [CAR-OTP-2100-0226-R03](#), at 0237-0238, paras. 60-64; **P-2354:** [CAR-OTP-2105-0991-R03](#), at 1003, para. 67; **P-2389:** [CAR-OTP-2104-0033-R03](#), at 0046, paras. 71, 73; **P-2084:** [CAR-OTP-2094-0968-R02](#), at 0981, para. 67 and at 0982, para. 69.

<sup>326</sup> **P-1838:** [T-215 \[ENG\]](#), p. 40, lines 7-11.

<sup>327</sup> **P-1666:** [T-231 \[ENG\]](#), p. 30, lines 7-9; **P-2353:** [T-161 \[ENG\]](#), p. 39, lines 24-25 (Conf); **P-2354:** [T-210 \[ENG\]](#), p. 17, line 16 and p. 21, lines 12-16; [CAR-OTP-2105-0991-R03](#), at 0999-1000, para. 46 and at 1002-1003, para. 63; **P-2389:** [T-238 \[ENG\]](#), p. 11, lines 5-7; p. 11, line 25 to p. 26, line 1; and p. 13, lines 3-12; [CAR-OTP-2104-0033-R03](#), at 0045, paras. 67-69; **P-2041:** [T-229 \[ENG\]](#), p. 94, lines 3-6 and p. 96, lines 19-24; [CAR-OTP-2104-0003-R02](#), at 0015, paras. 63-64; **P-1838:** [T-215 \[ENG\]](#), p. 11, lines 11-12 and p. 26, lines 9-13; [T-216 \[ENG\]](#), p. 6, lines 18-24; [CAR-OTP-2100-0252-R05](#), at 0265-0266, paras. 74-76; **P-2084:** [T-233 \[ENG\]](#), p. 11, lines 23-25; [T-235 \[ENG\]](#), p. 6, lines 21-25; [CAR-OTP-2094-0968-R02](#), at 0982, para. 69; **P-1839:** [T-171 \[ENG\]](#), p. 58, line 20 to p. 59, line 5 (Conf); **D29-5015:** [T-254 \[ENG\]](#), p. 51, lines 24-25; [T-255 \[ENG\]](#), p. 71, lines 8-13; **D29-5012:** [T-295 \[ENG\]](#), p. 32, line 22 to p. 33, line 8.

<sup>328</sup> **P-1666:** [T-231 \[ENG\]](#), p. 29, lines 13-14; **P-2353:** [CAR-OTP-2100-0226-R03](#), at 0237-0238, para. 63; **P-2354:** [CAR-OTP-2105-0991-R03](#), at 1003, para. 64; **P-2389:** [CAR-OTP-2104-0033-R03](#), at 0045, para. 70; **P-1813:** [T-182 \[ENG\]](#), p. 38, lines 7-13; **P-2041:** [T-229 \[ENG\]](#), p. 96, lines 23-24; **D29-5012:** [T-294 \[ENG\]](#), p. 52, line 24 to p. 53, line 1.

<sup>329</sup> **P-1666:** [T-231 \[ENG\]](#), p. 54, line 23 to p. 55, line 4; **P-2353:** [T-161 \[ENG\]](#), p. 46, lines 5-9; [CAR-OTP-2100-0226-R03](#), at 0237-0238, paras. 62-64; **P-2354:** [T-210 \[ENG\]](#), p. 21, lines 1-3; [CAR-OTP-2105-0991-R03](#), at 1003, para. 64; **D29-5013:** [T-285 \[ENG\]](#), p. 52, lines 4-7; **P-1823:** [T-183 \[ENG\]](#), p. 41, lines 7-10; **P-1838:** [T-215 \[ENG\]](#), p. 29, line 24 to p. 30, line 5; [CAR-OTP-2100-0252-R05](#), at 0258-0259, para. 36; at 0266, paras. 77, 80; and at 0267, para. 83; **P-2041:** [CAR-OTP-2104-0003-R02](#), at 0015, para. 64.

<sup>330</sup> **P-1666:** [T-231 \[ENG\]](#), p. 29, lines 9-20; **P-2354:** [T-210 \[ENG\]](#), p. 21, line 23 to p. 22, line 1; [CAR-OTP-2105-0991-R03](#), at 1000, para. 47 and at 1002-1003, para. 63; **D29-5013:** [T-285 \[ENG\]](#), p. 51, lines 10-19; **D29-5015:** [T-255 \[ENG\]](#), p. 73, lines 18-22; **P-1823:** [T-183 \[ENG\]](#), p. 33, lines 11-12; [CAR-OTP-2063-0369-R02](#), at 0375,

pillaged and destroyed by the Anti-Balaka.<sup>331</sup> Several witnesses, including dual status P-1666, P-2353 and P-2354, also testified that, after the Muslims' departure from Mbaïki, Mr Yekatom's elements stole vehicles owned and left behind by Muslims, and occupied and pillaged some Muslim houses and shops.<sup>332</sup>

134. The Chadian convoys continued via Bangui a long and hard route to Chad, fighting off some attacks by the Anti-Balaka.<sup>333</sup> Several witnesses, including dual status P-1666, P-2353, P-2354 and P-2389, explained that Muslim families, including elders, women and many young children,<sup>334</sup> were not always evacuated together from Mbaïki.<sup>335</sup> Many Muslims left separately in their private vehicles, with or without Chadian escort,<sup>336</sup> and later tried to regroup with their relatives, often at the border with Chad.<sup>337</sup> Moreover, many Muslim men evacuated from Mbaïki decided to remain in Bangui, especially in PK5, where all the Muslim community from Bangui and many other CAR locations, such as Bimon, had regrouped.<sup>338</sup> From there, they were subsequently evacuated to Chad, Mali and Cameroon without their possessions and separated from their families.<sup>339</sup> By contrast, as explained by dual status P-1666 and P-2354, Muslim women and girls were transported to refugee camps in Chad and Mali.<sup>340</sup>

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para. 33; **P-1838:** [T-215 \[ENG\]](#), p. 44, lines 7-12; [CAR-OTP-2100-0252-R05](#), at 0258-0259, para. 36 and at 0267, para. 85; **P-2041:** [T-229 \[ENG\]](#), p. 95, lines 4-22 and p. 96, lines 24-25; [CAR-OTP-2104-0003-R02](#), at 0015, para. 64; **P-2353:** [CAR-OTP-2100-0226-R03](#), at 0237-0238, para. 63; **P-2389:** [CAR-OTP-2104-0033-R03](#), at 0045, paras. 68, 70; **P-2084:** [CAR-OTP-2094-0968-R02](#), at 0982, para. 69.

<sup>331</sup> **P-1666:** [T-232 \[ENG\]](#), p. 5, lines 14-15; **P-2353:** [T-161 \[ENG\]](#), p. 38, lines 9-11, 20-23 (Conf) and p. 39, lines 5-11 (Conf); **P-2354:** [CAR-OTP-2105-0991-R03](#), at 1003, para. 66; **P-1838:** [CAR-OTP-2100-0252-R05](#), at 0267, para. 85.

<sup>332</sup> **P-1666:** [T-231 \[ENG\]](#), p. 48, lines 20-25 (Conf) and p. 49, lines 18-20; [T-232 \[ENG\]](#), p. 37, lines 12-20 (Conf); p. 38, lines 22-25 (Conf); and p. 39, line 21 to p. 40, line 9 (Conf); **P-2353:** [T-161 \[ENG\]](#), p. 38, line 23 to p. 39, line 2 (Conf); **P-2354:** [T-210 \[ENG\]](#), p. 29, lines 13-23 (Conf); [CAR-OTP-2105-0991-R03](#), at 1003, para. 66; **P-1838:** [T-215 \[ENG\]](#), p. 45, lines 11-14; [CAR-OTP-2100-0252-R05](#), at 0267, para. 85; **P-2476:** [T-213 \[ENG\]](#), p. 11, lines 12-24; p. 12, lines 9-15; and p. 14, lines 9-16; [CAR-OTP-2114-0149-R05](#), at 0153, para. 30; **P-2389:** [CAR-OTP-2104-0033-R03](#), at 0045, para. 70; **P-2084:** [CAR-OTP-2094-0968-R02](#), at 0982, para. 69.

<sup>333</sup> **P-1666:** [T-231 \[ENG\]](#), p. 54, lines 16-20; **P-2354:** [CAR-OTP-2105-0991-R03](#), at 1003, para. 66; **P-2389:** [CAR-OTP-2104-0033-R03](#), at 0046, paras. 71-73; **P-2041:** [CAR-OTP-2104-0003-R02](#), at 0015, para. 65.

<sup>334</sup> **P-1666:** [T-231 \[ENG\]](#), p. 54, lines 4-8; **P-2354:** [T-210 \[ENG\]](#), p. 28, lines 4-5; **P-2389:** [T-238 \[ENG\]](#), p. 12, lines 6-10 and p. 16, lines 12-14 (Conf); **P-1823:** [T-183 \[ENG\]](#), p. 33, lines 23-24; **P-2041:** [T-229 \[ENG\]](#), p. 97, lines 4-5; [T-230 \[ENG\]](#), p. 3, lines 8-22.

<sup>335</sup> **P-2353:** [T-161 \[ENG\]](#), p. 45, lines 7-11; [CAR-OTP-2100-0226-R03](#), at 0237-0238, para. 63; **P-2354:** [T-210 \[ENG\]](#), p. 28, lines 14-18; **P-2389:** [T-238 \[ENG\]](#), p. 11, lines 5-16; **P-1823:** [T-183 \[ENG\]](#), p. 33, lines 12-14.

<sup>336</sup> **P-1666:** [T-231 \[ENG\]](#), p. 30, lines 20-22; **P-2353:** [T-161 \[ENG\]](#), p. 45, lines 10-16; [T-162 \[ENG\]](#), p. 12, lines 1-5; [CAR-OTP-2100-0226-R03](#), at 0237, para. 62; **P-2041:** [T-229 \[ENG\]](#), p. 94, lines 10-11; **P-2354:** [CAR-OTP-2105-0991-R03](#), at 0995, para. 27 and at 1003, paras. 64, 66.

<sup>337</sup> **P-1666:** [T-231 \[ENG\]](#), p. 30, lines 12-16; **P-2354:** [CAR-OTP-2105-0991-R03](#), at 1004, para. 69.

<sup>338</sup> **P-1666:** [T-231 \[ENG\]](#), p. 31, lines 4-19; p. 32, lines 20-24; and p. 33, lines 7-9; **P-2353:** [T-161 \[ENG\]](#), p. 45, lines 16-19; [CAR-OTP-2100-0226-R03](#), at 0239, para. 68; **P-1823:** [T-183 \[ENG\]](#), p. 34, lines 18-21; [CAR-OTP-2063-0369-R02](#), at 0375, para. 34; **P-2419:** [T-176 \[ENG\]](#), p. 22, lines 1-14; [T-177 \[ENG\]](#), p. 5, lines 14-21; p. 7, lines 13-22 (Conf); and p. 26, lines 16-21 (Conf); [CAR-OTP-2112-0036-R03](#), at 0057, para. 121.

<sup>339</sup> **P-2419:** [T-176 \[ENG\]](#), p. 22, line 18 to p. 24, line 25; [CAR-OTP-2112-0036-R03](#), at 0059, para. 131.

<sup>340</sup> **P-1666:** [T-231 \[ENG\]](#), p. 31, lines 9-10 and p. 31, line 20 to p. 32, line 3; **P-2354:** [T-210 \[ENG\]](#), p. 22, lines 10-12; **P-2353:** [CAR-OTP-2100-0226-R03](#), at 0239, para. 68; **P-1823:** [CAR-OTP-2063-0369-R02](#), at 0375, para. 34.

135. Dual status P-1666 testified that life in PK5 was extremely difficult in 2014-2015, with ongoing violence and food scarcity.<sup>341</sup> The number of Muslims living in PK5 at that time swelled and it was impossible to leave at risk of being killed because the surrounding neighbourhoods were Christian and the Anti-Balaka were there.<sup>342</sup> Thousands of Muslims who had sought refuge at the Central Mosque in Bangui were also under dire conditions as internally displaced persons, eventually supported by humanitarian organisations,<sup>343</sup> with families sleeping on mats and living in overcrowded conditions under tarps without access to schools or hospitals until the end of 2017.<sup>344</sup> As explained *inter alia* by dual status P-1666, P-2353, P-2354 and P-2389 and by defence witness D29-5012, only 15 to 20 percent of the Muslims who escaped from Mbaïki have returned and resumed their day-to-day business<sup>345</sup> and the remaining Muslims who were forced to flee to PK5 still have not been able to return to live in Mbaïki or Bimon, have lost their properties and can barely provide for their stranded families.<sup>346</sup>

136. Several witnesses, including dual status P-1666, P-2353, P-2354 and P-2389, testified that the living conditions of those who escaped to Chad were not easy either,<sup>347</sup> with Muslims from different CAR locations forced to go to overcrowded refugee camps where their children cannot always attend school.<sup>348</sup> Many Muslims who were forced to leave the country remain in Chad today and still hope to be able to return with their families to the CAR.<sup>349</sup>

<sup>341</sup> **P-1666:** [T-231 \[ENG\]](#), p. 32, line 22 to p. 33, line 4.

<sup>342</sup> **P-1666:** [T-231 \[ENG\]](#), p. 33, lines 18-21 and p. 34, lines 13-15.

<sup>343</sup> **P-1823:** [T-183 \[ENG\]](#), p. 40, lines 8-16 (Conf); [CAR-OTP-2063-0369-R02](#), at 0377, para. 39; **P-2419:** [T-176 \[ENG\]](#), p. 20, line 18 to p. 21, line 19; [CAR-OTP-2112-0036-R03](#), at 0058, para. 126 and at 0059, para. 130.

<sup>344</sup> **P-1666:** [T-231 \[ENG\]](#), p. 35, lines 2-25; **P-1823:** [T-183 \[ENG\]](#), p. 35, line 16 to p. 36, line 6 and p. 39, lines 10-14 (Conf); [CAR-OTP-2063-0369-R02](#), at 0376, para. 35; **P-2419:** [T-176 \[ENG\]](#), p. 21, lines 18-20; [CAR-OTP-2112-0036-R03](#), at 0058, para. 125 and at 0059, para. 131.

<sup>345</sup> **P-2353:** [T-161 \[ENG\]](#), p. 40, lines 1-3 (Conf); **P-1838:** [T-215 \[ENG\]](#), p. 43, lines 3-4.

<sup>346</sup> **P-1666:** [T-231 \[ENG\]](#), p. 50, lines 1-19 and p. 55, lines 9-13; **P-2353:** [T-161 \[ENG\]](#), p. 38, lines 9-11 (Conf); p. 38, line 20 to p. 39, line 2 (Conf); p. 40, line 11 to p. 41, line 2 (Conf); and p. 45, line 22 to p. 46, line 2; [CAR-OTP-2100-0226-R03](#), at 0239, paras. 69-70; **P-2354:** [T-210 \[ENG\]](#), p. 30, lines 15-16 (Conf) and p. 32, line 19 to p. 33, line 1; [CAR-OTP-2105-0991-R03](#), at 1004, paras. 70-71; **P-2389:** [T-238 \[ENG\]](#), p. 18, lines 13-20 and p. 19, lines 7-11; **D29-5012:** [T-294 \[ENG\]](#), p. 45, lines 9-12; [T-295 \[ENG\]](#), p. 32, lines 5-16; **P-1823:** [T-183 \[ENG\]](#), p. 45, line 20 to p. 46, line 1; p. 46, line 23 to p. 47, line 3; and p. 64, lines 22-24; **P-2419:** [T-176 \[ENG\]](#), p. 27, line 19 to p. 28, line 1 and p. 29, lines 5-7 (Conf); [T-177 \[ENG\]](#), p. 3, line 17 to p. 5, line 5 and p. 8, line 24 to p. 9, line 4 (Conf); [CAR-OTP-2112-0036-R03](#), at 0045, para. 50; at 0046, para. 56; and at 0059, para. 129; **P-1838:** [T-215 \[ENG\]](#), p. 41, line 24 to p. 42, line 1; [CAR-OTP-2100-0252-R05](#), at 0267, para. 87; **D29-5015:** [T-255 \[ENG\]](#), p. 58, lines 15-16.

<sup>347</sup> **P-2389:** [T-238 \[ENG\]](#), p. 14, line 22 to p. 15, line 2 and p. 15, lines 22-24; **P-2041:** [T-230 \[ENG\]](#), p. 4, lines 11-14; **D29-5015:** [T-256 \[ENG\]](#), p. 36, line 22 to p. 37, line 8; **D29-5013:** [T-286 \[ENG\]](#), p. 49, lines 19-21.

<sup>348</sup> **P-1666:** [T-231 \[ENG\]](#), p. 32, lines 6-10; **P-2353:** [T-161 \[ENG\]](#), p. 46, lines 14-18; **P-2354:** [T-210 \[ENG\]](#), p. 30, lines 2-10 (Conf); **P-2389:** [T-238 \[ENG\]](#), p. 12, lines 15-22; p. 13, lines 13-17; p. 14, lines 5-18; and p. 15, lines 7-10; [CAR-OTP-2104-0033-R03](#), at 0046, para. 74; **P-2041:** [T-230 \[ENG\]](#), p. 4, lines 16-18.

<sup>349</sup> **P-1666:** [T-231 \[ENG\]](#), p. 32, lines 11-19; **P-2354:** [T-210 \[ENG\]](#), p. 22, lines 13-20; p. 30, lines 17-24 (Conf); and p. 31, lines 21-25; **P-2389:** [T-238 \[ENG\]](#), p. 15, lines 13-15; p. 16, line 20 (Conf); p. 17, lines 8-13; and p. 18, line 24 to p. 19, line 3; **P-1838:** [CAR-OTP-2100-0252-R05](#), at 0274, para. 120; **P-2041:** [T-230 \[ENG\]](#), p. 4, lines 19-25.

137. Several witnesses, including dual status P-1666 and P-2353, testified that Mbaiki's entire Muslim population was forcibly removed within two weeks, except for its second Deputy Mayor<sup>350</sup> Djido Saleh and his family, who refused to leave his hometown in the Chadian convoys.<sup>351</sup>

138. As explained *inter alia* by dual status P-1666 and P-2353, after his family managed to flee to safety,<sup>352</sup> Saleh tried to defend himself with a cross bow and arrows before being killed by two Anti-Balaka elements from Mr Yekatom's group<sup>353</sup> in front of everyone near the *gendarmerie*, where he was denied protection.<sup>354</sup> His body was then dragged to a roundabout,<sup>355</sup> where a woman from Mr Yekatom's group, Honorine Mbafolo, also known as Mama Tia Godobe [REDACTED],<sup>356</sup> cut off his genitals with a knife.<sup>357</sup>

<sup>350</sup> **D29-5015: T-255 [ENG]**, p. 57, lines 16-20.

<sup>351</sup> **P-1666: T-231 [ENG]**, p. 37, lines 8-10; **P-2353: T-161 [ENG]**, p. 34, lines 3-4 (Conf); **CAR-OTP-2100-0226-R03**, at 0237, para. 61; **P-1813: T-182 [ENG]**, p. 64, line 25 to p. 65, line 3; **CAR-OTP-2069-0035-R02**, at 0044, para. 59 and at 0045, para. 63; **P-1838: T-215 [ENG]**, p. 19, lines 3-4; p. 22, lines 21-24; p. 23, lines 3-4, 9-10; and p. 30, lines 12-18; **CAR-OTP-2100-0252-R05**, at 0266-0267, para. 81; at 0268, para. 90; and at 0270, para. 98; **P-1647: T-194 [ENG]**, p. 63, line 12; **P-0287: CAR-OTP-2001-2707**, at 2728; **P-2041: T-229 [ENG]**, p. 94, lines 11-14; **CAR-OTP-2104-0003-R02**, at 0015, para. 64; **P-2476: T-213 [ENG]**, p. 32, lines 20-23; **CAR-OTP-2114-0149-R05**, at 0157, para. 51; **D29-5012: T-294 [ENG]**, p. 53, lines 2-7; **D29-5012: T-295 [ENG]**, p. 43, lines 8-14; **P-2354: CAR-OTP-2105-0991-R03**, at 1003, para. 67; **CAR-OTP-2117-0687**, at 0687-0688; **CAR-OTP-2001-2308**, at 2316, 2344; **CAR-OTP-2055-1987**, at 2159; **CAR-OTP-2001-4422**, at 4422; **CAR-OTP-2001-2248**, at 2249.

<sup>352</sup> **P-1666: T-231 [ENG]**, p. 41, lines 12-13; **P-1595: T-106 [ENG]**, p. 14, lines 13-17; **P-1813: T-182 [ENG]**, p. 71, lines 7-18; **P-1838: T-215 [ENG]**, p. 37, lines 19-20; **P-2476: T-213 [ENG]**, p. 31, line 23 to p. 32, line 4; **D29-5015: T-255 [ENG]**, p. 21, lines 1-15 and p. 58, lines 19-20; **P-0287: CAR-OTP-2001-2707**, at 2728; **CAR-OTP-2001-4422**, at 4423; **CAR-OTP-2114-0149-R05**, at 0157, para. 51.

<sup>353</sup> **P-2353: T-161 [ENG]**, p. 28, lines 8-14; p. 30, lines 22-25 (Conf); and p. 33, line 24 to p. 34, line 6 (Conf); **P-1823: T-183 [ENG]**, p. 73, lines 2-10 and p. 74, lines 9-11 (Conf); **CAR-OTP-2063-0369-R02**, at 0376, para. 37; **P-1813: T-180 [ENG]**, p. 30, line 24 to p. 31, line 14; **T-180 [FR]**, p. 29, lines 10 to 23; **T-182 [ENG]**, p. 61, lines 8-18 and p. 64, lines 17-20; **CAR-OTP-2069-0035-R02**, at 0044, para. 59 and at 0045, para. 63, 67-68; **P-1838: T-215 [ENG]**, p. 22, line 19 to p. 23, line 2; p. 23, lines 14-15; and p. 38, lines 16-18; **T-216 [ENG]**, p. 24, lines 10-12; **CAR-OTP-2100-0252-R05**, at 0266-0267, para. 81 and at 0269-0271, paras. 97-101, 104; **P-2475: T-130 [ENG]**, p. 21, lines 10-25 (Conf); p. 22, lines 17-21 (Conf); p. 25, lines 5-9 (Conf); p. 28, line 10 (Conf); and p. 36, lines 21-24 (Conf); **P-2476: CAR-OTP-2114-0149-R05**, at 0157-0158, para. 53; **CAR-OTP-2001-4422**, at 4423.

<sup>354</sup> **P-1666: T-231 [ENG]**, p. 45, lines 17-25 (Conf); **T-232 [ENG]**, p. 32, line 25 to p. 33, line 6 (Conf); **P-2353: T-161 [ENG]**, p. 32, lines 9-10 (Conf); **P-1838: T-215 [ENG]**, p. 35, lines 19-23; **CAR-OTP-2100-0252-R05**, at 0270-0271, para. 101; **P-2475: T-130 [ENG]**, p. 20, lines 15-17 (Conf); **CAR-OTP-2001-2308**, at 2316, 2331; **P-2354: CAR-OTP-2105-0991-R03**, at 1003-1004, para. 68; **P-1823: CAR-OTP-2063-0369-R02**, at 0376, para. 38; **CAR-OTP-2055-1987**, at 2159.

<sup>355</sup> **P-1666: T-231 [ENG]**, p. 45, lines 6-8 (Conf); **CAR-OTP-2059-0384** at 00:01:12; **P-2353: T-161 [ENG]**, p. 32, lines 13-14 (Conf); **P-2475: T-130 [ENG]**, p. 31, lines 2-4 (Conf); **D29-5012: T-295 [ENG]**, p. 36, lines 7-8; **P-1838: CAR-OTP-2100-0252-R05**, at 0270-0271, para. 101.

<sup>356</sup> **P-1647: T-194 [ENG]**, p. 63, line 16 to p. 64, line 2; **P-1786: T-197 [ENG]**, p. 89, line 18 to p. 90, line 20; **P-2475: T-130 [ENG]**, p. 30, line 10 (Conf); p. 34, lines 11-21 (Conf); and p. 36, lines 7-10 (Conf).

<sup>357</sup> **P-1666: T-231 [ENG]**, p. 47, line 23 to p. 48, line 16 (Conf); **P-2353: T-161 [ENG]**, p. 32, lines 15-16 (Conf); **P-1838: T-215 [ENG]**, p. 38, line 18 to p. 39, line 18; **T-216 [ENG]**, p. 24, lines 16-19; **CAR-OTP-2100-0252-R05**, at 0270-0271, paras. 101, 105; **P-2475: T-130 [ENG]**, p. 21, line 25 to p. 22, line 1 (Conf); p. 22, lines 21-22 (Conf); and p. 28, lines 4-11 (Conf); **P-1813: T-182 [ENG]**, p. 62, lines 1-14; **P-2476: T-213 [ENG]**, p. 33, lines 12-14; **P-1823: CAR-OTP-2063-0369-R02**, at 0376, para. 38; **P-0287: CAR-OTP-2001-2707**, at 2728; **CAR-OTP-2059-0384** at 00:02:29; from [00:00:00] to [00:14:37] and its translated transcript **CAR-OTP-2118-5633**; **P-1962: CAR-OTP-2058-0573**, from [00:29:50] to [00:31:32] and its transcript **CAR-OTP-2118-0420**, at 0436, lines 590-621; **CAR-OTP-2114-0149-R05**, at 0158, para. 54.

139. Mr Yekatom was informed of Saleh's murder<sup>358</sup> and offered to assist to pay for Saleh's burial, but eventually he did not provide the money for it<sup>359</sup> and Saleh's Muslim family could not attend his burial due to the Anti-Balaka presence in Mbaïki.<sup>360</sup> Saleh's burial was made possible with Red Cross assistance and the escort of the MISCA in Mbaïki.<sup>361</sup>

140. Mr Yekatom attended a meeting at the beginning of March 2014 with the *gendarmérie* and the MISCA where this crime was discussed.<sup>362</sup> The Accused was informed of the identity of the Anti-Balaka element responsible for Saleh's murder,<sup>363</sup> but he did not administer any punishment for this crime.<sup>364</sup>

141. Several witnesses, including dual status P-1666 and P-2353, explained that before the crisis, Muslims lived in harmony with Christians in Mbaïki, where inter-religious and inter-ethnic relationships were common.<sup>365</sup> However, when the Anti-Balaka arrived, these relationships ended and the crimes described above were committed by Mr Yekatom and other Anti-Balaka elements in a coordinated effort to cleanse the towns and villages along the PK9-Mbaïki axis of their Muslim population.<sup>366</sup>

142. In this regard, dual status P-1666 testified that since January 2014 Muslims from Mbaïki were killed by the Anti-Balaka in outlying areas like Bossongo just because they were Muslims.<sup>367</sup> And upon the entry of the Anti-Balaka in Mbaïki and Bimon, Christians welcomed and cheered them as liberators, singing to them and putting clothing wraps on the ground so that they could enter crossing over them.<sup>368</sup> In turn, Muslims in Mbaïki were fearful of being attacked, faced difficulty even to pray and some people who fled to Mbaïki [REDACTED].<sup>369</sup>

<sup>358</sup> **P-1647**: [T-194 \[ENG\]](#), p. 65, lines 20-23.

<sup>359</sup> **P-1838**: [T-215 \[ENG\]](#), p. 20, line 15 to p. 22, line 7; [T-216 \[ENG\]](#), p. 21, lines 12-16; [CAR-OTP-2100-0252-R05](#), at 0270, para. 99 and at 0271, para. 104.

<sup>360</sup> **P-1838**: [T-215 \[ENG\]](#), p. 37, line 10 to p. 38, line 3.

<sup>361</sup> **P-1838**: [T-215 \[ENG\]](#), p. 38, lines 9-13; [T-216 \[ENG\]](#), p. 25, lines 4-6.

<sup>362</sup> **P-1647**: [T-194 \[ENG\]](#), p. 65, line 24 to p. 66, line 2; **P-1813**: [T-180 \[ENG\]](#), p. 35, line 24 to p. 36, line 10.

<sup>363</sup> **P-1647**: [T-194 \[ENG\]](#), p. 65, lines 20-23; **P-1813**: [T-180 \[ENG\]](#), p. 36, line 3.

<sup>364</sup> **P-1647**: [T-194 \[ENG\]](#), p. 64, lines 6-11 and p. 66, lines 10-14; [T-194 \[FR\]](#), p. 63, line 28 to p. 64, line 5 and p. 65, line 25 to p. 66, line 2; **P-1813**: [T-180 \[ENG\]](#), p. 46, lines 22-24.

<sup>365</sup> **P-1666**: [T-230 \[ENG\]](#), p. 31, lines 4-8 and p. 32, lines 3-7; **P-2353**: [T-161 \[ENG\]](#), p. 57, line 18 to p. 58, line 7; **P-1595**: [T-106 \[ENG\]](#), p. 10, lines 14-15; **P-1838**: [CAR-OTP-2100-0252-R05](#), at 0254-0255, para. 15.

<sup>366</sup> **P-1666**: [T-230 \[ENG\]](#), p. 31, lines 16-22; **P-0954**: [T-168 \[ENG\]](#), p. 56, lines 7-17; [CAR-OTP-2048-0171-R03](#), at 0187, para. 96; **P-2475**: [T-130 \[ENG\]](#), p. 22, lines 11-13 (Conf); **P-1838**: [CAR-OTP-2100-0252-R05](#), at 0262, para. 53; **P-2389**: [CAR-OTP-2104-0033-R03](#), at 0044, paras. 59, 62; **P-2419**: [CAR-OTP-2112-0036-R03](#), at 0049, para. 73; at 0055, paras. 109-110; and at 0057, para. 120.

<sup>367</sup> **P-1666**: [T-231 \[ENG\]](#), p. 11, line 22 to p. 12, line 14.

<sup>368</sup> **P-1666**: [T-230 \[ENG\]](#), p. 58, lines 9-18; **P-2041**: [T-229 \[ENG\]](#), p. 83, lines 1-4; [CAR-OTP-2104-0003-R02](#), at 0011, para. 51; **P-2419**: [CAR-OTP-2112-0036-R03](#), at 0048, para. 69.

<sup>369</sup> **P-1666**: [T-231 \[ENG\]](#), p. 17, line 20 to p. 18, line 4 (Conf); [CAR-OTP-2017-0115](#), at 0128; **P-2041**: [T-229 \[ENG\]](#), p. 83, lines 8-9.

By contrast, [REDACTED].<sup>370</sup> Only Christian women who were married to Muslims also suffered a great deal because the Anti-Balaka pillaged their property and raped many of them.<sup>371</sup>

143. In conclusion, the attack by Mr Yekatom and his elements on Muslim civilians, their expulsion, the murder of a prominent Muslim leader and the commission of other violent crimes,<sup>372</sup> severely deprived the Muslim inhabitants of the towns and villages along the PK9-Mbaïki axis of their fundamental rights, such as the rights to life, liberty, mental and bodily integrity, dignity and religious freedom.

**d) Crimes committed in Bossangoa**

144. In 2013, Bossangoa, the capital of the Ouham Prefecture, located around 300 km north of Bangui and 200 km south of the Chadian border,<sup>373</sup> comprised around 36,000 inhabitants, including 8,000 Muslims.<sup>374</sup>

145. The Anti-Balaka terrorised the Muslim population in several villages around Bossangoa since August 2013 (Zere, Bowaye, Benzambe, Koro-Mpoko, Sadjo),<sup>375</sup> and conducted an attack on Bossangoa on 17 September 2013<sup>376</sup> which, as testified by dual status P-2049, [REDACTED].<sup>377</sup> Thereafter, the Anti-Balaka conducted a second attack on then Seleka-controlled Bossangoa, also with civilian casualties.<sup>378</sup> Several witnesses, including dual status P-2049 and P-2657, testified that the second attack by the Anti-Balaka began in the afternoon

<sup>370</sup> P-1666: [T-231 \[ENG\]](#), p. 20, lines 22-25 (Conf).

<sup>371</sup> P-1962: [T-139 \[FR\]](#), p. 40, lines 16-17 and p. 41, lines 19-20.

<sup>372</sup> See *supra* paras. 125-140.

<sup>373</sup> P-1813: [CAR-OTP-2108-0537](#), at 0546; P-2049: [CAR-OTP-2075-1375](#), at 1375; [CAR-OTP-2118-9140](#), at 9140.

<sup>374</sup> [CAR-OTP-2079-0678](#), at 0678.

<sup>375</sup> P-2657: [T-104 \[ENG\]](#), p. 10, line 11 to p. 11, line 17; P-2049: [T-100 \[ENG\]](#), p. 34, line 12 to p. 36, line 4 (Conf); p. 39 line 9 to p. 41, line 17 (Conf); p. 42, line 7 to p. 44, line 5 (Conf); and p. 46, line 1 to p. 47, line 20 (Conf); [T-102 \[ENG\]](#), p. 36, lines 9-17; P-2454: [T-136 \[ENG\]](#), p. 77, lines 7-12, 18-19; [CAR-OTP-2111-0415-R04](#), at 0420-0425, paras. 27-46; P-2462: [T-059 \[ENG\]](#), p. 31, line 23 to p. 32, line 15; P-2200: [CAR-OTP-2088-2146-R04](#), at 2151-2152, paras. 27-28.

<sup>376</sup> P-2049: [T-100 \[ENG\]](#), p. 62, line 21 to p. 63, line 13 and p. 63, line 22 to p. 65, line 18 (Conf); P-2657: [T-104 \[ENG\]](#), p. 12, lines 5-9, 12 and p. 16, lines 15-21 (Conf); P-2453: [T-138 \[ENG\]](#), p. 9, lines 11-14; [CAR-OTP-2111-0415-R04](#), at 0426, paras. 49-51; P-2462: [T-059 \[ENG\]](#), p. 15, line 15 to p. 16, line 23 (Conf); P-2658: [T-135 \[ENG\]](#), p. 10, lines 18-21 (Conf); [CAR-OTP-2126-0012-R02](#), at 0028, para. 105 and at 0031, paras. 119-122; P-0567: [CAR-OTP-2059-0084-R04](#), at 0096, para. 76; P-2200: [CAR-OTP-2088-2146-R04](#), at 2152-2153, paras. 29-38.

<sup>377</sup> P-2049: [T-100 \[ENG\]](#), p. 64, lines 24-25 (Conf); [T-103 \[ENG\]](#), p. 19, lines 21-24 (Conf); and p. 20, lines 3-5 (Conf).

<sup>378</sup> P-2049: [T-101 \[ENG\]](#), p. 5, lines 11-16 and p. 6, lines 4-16.

of 5 December 2013,<sup>379</sup> a few hours after hundreds of Anti-Balaka elements had mounted an armed attack on Bangui.<sup>380</sup>

146. The evidence establishes beyond reasonable doubt that the crimes of (a) directing an attack against a civilian population, (b) murder, (c) destruction of the adversary's property and pillaging, (d) directing attacks against religious buildings, (e) displacement or forcible transfer and deportation, (f) severe deprivation of physical liberty, as well as (g) rape and (h) persecution, were committed during and after the attack.

147. Several witnesses, including dual status P-2049 and P-2657, testified that after having defeated the Seleka, the Anti-Balaka went on to target Bossangoa's Muslim civilian population in residential areas,<sup>381</sup> killing and injuring several civilians.<sup>382</sup> In the course of the 5 December 2013 attack, the Anti-Balaka killed at least over a dozen fleeing Muslim civilians.<sup>383</sup> As testified *inter alia* by dual status P-2657, none of them was Seleka, armed or was otherwise engaged in combat.<sup>384</sup> The Anti-Balaka made no distinction between Seleka forces and Muslim civilians in their effort to cleanse the town and no quarter was given.<sup>385</sup> The objective of the Anti-Balaka was to chase out not just the Seleka, but all Muslims from Ouham Prefecture altogether.<sup>386</sup>

<sup>379</sup> **P-2049:** [T-100 \[ENGL\]](#), p. 71, line 18 to p. 73, line 6 (Conf); **P-2657:** [T-104 \[ENGL\]](#), p. 18, line 20 to p. 20, line 10 (Conf); **P-0966:** [T-116 \[ENGL\]](#), p. 42, lines 11-12; [CAR-OTP-2031-0241-R03](#), at 0251-0252, paras. 59-61; **P-1577:** [T-027 \[ENGL\]](#), p. 40, lines 5-8, 14-17 (Conf); [CAR-OTP-2081-0769-R01](#), at 0785, 0790; **P-1577:** [CAR-OTP-2085-6486](#), from [00:00:00] to [00:04:48] and its translated transcription [CAR-OTP-2107-7148](#); **P-2453:** [T-136 \[ENGL\]](#), p. 81, line 22 to p. 82, line 8; [CAR-OTP-2111-0415-R04](#), at 0428-0430, paras. 61-68; **P-2658:** [T-135 \[ENGL\]](#), p. 12, lines 22-23 (Conf); [CAR-OTP-2126-0012-R02](#), at 0033, para. 131; **P-2269:** [CAR-OTP-2111-0336-R01](#), at 0344, para. 58; **P-2200:** [CAR-OTP-2088-2146-R04](#), at 2155, para. 44.

<sup>380</sup> See *supra* sub-section VI.2.a). See also **P-0287:** [T-021 \[ENGL\]](#), p. 54, line 12 to p. 55, line 5; [CAR-OTP-2001-0409](#), at 0409; [CAR-OTP-2055-1987](#), at 2151; [CAR-OTP-2001-0835](#), at 0875.

<sup>381</sup> **P-2049:** [T-100 \[ENGL\]](#), p. 71, line 25 to p. 72, line 2 (Conf); **P-1577:** [T-027 \[ENGL\]](#), p. 38, lines 4-10 (Conf); [CAR-OTP-2081-0769-R01](#), at 0785; **P-2462:** [T-059 \[ENGL\]](#), p. 19, lines 4-17 (Conf); **P-1577:** [CAR-OTP-2085-6486](#), from [00:00:00] to [00:04:48] and its translated transcription [CAR-OTP-2107-7148](#); **P-2453:** [CAR-OTP-2111-0415-R04](#), at 0429, paras. 65-66.

<sup>382</sup> **P-2049:** [T-100 \[ENGL\]](#), p. 72, lines 10-25 (Conf); [T-101 \[ENGL\]](#), p. 6, lines 4-9; p. 10, lines 19-24; and p. 18, line 23 to p. 19, line 7 (Conf); **P-2657:** [T-104 \[ENGL\]](#), p. 19, lines 3-11 (Conf); **P-2462:** [T-059 \[ENGL\]](#), p. 37, lines 7-8 (Conf); **P-2200:** [CAR-OTP-2088-2146-R04](#), at 2155, para. 46; **P-1577:** [CAR-OTP-2081-0769-R01](#), at 0787.

<sup>383</sup> **P-2049:** [T-101 \[ENGL\]](#), p. 6, lines 4-9; p. 6, line 14 to p. 7, line 1; p. 9, lines 17-23; and p. 18, line 23 to p. 19, line 7 (Conf); **P-2657:** [T-104 \[ENGL\]](#), p. 19, lines 3-11 and p. 26, line 21 to p. 27, line 2 (Conf); **P-2200:** [CAR-OTP-2088-2146-R04](#), at 2155-2157, paras. 45-59; [CAR-OTP-2088-2207](#); **P-2453:** [T-136 \[ENGL\]](#), p. 81, line 24 to p. 82, line 8; [CAR-OTP-2111-0415-R04](#), at 0429-0430, paras. 66-68; **P-2462:** [T-059 \[ENGL\]](#), p. 32, line 21 to p. 33, line 3; p. 32, lines 8-14; and p. 34, line 19 to p. 35, line 2 (Conf); **P-1577:** [CAR-OTP-2081-0769-R01](#), at 0788-0790; **P-2658:** [CAR-OTP-2126-0012-R02](#), at 0034, para. 137; [CAR-OTP-2001-2043](#), at 2055-2056; [CAR-OTP-2085-3982](#); [CAR-OTP-2085-3892](#); [CAR-OTP-2085-3822](#); [CAR-OTP-2085-3632](#); [CAR-OTP-2085-3572](#).

<sup>384</sup> See *e.g.* **P-2657:** [T-105 \[ENGL\]](#), p. 36, lines 18-21; **P-2462:** [T-060 \[ENGL\]](#), p. 12, lines 15-17; **P-2453:** [T-138 \[ENGL\]](#), p. 31, lines 16-25; [CAR-OTP-2111-0415-R04](#), at 0429, para. 66.

<sup>385</sup> **P-0966:** [T-116 \[ENGL\]](#), p. 34, lines 12-16; [CAR-OTP-2031-0241-R03](#), at 0252, para. 64.

<sup>386</sup> **P-0287:** [T-020 \[ENGL\]](#), p. 27, line 21 to p. 28, line 5; [CAR-OTP-2115-0239-R01](#), at 0265, para. 131.

148. After taking control of Bossangoa, the Anti-Balaka established checkpoints throughout the town to extort money from the population.<sup>387</sup> Dual status P-2049 testified that the Anti-Balaka pillaged everything they could from Muslim houses and shops, including roofs, doors and windows.<sup>388</sup> Days into the attack, Muslim houses were also systematically set alight or destroyed, especially in the predominantly Muslim neighbourhoods of Boro, Arabe and Fulbe.<sup>389</sup> The words “Anti-Balaka” were drawn on destroyed Muslim houses, identifying the perpetrators of the attack.<sup>390</sup> By contrast, predominantly Christian neighbourhoods remained intact.<sup>391</sup> By the end of January 2014, the Anti-Balaka had destroyed an estimated 1,500 Muslim houses.<sup>392</sup>

149. In the following weeks, Anti-Balaka elements continued the attack on Bossangoa and left Muslims with no place of worship by dismantling and destroying several mosques, including the central mosque.<sup>393</sup>

150. Several witnesses, including dual status P-2049 and P-2657, testified that Bossangoa’s Muslim inhabitants fled the Anti-Balaka attack on 17 September 2013 and sought refuge at the *École de la Liberté*, a school at the time protected by international forces and turned into a

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<sup>387</sup> **P-0966:** [T-116 \[ENG\]](#), p. 54, lines 5-7; [CAR-OTP-2031-0241-R03](#), at 0252, para. 65; [CAR-OTP-2101-3653](#), at 3657; [CAR-OTP-2042-2930](#), from [00:15:00] to [00:19:17] and its translated transcript [CAR-OTP-2118-5629](#), at 5631-5632, lines 3-55.

<sup>388</sup> **P-2049:** [T-101 \[ENG\]](#), p. 28, lines 5-10 and p. 42, line 6 to p. 43, line 25.

<sup>389</sup> **P-2049:** [T-101 \[ENG\]](#), p. 26, line 20 to p. 27, line 15; **P-0287:** [T-020 \[ENG\]](#), p. 29, lines 7-23 and p. 30, lines 5-24; [CAR-OTP-2115-0239-R01](#), at 0263-0264, paras. 118-119; **D30-4496:** [T-289 \[ENG\]](#), p. 65, lines 6-13; **P-2200:** [CAR-OTP-2088-2146-R04](#), at 2158, paras. 64-65.

<sup>390</sup> **P-0287:** [T-020 \[ENG\]](#), p. 31, lines 2-4; [CAR-OTP-2001-0835](#), at 0886-0887.

<sup>391</sup> **P-2453:** [CAR-OTP-2111-0415-R04](#), at 0432, para. 81.

<sup>392</sup> **P-2453:** [T-136 \[ENG\]](#), p. 91, lines 3-6; [CAR-OTP-2111-0415-R04](#), at 0433-0434, paras. 83-84, 86-89; **P-2462:** [T-059 \[ENG\]](#), p. 40, line 22 to p. 41, line 8 and p. 53, lines 10-12; [CAR-OTP-2005-0197](#), at 0197, 0199; **P-2193:** [CAR-OTP-2088-2204](#), from [00:00:00] to [00:12:50] and its translated transcript [CAR-OTP-2127-6408](#), at 6410-6412, lines 3-75; [CAR-OTP-2001-2308](#), at 2332; **P-1577:** [CAR-OTP-2081-0769-R01](#), at 0789; **P-2133:** [CAR-OTP-2093-0267-R02](#), at 0280, para. 97. For pictures and satellite imagery, see [CAR-OTP-2085-3122](#); [CAR-OTP-2001-5350](#); [CAR-OTP-2079-0671](#).

<sup>393</sup> **P-2462:** [T-059 \[ENG\]](#), p. 41, line 13 to p. 42, line 1; [CAR-OTP-2108-1031](#) from [00:00:00] to [00:00:36] and its translated transcript [CAR-OTP-2122-9703](#); **P-2049:** [T-101 \[ENG\]](#), p. 24, lines 2-7; **P-2200:** [CAR-OTP-2088-2146-R04](#), at 2158, para. 67; **P-2453:** [CAR-OTP-2111-0415-R04](#), at 0432, para. 82 and at 0433, para. 85; **P-2193:** [CAR-OTP-2088-2204](#), from [00:03:42] to [00:04:30] and its translated transcript [CAR-OTP-2127-6408](#), at 6410, lines 14-18; **P-2377:** [CAR-OTP-2108-0609-R02](#), at 0625, para. 69; **P-2652:** [CAR-OTP-2126-0175-R01](#), at 0188, para. 70.

displaced people camp.<sup>394</sup> Many Muslims from the surrounding villages fleeing Anti-Balaka violence had already settled there in the previous weeks.<sup>395</sup>

151. As testified *inter alia* by dual status P-2049, the number of displaced Muslims rose to thousands, and by the end of December 2013, the *École de la Liberté* sheltered over 7,000, mostly women and children from the Muslim neighbourhood of Boro.<sup>396</sup> Some of them had been forcibly taken from their homes by the Anti-Balaka.<sup>397</sup>

152. Several witnesses, including dual status P-2049, testified that, after the 17 September 2013 attack, it was impossible for displaced Muslims to leave the *École de la Liberté* and move in Bossangoa safely.<sup>398</sup> By April 2014, virtually the entire Muslim population remaining in Bossangoa had been evacuated, mainly to Chad.<sup>399</sup> Muslims could not often take possessions

<sup>394</sup> **P-2049:** [T-100 \[ENG\]](#), p. 67, line 20 to p. 68, line 4; [T-101 \[ENG\]](#), p. 44, lines 7-22; [T-103 \[ENG\]](#), p. 34, lines 1-2; **P-2462:** [T-059 \[ENG\]](#), p. 31, line 9 to p. 32, line 17; **P-2657:** [T-104 \[ENG\]](#), p. 11, lines 8-9; p. 20, lines 3-5; and p. 28, line 25 to p. 29, line 2 (Conf); **P-2658:** [T-135 \[ENG\]](#), p. 12, lines 22-24 (Conf); [CAR-OTP-2126-0012-R02](#), at 0033, paras. 133, 135; **P-2200:** [CAR-OTP-2088-2146-R04](#), at 2155, para. 44 and at 2158, para. 64; **P-1577:** [CAR-OTP-2088-0731](#). See also **P-2049:** [CAR-OTP-2081-0973](#), from [00:02:39] to [00:02:54] and its translated transcript [CAR-OTP-2122-9226](#), at 9229, lines 52-58; [CAR-OTP-2127-6617](#), at 6620, 6622; [CAR-OTP-2127-6626](#), at 6629 (inset 2); For pictures, see [CAR-OTP-2085-5082](#), [CAR-OTP-2085-5092](#) and commentary provided by **P-1577:** [T-027 \[ENG\]](#), p. 34, line 23 to p. 35, line 13; p. 65, lines 2-7; and p. 66, lines 7-10 (Conf); [CAR-OTP-2081-0769-R01](#), at 0787.

<sup>395</sup> **P-2049:** [T-101 \[ENG\]](#), p. 17, lines 4-5; **P-2657:** [T-104 \[ENG\]](#), p. 11, lines 8-9; p. 20, lines 3-5; and p. 28, line 25 to p. 29, line 2 (Conf); **P-2462:** [T-059 \[ENG\]](#), p. 31, line 20 to p. 32, line 1; **P-1576:** [T-239 \[ENG\]](#), p. 49, lines 9-14 (Conf); [CAR-OTP-2060-0280-R01](#), at 0282-0283, para. 15; **P-2453:** [T-136 \[ENG\]](#), p. 81, lines 6-17; [CAR-OTP-2111-0415-R04](#), at 0425, para. 48; **P-2658:** [T-136 \[ENG\]](#), p. 81, lines 10-19; [CAR-OTP-2126-0012-R02](#), at 0033, paras. 133-134; **P-2652:** [CAR-OTP-2126-0175-R01](#), at 0181-0182, para. 35 and at 0183, paras. 42-43; **P-0505:** [CAR-OTP-2014-0129-R01](#), at 0133, para. 24 and at 0134, para. 29; **P-2467:** [CAR-OTP-2109-0520-R01](#), at 0525, paras. 23-24; [CAR-OTP-2081-0496](#), at 0540; [CAR-OTP-2005-0197](#), at 0205.

<sup>396</sup> **P-2049:** [T-101 \[ENG\]](#), p. 45, lines 5-11; **P-2462:** [T-059 \[ENG\]](#), p. 42, line 25 to p. 43, line 5; [CAR-OTP-2127-4059](#), at 4060; [CAR-OTP-2127-4124](#), at 4127; [CAR-OTP-2006-1218](#), at 1220; [CAR-OTP-2079-1163](#), at 1163; **D30-4496:** [T-290 \[ENG\]](#), p. 24, lines 14-20; **D30-4608:** [T-292 \[ENG\]](#), p. 52, line 24 to p. 54, line 4 (Conf); **P-1577:** [CAR-OTP-2085-4492](#), [CAR-OTP-2085-4502](#), [CAR-OTP-2085-4512](#), [CAR-OTP-2085-4552](#), [CAR-OTP-2085-4562](#), [CAR-OTP-2085-4572](#); **P-1577:** [CAR-OTP-2081-0769-R01](#), at 0791; **P-2657:** [CAR-OTP-2079-0677](#), from [00:00:51] to [00:01:16] and its translated transcript [CAR-OTP-2127-7186](#), at 7187, lines 12-28; **P-2049:** [CAR-OTP-2081-0973](#), from [00:02:50] to [00:03:04] and its translated transcript [CAR-OTP-2122-9226](#), at 9229, lines 57-65; **P-2652:** [CAR-OTP-2126-0175-R01](#), at 0187, para. 65.

<sup>397</sup> **P-0966:** [CAR-OTP-2031-0241-R03](#), at 0252, para. 63.

<sup>398</sup> **P-2049:** [T-101 \[ENG\]](#), p. 45, lines 12-23 and p. 46, lines 2-22; **P-1577:** [T-027 \[ENG\]](#), p. 66, line 25 to p. 67, line 6; [CAR-OTP-2081-0769-R01](#), at 0791; **P-2200:** [CAR-OTP-2088-2146-R04](#), at 2159, paras. 72-73; **P-2652:** [CAR-OTP-2126-0175-R01](#), at 0187-0188, para. 66.

<sup>399</sup> **P-2049:** [T-101 \[ENG\]](#), p. 48, lines 3-19 (Conf); **P-2462:** [T-059 \[ENG\]](#), p. 46, line 5 to p. 47, line 3 (Conf); **P-2657:** [T-104 \[ENG\]](#), p. 37, line 13 to p. 38, line 1; **D30-4496:** [T-289 \[ENG\]](#), p. 65, lines 1-15; **D30-4608:** [T-292 \[ENG\]](#), p. 34, lines 9-21; **P-2453:** [T-138 \[ENG\]](#), p. 51, line 22 to p. 52, line 5; [CAR-OTP-2111-0415-R04](#), at 0435, paras. 95-99; **P-0287:** [T-020 \[ENG\]](#), p. 31, lines 2-4; [CAR-OTP-2115-0239-R01](#), at 0264, para. 120; **P-2658:** [T-136 \[ENG\]](#), p. 84, lines 2-5; [CAR-OTP-2126-0012-R02](#), at 0035, para. 151 and at 0036, paras. 153-154; **P-2012:** [T-025 \[ENG\]](#), p. 21, lines 13-19 (Conf); [CAR-OTP-2081-0603](#), at 0625; **P-2200:** [CAR-OTP-2088-2146-R04](#), at 2160, paras. 76-80; **P-0567:** [CAR-OTP-2059-0084-R04](#), at 0096, para. 76; **P-2652:** [CAR-OTP-2126-0175-R01](#), at 0189, para. 77; [CAR-OTP-2001-2885](#), at 2885; [CAR-OTP-2031-0157](#), at 0158; [CAR-OTP-2001-1057](#), at 1059, para. 10; **P-2133:** [CAR-OTP-2093-0267-R02](#), at 0280-0281, paras. 98-99; [CAR-OTP-2101-1682](#), at 1682; [CAR-OTP-2101-4056](#), at 4056; [CAR-OTP-2023-1844](#), from [00:00:00] to [00:03:42] and its transcript [CAR-OTP-2122-9398](#), at 9399-9400, lines 5-55.

with them from the *École de la Liberté* as there was not enough space in the vehicles.<sup>400</sup> Many of the evacuated Muslim civilians are still in refugee camps in Chad.<sup>401</sup>

153. V44-0001, a Muslim, fled from Bossangoa to Bangui accompanied by her two children after being informed of the killing of her husband by Christians<sup>402</sup> and without having the possibility of a funeral ceremony to mourn his death.<sup>403</sup> Leaving Bossangoa was very hard mentally and physically for V44-0001 and her family.<sup>404</sup> In order to provide her family with a better life,<sup>405</sup> she subsequently left for a refugee camp in Chad and eventually left her children in the Democratic Republic of the Congo (the “DRC”) with her sister.<sup>406</sup> The living conditions in the refugee camp in Chad were very precarious, among other reasons for its overcrowded population.<sup>407</sup> V44-0001 testified that she does not know what can push her to go back and live in the CAR.<sup>408</sup> She hopes that she will be able to have her children with her again and provide for them.<sup>409</sup>

154. While the Muslims were protected by international forces inside the *École de la Liberté*, they could not leave it for fear of being killed by the Anti-Balaka.<sup>410</sup> Some weeks after the Anti-Balaka overran Bossangoa, [REDACTED] after leaving the *École de la Liberté* to check on his house.<sup>411</sup> Even for the Muslim civilians within the *École de la Liberté* there was insecurity, [REDACTED].<sup>412</sup>

<sup>400</sup> P-2453: [T-136 \[ENG\]](#), p. 93, lines 9-16.

<sup>401</sup> See *infra* sub-section VIII.4.d).

<sup>402</sup> V44-0001: [T-267 \[ENG\]](#), p. 9, lines 22-25.

<sup>403</sup> V44-0001: [T-267 \[ENG\]](#), p. 12, lines 15-17; p. 16, lines 15-24; and p. 33, lines 5-11.

<sup>404</sup> V44-0001: [T-267 \[ENG\]](#), p. 11, lines 14-23 and p. 12, lines 10-12.

<sup>405</sup> V44-0001: [T-267 \[ENG\]](#), p. 19, lines 5-18.

<sup>406</sup> V44-0001: [T-267 \[ENG\]](#), p. 17, line 17 to p. 18, line 17.

<sup>407</sup> V44-0001: [T-267 \[ENG\]](#), p. 15, lines 15-21; D30-4608: [T-292 \[ENG\]](#), p. 52, lines 4-10 (Conf).

<sup>408</sup> V44-0001: [T-267 \[ENG\]](#), p. 21, line 24 to p. 22, line 3.

<sup>409</sup> V44-0001: [T-267 \[ENG\]](#), p. 18, lines 3-4 and p. 20, lines 1-4.

<sup>410</sup> P-2049: [T-101 \[ENG\]](#), p. 46, lines 4-9; P-1577: [T-027 \[ENG\]](#), p. 66, line 22 to p. 67, line 1; [CAR-OTP-2081-0769-R01](#), at 0791; P-2462: [T-059 \[ENG\]](#), p. 45, lines 9-14; P-2453: [T-137 \[ENG\]](#), p. 84, lines 9-13; D30-4496: [T-290 \[ENG\]](#), p. 25, line 20 to p. 26, line 5; P-2200: [CAR-OTP-2088-2146-R04](#), at 2159, paras. 72-73; P-2652: [CAR-OTP-2126-0175-R01](#), at 0187-0188, para. 66; [CAR-OTP-2079-1159](#), at 1159; [CAR-OTP-2079-0678](#), at 0678; [CAR-OTP-2001-2885](#), at 2885.

<sup>411</sup> P-2462: [T-059 \[ENG\]](#), p. 45, lines 15-20; P-2453: [CAR-OTP-2111-0415-R04](#), at 0434, paras. 93-94; P-2658: [CAR-OTP-2126-0012-R02](#), at 0034-0035, para. 144 and at 0036, para. 153.

<sup>412</sup> D30-4608: [T-292 \[ENG\]](#), p. 47, lines 12-23 (Conf) and p. 49, line 23 to p. 50, line 13 (Conf); [CAR-OTP-2079-1170](#), at 1170.

155. Anti-Balaka elements raped a Muslim woman during the attack on Bossangoa on 5 December 2013. P-2462 testified that [REDACTED],<sup>413</sup> [REDACTED].<sup>414</sup> [REDACTED].<sup>415</sup> [REDACTED]<sup>416</sup> [REDACTED].<sup>417</sup> [REDACTED].<sup>418</sup> [REDACTED].<sup>419</sup>

156. A second Muslim woman was captured and raped by two armed Anti-Balaka elements during the 5 December 2013 attack on Bossangoa.<sup>420</sup> Dual status P-2657 testified that, [REDACTED].<sup>421</sup> [REDACTED].<sup>422</sup> [REDACTED].<sup>423</sup> [REDACTED].<sup>424</sup> [REDACTED].<sup>425</sup> [REDACTED].<sup>426</sup>

157. Unfortunately, these were not isolated cases. Many Victims relate in their application forms having suffered rapes or acts of sexual violence. In fact, at least 30 per cent of the participating Victims recalled having suffered sexual and gender-based violence (“SGBV”) crimes and gang rapes, mainly at their domiciles and in the presence of some of their relatives. Women and girls were also attacked and raped while they were going to the market, to their fields, to school or to work.<sup>427</sup> Therefore, the CLRV regret that the Prosecution was able to charge only two instances of SGBV crimes.

158. Several witnesses, including dual status P-2049, testified that before the crisis, Muslims lived in harmony with Christians in and around Bossangoa, where inter-religious and inter-ethnic marriages were common.<sup>428</sup> However, with the crisis, the crimes described above were committed by Anti-Balaka elements in a coordinated effort to cleanse Bossangoa of its Muslim

<sup>413</sup> P-2462: [T-059 \[ENG\]](#), p. 22, lines 10-14, 19-21 and p. 24, line 1 (Conf).

<sup>414</sup> P-2462: [T-059 \[ENG\]](#), p. 23, lines 7-8.

<sup>415</sup> P-2462: [T-059 \[ENG\]](#), p. 24, lines 2-3 (Conf).

<sup>416</sup> P-2462: [T-059 \[ENG\]](#), p. 25, lines 14-15 (Conf).

<sup>417</sup> P-2462: [T-059 \[ENG\]](#), p. 24, lines 6-15 (Conf).

<sup>418</sup> P-2462: [T-059 \[ENG\]](#), p. 24, lines 21-25 (Conf).

<sup>419</sup> P-2462: [T-059 \[ENG\]](#), p. 25, lines 7, 17-25 (Conf); [CAR-OTP-2127-9467](#). Regarding [REDACTED] ([CAR-OTP-2130-6350-R01](#)), P-2642’s credibility cannot be affected by the mere fact that [REDACTED].

<sup>420</sup> P-2657: [T-104 \[ENG\]](#), p. 19, lines 12-21 (Conf); p. 21, lines 23-24 (Conf); and p. 27, lines 5-6 (Conf); P-2049: [T-100 \[ENG\]](#), p. 73, lines 1-3 (Conf). [REDACTED]. [REDACTED].

<sup>421</sup> P-2657: [T-104 \[ENG\]](#), p. 19, lines 3-8 (Conf) and p. 25, lines 10-13 (Conf).

<sup>422</sup> P-2657: [T-104 \[ENG\]](#), p. 19, lines 12-13, 19-20 (Conf).

<sup>423</sup> P-2657: [T-104 \[ENG\]](#), p. 20, lines 13-19 (Conf).

<sup>424</sup> P-2657: [T-104 \[ENG\]](#), p. 24, lines 5-10 (Conf).

<sup>425</sup> P-2657: [T-104 \[ENG\]](#), p. 23, line 11 to p. 24, line 1 (Conf).

<sup>426</sup> P-2657: [T-104 \[ENG\]](#), p. 22, lines 12-22 (Conf).

<sup>427</sup> See the “Soumissions écrites des Représentants légaux communs des Victimes en vertu de la règle 121-9 du Règlement de procédure et de preuve”, No. [ICC-01/14-01/18-336-Conf](#), 13 September 2019, paras. 18-20. A public redacted version was filed on 15 October 2019 as No. [ICC-01/14-01/18-336-Red](#). See also the “Victims’ Views and Concerns arising from the Prosecution’s Additional Observations on the Registry’s First Assessment Report on Applications for Victims’ Participation in Pre-Trial Proceedings”, No. [ICC-01/14-01/18-239](#), 9 July 2019, para. 5.

<sup>428</sup> P-2049: [T-102 \[ENG\]](#), p. 39, line 24 to p. 40, line 2; V44-0001: [T-267 \[ENG\]](#), p. 7, lines 7-15; P-2453: [T-137 \[ENG\]](#), p. 11, lines 19-23.

population, which, based on their religious, national or ethnic affiliation, was perceived as collectively responsible for, complicit with, and/or supportive of, the Seleka.<sup>429</sup>

159. The Anti-Balaka's attack on thousands of Muslim civilians at Bossangoa severely deprived them of fundamental rights, including the rights to life, liberty, mental and bodily integrity, dignity, and religious freedom. Their attack comprised of the pillaging and destruction of Muslim property and places of worship; the expulsion of Muslims; restriction of their liberty; and the commission of numerous crimes of violence, including sexual violence.<sup>430</sup>

## VII. SUBMISSIONS ON THE LIABILITY OF THE ACCUSED

### 1. Brief overview of the modes of liability charged against the Accused

#### a) *Commission as an individual or through another person (direct and indirect perpetration) (article 25(3)(a) of the Statute)*

160. Pursuant to article 25(3)(a) of the Statute, "*a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court if that person commits [the] crime [...] as an individual*". This mode of liability refers to the physical perpetration of the crime by the person himself or herself.<sup>431</sup> Moreover, the jurisprudence of the Court has already established that the commission "*as an individual*" requires that the accused undertakes the physical carrying out of the elements of the crime,<sup>432</sup> with the requisite intent and knowledge pursuant to article 30 of the Statute as well as any further specific provision.<sup>433</sup>

161. The provision also provides for the liability of an individual who commits a crime "*jointly with another person*" or "*through another person*", regardless of whether that other person is criminally responsible. In the established jurisprudence of the Court, the form of committing the crimes jointly with another person or through another person requires:

<sup>429</sup> P-1577: T-027 [ENG], p. 69, lines 4-9.

<sup>430</sup> See *supra* paras. 147-156.

<sup>431</sup> See ICTY, *Tadić*, Case No. IT-94-1-A, [Appeal Judgement](#) (Appeal Chamber), 15 July 1999, para. 188; ICTR, *Renzaho*, Case No. ICTR-97-31-T, [Judgement and Sentence](#) (Trial Chamber I), 14 July 2009, para. 739; and STL, Case No. STL-11-01/I, [Interlocutory Decision on the Applicable Law: Terrorism, Conspiracy Homicide, Perpetration, Cumulative Charging](#) (Appeals Chamber), 16 February 2011, para. 216.

<sup>432</sup> See the [Al Hassan Trial Judgment](#), *supra* note 92, para. 1218 and the "Decision on confirmation of charges" (Pre-Trial Chamber I), No. ICC-01/04-01/06-803-tEN, 14 May 2007, para. 332. See also the [Bemba et al. Appeal Judgment](#), *supra* note 61, para. 706; the [Lubanga Appeal Judgment](#), *supra* note 59, para. 467; the "Decision on the confirmation of charges" (Pre-Trial Chamber I), No. ICC-01/04-01/07-717, 30 September 2008, para. 488; and the [Bemba Trial Judgment](#), *supra* note 70, para. 58.

<sup>433</sup> See the [Ongwen Trial Judgment](#), *supra* note 92, para. 2782; the [Ntaganda Trial Judgment](#), *supra* note 91, para. 735; and the [Bemba et al. Trial Judgment](#), *supra* note 68, para. 58.

1. The existence of an agreement or common plan between the accused and other persons to commit the crimes or to engage in a conduct which, in the ordinary course of events, would result in the commission of the crimes;<sup>434</sup>
2. The control of the members of the common plan over other persons who execute the material elements of the crimes by subjugating the will of the direct perpetrators;<sup>435</sup> and
3. The accused, though not required to carry out the criminal conduct directly and personally, must have a control over the crime by virtue of his or her essential contribution to it and the resulting power to frustrate its commission.<sup>436</sup>

**b) Ordering (article 25(3)(b) of the Statute)**

162. Pursuant to article 25(3)(b) of the Statute, “a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court if that person [o]rders [...] the commission of such a crime which in fact occurs or is attempted”. Ordering is an aggravated form of inducement. The distinguishing feature of ordering is the “authority requirement”. This authority involves neither *de jure* nor *de facto* superior/subordinate relationship between the person who orders the crime and those who execute the order.<sup>437</sup> In the jurisprudence of the Court, the imputation of liability under “ordering” requires:

1. The person is in a position of authority;
2. The person instructs another person in any form to either (a) commit a crime which in fact occurs or is attempted; or (b) perform an act or omission in the execution of which a crime is carried out;
3. The order had an effect on the commission or attempted commission of the crime;<sup>438</sup> and

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<sup>434</sup> See the [Ntaganda Trial Judgment](#), *supra* note 91, paras. 771-772, 775. The Appeals Chamber in the *Lubanga* case clarified that the commission “jointly with another person” requires an agreement between the perpetrators, leading to the commission of the crimes; while the commission “through another person” entails the accused making use of another person who actually carries out the incriminated acts by virtue of the former’s control over that person and thus the latter’s conduct is therefore imputed on the former. See the [Lubanga Appeal Judgment](#), *supra* note 59, paras. 445-446.

<sup>435</sup> See the [Ntaganda Trial Judgment](#), *supra* note 91, paras. 774, 777. See also the [Blé Goudé Confirmation Decision](#), *supra* note 141, para. 136.

<sup>436</sup> See the [Ntaganda Trial Judgment](#), *supra* note 91, paras. 774, 778. See also the [Bemba et al. Appeal Judgment](#), *supra* note 61, para. 821.

<sup>437</sup> See OLÁSOLO (H.) & CARNERO ROJO (E.), “Forms of accessorial liability under article 25(3)(b) and (c)”, in STAHN (C.) (ed.), *The Law and practice of the International Criminal Court*, Oxford University Press, 2015, p. 562.

<sup>438</sup> The causality requirements developed in relation to instigation apply to the attribution of liability under ordering. See the [Bemba et al. Appeal Judgment](#), *supra* note 61, para. 848.

4. The person is at least aware that the crime will be committed in the ordinary course of events as a consequence of the execution or implementation of the order.<sup>439</sup>

**c) *Aiding and abetting (article 25(3)(c) of the Statute)***

163. Pursuant to article 25(3)(c) of the Statute “*a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court if that person [f]or the purpose of facilitating the commission of such a crime aids, abets or otherwise assists in its commission or attempted commission, including providing the means for its commission*”.

164. In the jurisprudence of the Court, the *actus reus* is 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.<sup>440</sup> Nothing in the provision requires that an accessory aid, abet or otherwise assist a specific person, whether considered a “principal perpetrator”, “intermediary perpetrator”, or otherwise;<sup>441</sup> nor that the principal perpetrators knows of the aider or abettor’s existence or his or her assistance to them.<sup>442</sup>

165. It is also not required that the person knows all the details of the crime he or she intend to facilitate – 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.<sup>443</sup> However, the person must act in awareness of at least the essential features of the crime,<sup>444</sup> to be assessed in light of the facts of the case.

**d) *Contributing in any other way to a crime committed by a group of persons (article 25(3)(d) of the Statute)***

166. Pursuant to article 25(3)(d) of the Statute, “*a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court if that person*”, under certain conditions, “*in any other way contributes to the commission or attempted commission of a crime by a group of persons acting with a common purpose*”. In the jurisprudence of the

<sup>439</sup> See the “Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor Against Bosco Ntaganda” (Pre-Trial Chamber II), No. [ICC-01/04-02/06-309](#), 9 June 2014, para. 145.

<sup>440</sup> See the [Bemba et al. Appeal Judgment](#), *supra* note 61, paras. 1324-1325.

<sup>441</sup> *Idem*, para. 1329. See also the [Al Hassan Trial Judgment](#), *supra* note 92, para. 1120.

<sup>442</sup> See the [Bemba et al. Appeal Judgment](#), *supra* note 61, para. 1330.

<sup>443</sup> See the [Al Hassan Trial Judgment](#), *supra* note 92, para. 1227; the [Bemba et al. Appeal Judgment](#), *supra* note 61, paras. 21, 1400; and the [Al Hassan Confirmation Decision](#), *supra* note 141, para. 909.

<sup>444</sup> See the [Bemba et al. Trial Judgment](#), *supra* note 68, para. 98.

Court, the provision requires that : (a) the commission or attempted commission of a crime was carried out by a group of persons acting with a common purpose (a concerted action of a group of person or a common plan); and (b) the person contributes to the commission or attempted commission of such a crime.<sup>445</sup>

167. The provision is of a residual character and is meant to incriminate contributions that a person may provide “in any other way” to the commission of a group crime,<sup>446</sup> with either of the two mental elements, namely (i) the contribution must be intentional;<sup>447</sup> and (ii) it shall either be made: (a) with the aim of furthering the criminal activity or criminal purpose of the group; *or* (b) in the knowledge of the intention of the group to commit the crime.

168. For the purpose of article 25(3)(d) of the Statute, it is not necessary to prove the existence of an agreement or “common plan” among the members of the group, or, thereby arrive at a mutual attribution of their acts.<sup>448</sup> It suffices to prove a shared aim, goal or objective.<sup>449</sup> It is, however, necessary to prove that the perpetrator’s acts were encompassed by the common purpose and thus that the crime at hand formed part of it.<sup>450</sup> Only crimes “which the group harboured the intention to commit” and “falling within the ordinary course of events” can be attributed to the group and incur the accused’s liability under this mode of liability.<sup>451</sup>

169. The natural meaning of “contribution” is that the person engaged in conduct with a causal relationship to the crime, *i.e.* that, but for the contribution, the crime would not have happened or would have happened in a different way. However, in situations in which exceptional, abnormal or unforeseeable factors intervene between the person’s conduct and the eventual crime, any relationship of causation between the person’s conduct and the crime is broken.<sup>452</sup>

170. Article 25(3)(d)(i) of the Statute requires that the accused lent his assistance with the aim of furthering generally the criminal activity or criminal purpose of the group. In contrast,

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<sup>445</sup> See the [Katanga Trial Judgment](#), *supra* note 66, para. 1628. See also the [Al Hassan Trial Judgment](#), *supra* note 92, para. 1232.

<sup>446</sup> See the [Al Hassan Trial Judgment](#), *supra* note 92, para. 1243.

<sup>447</sup> Accordingly, it must be established that the accused both: (a) meant to engage in the relevant conduct that contributes to the crime; and (b) was at least aware that his conduct contributes to the activities of the group of persons for whose crimes he bears responsibility. See article 30(2)(a) of the Statute; the [Al Hassan Trial Judgment](#), *supra* note 92, para. 1246; and the [Katanga Trial Judgment](#), *supra* note 66, para. 1639.

<sup>448</sup> See the [Katanga Trial Judgment](#), *supra* note 66, para. 1629.

<sup>449</sup> See the [Al Hassan Trial Judgment](#), *supra* note 92, para. 1236.

<sup>450</sup> See the [Al Hassan Trial Judgment](#), *supra* note 92, para. 1237 and the [Katanga Trial Judgment](#), *supra* note 66, para. 1630.

<sup>451</sup> See the [Katanga Trial Judgment](#), *supra* note 66, para. 1630.

<sup>452</sup> See the [Al Hassan Trial Judgment](#), *supra* note 92, para. 1244.

article 25(3)(d)(ii) of the Statute requires that the contribution be made “in the knowledge of the intention of the group to commit the crime”.<sup>453</sup>

## 2. Mr Yekatom’s role and authority

171. At the time of the 24 March 2013 coup, Mr Yekatom was a *caporal-chef* in the FACA.<sup>454</sup> After Bozize’s overthrow, he fled to the DRC.<sup>455</sup> By June 2013, Mr Yekatom had gathered thousands of elements in Kalangoi, DRC where he trained them.<sup>456</sup> From at least September 2013 through December 2014, Mr Yekatom commanded 3,000 elements, including approximately 200 FACA.<sup>457</sup> He organised his group in a military-like hierarchy, comprised of subgroups led by his deputies and sub-commanders.<sup>458</sup> He exercised effective – or as P-1858 put it, “*an absolute*” control –<sup>459</sup> over his elements like a Battalion Chief,<sup>460</sup> and issued orders and instructions directly to them, or through his deputies and commanders.<sup>461</sup> His subordinates followed his orders,<sup>462</sup> including instructions to commit crimes.<sup>463</sup> Mr Yekatom’s group reported to and/or coordinated with the Anti-Balaka leadership, including Mr Ngaïssona.<sup>464</sup> Mr Yekatom’s group fell within the structure of the Anti-Balaka leadership and the National Coordination.<sup>465</sup> Mr Yekatom helped execute the 5 December 2013 attack on Bangui with other Anti-Balaka leaders.<sup>466</sup> On that date, he led his group in the attack of various Seleka positions and Muslim civilians alike, killing and forcing many Muslim residents to flee.<sup>467</sup> Mr Yekatom’s contributions to the charged crimes were essential.

### a) *Structuring, training and equipping Anti-Balaka elements*

<sup>453</sup> *Idem*, paras. 1247-1248.

<sup>454</sup> P-1786: [T-197 \[ENG\]](#), p. 60, line 2 to p. 63, line 22.

<sup>455</sup> P-1786: [T-197 \[ENG\]](#), p. 60, line 2 to p. 63, line 22.

<sup>456</sup> P-1339: [T-151 \[ENG\]](#), p. 25, line 19 to p. 37, line 11 (Conf).

<sup>457</sup> P-0884: [T-056 \[ENG\]](#), p. 69, line 23 to p. 71, line 13; P-0446: [T-096 \[ENG\]](#), p. 45, line 8 to p. 46, line 19 (Conf); P-1339: [T-159 \[ENG\]](#), p. 34, line 6 to p. 38, line 10.

<sup>458</sup> P-2328: [T-047 \[ENG\]](#), p. 74, line 8 to p. 75, line 2; P-0884: [T-055 \[ENG\]](#), p. 71, line 22 to p. 74, line 7; P-0888: [T-120 \[ENG\]](#), p. 34, line 16 to p. 36, line 17; P-1786: [T-197 \[ENG\]](#), p. 60, line 2 to p. 63, line 22; P-1839: [T-170 \[ENG\]](#), p. 17, line 18 to p. 18, line 7 (Conf).

<sup>459</sup> P-1858: [T-185 \[ENG\]](#), p. 19, line 17 to p. 20, line 15 (Conf); P-0487: [T-201 \[ENG\]](#), p. 36, lines 2 to 19 (Conf).

<sup>460</sup> P-1193: [T-124 \[ENG\]](#), p. 28, lines 11 to 16.

<sup>461</sup> P-2328: [T-047 \[ENG\]](#), p. 74, line 8 to p. 75, line 2; P-0954: [T-166 \[ENG\]](#), p. 21, line 19 to p. 22, line 7; P-0888: [T-120 \[ENG\]](#), p. 34, line 16 to p. 36, line 17; P-1858: [T-185 \[ENG\]](#), p. 26, line 4 to p. 30, line 7 (Conf).

<sup>462</sup> P-0888: [T-120 \[ENG\]](#), p. 34, line 16 to p. 36, line 17; P-1858: [T-185 \[ENG\]](#), p. 26, line 4 to p. 30, line 7 (Conf).

<sup>463</sup> P-0954: [T-166 \[ENG\]](#), p. 37, line 20 to p. 42, line 9 (Conf); P-1858: [T-185 \[ENG\]](#), p. 13, line 19 to p. 19, line 7.

<sup>464</sup> P-0884: [T-056 \[ENG\]](#), p. 69, line 23 to p. 71, line 13; P-0487: [T-203 \[ENG\]](#), p. 4, line 6 to p. 6, line 3 (Conf).

<sup>465</sup> P-0487: [T-203 \[ENG\]](#), p. 4, line 6 to p. 6, line 3 (Conf).

<sup>466</sup> P-1858: [T-185 \[ENG\]](#), p. 13, line 19 to p. 19, line 7.

<sup>467</sup> P-1858: [T-185 \[ENG\]](#), p. 13, line 19 to p. 19, line 7.

172. Mr Yekatom structured, trained and equipped Anti-Balaka elements.<sup>468</sup> He (a) implemented an administrative structure, including assigning a treasurer, a secretary to maintain records, member registrations, orders, and weapons distribution in his group;<sup>469</sup> (b) organised and trained his elements;<sup>470</sup> (c) brought weapons from Zongo;<sup>471</sup> (d) purchased weapons and ammunition and distributed them amongst his element;<sup>472</sup> and (e) provided them with money to buy weapons.<sup>473</sup> With these trainings and weapons, Mr Yekatom's group participated in the 5 December 2013 attack, committing the crimes charged.<sup>474</sup> The Accused promoted his elements to positions of authority within his group;<sup>475</sup> and kept them in key positions despite their publicly expressed intention to commit violence against Muslim civilians.<sup>476</sup>

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<sup>468</sup> **P-2328:** [T-047 \[ENG\]](#), p. 71, line 23 to p. 72, line 15; **P-1786:** [T-197 \[ENG\]](#), p. 69, line 10 to p. 76, line 1.

<sup>469</sup> **P-1839:** [T-170 \[ENG\]](#), p. 59, line 24 to p. 60, line 7 (Conf); **P-1339:** [T-151 \[ENG\]](#), p. 42, line 17 to p. 43, line 5 (Conf).

<sup>470</sup> **P-1647:** [T-194 \[ENG\]](#), p. 42, line 18 to p. 45, line 22; **P-1339:** [T-152 \[ENG\]](#), p. 4, line 2 to p. 10, line 11 (Conf).

<sup>471</sup> **P-1339:** [T-152 \[ENG\]](#), p. 31, line 13 to p. 32, line 6.

<sup>472</sup> **P-0888:** [T-122 \[ENG\]](#), p. 16, line 18 to p. 17, line 4; **P-1839:** [T-171 \[ENG\]](#), p. 39, line 20 to p. 42, line 3 (Conf).

<sup>473</sup> **P-1339:** [T-152 \[ENG\]](#), p. 56, lines 7-20 (Conf).

<sup>474</sup> **P-1339:** [T-152 \[ENG\]](#), p. 10, line 12 to p. 14, line 22 (Conf); [T-159 \[ENG\]](#), p. 34, line 6 to p. 38, line 10.

<sup>475</sup> **P-1647:** [T-194 \[ENG\]](#), p. 61, line 25 to p. 62, line 16.

<sup>476</sup> **P-1839:** [T-170 \[ENG\]](#), p. 29, line 5 to p. 32, line 9 (Conf); [T-171 \[ENG\]](#), p. 15, lines 16-23 (Conf).

**b) *Preparing the Anti-Balaka attack and participating and leading his group in the execution of the attack***

173. Mr Yekatom ordered and led operations to attack Muslim civilians, including the 5 December 2013 attack in which his group played an integral role.<sup>477</sup> From December 2013, he coordinated, commanded and controlled his group,<sup>478</sup> deploying his elements in the southwest of Bangui (including Cattin) and Boeing.<sup>479</sup> Mr Yekatom was also regularly present in areas under his control, including when his elements were committing crimes.<sup>480</sup> The Accused set an example for his elements through his own commission of indiscriminate acts of brutality, which promoted similar violent conduct throughout his group.<sup>481</sup> He was notorious for killing Muslims.<sup>482</sup> Mr Yekatom did not care about his subordinates' crimes and redeployed members of his group to areas where they continued to commit them. Despite his awareness, Mr Yekatom chose to take no action regarding his subordinates' crimes.<sup>483</sup> Thus, Mr Yekatom encouraged his group's commission of crimes and created a climate of impunity within his ranks.<sup>484</sup>

**c) *Issuing orders to Anti-Balaka members***

174. Mr Yekatom issued orders to Anti-Balaka members, including to commit the charged crimes.<sup>485</sup> In particular, he ordered the torture and immediate killing of Muslims, including women and children;<sup>486</sup> as well as the pillaging and destruction of Muslim properties and mosques.<sup>487</sup> His orders were to be obeyed without question and disobedience was severely punished,<sup>488</sup> such as his *aide de camp*<sup>489</sup> and soldiers who were accused of being unpunctual.<sup>490</sup>

<sup>477</sup> **P-0884:** [T-055 \[ENG\]](#), p. 74, line 11 to p. 75, line 7; **P-0446:** [T-096 \[ENG\]](#), p. 45, line 8 to p. 46, line 19; **P-0954:** [T-166 \[ENG\]](#), p. 24, line 8 to p. 28, line 24; **P-1647:** [T-194 \[ENG\]](#), p. 12, line 17 to p. 15, line 22; **P-0487:** [T-202 \[ENG\]](#), p. 59, line 17 to p. 60, line 25 (Conf).

<sup>478</sup> **P-1193:** [T-124 \[ENG\]](#), p. 28, lines 11-16; **P-1858:** [T-185 \[ENG\]](#), p. 26, line 4 to p. 30, line 7 (Conf); **P-1647:** [T-194 \[ENG\]](#), p. 12, line 17 to p. 15, line 22.

<sup>479</sup> **P-2328:** [T-047 \[ENG\]](#), p. 63, line 10 to p. 65, line 14; **P-0884:** [T-056 \[ENG\]](#), p. 13, line 10 to p. 15, line 6 (Conf); **P-2232:** [T-075 \[ENG\]](#), p. 40, line 18 to p. 41, line 1 (Conf); **P-0446:** [T-096 \[ENG\]](#), p. 45, line 8 to p. 46, line 19; **P-1647:** [T-194 \[ENG\]](#), p. 12, line 17 to p. 15, line 22; [T-159 \[ENG\]](#), p. 34, line 6 to p. 38, line 10.

<sup>480</sup> **P-0884:** [T-056 \[ENG\]](#), p. 19, line 21 to p. 22, line 14 (Conf).

<sup>481</sup> **P-1839:** [T-171 \[ENG\]](#), p. 27, line 4 to p. 31, line 8 (Conf); **P-0487:** [T-201 \[ENG\]](#), p. 65, line 3 to p. 75, line 20 (Conf).

<sup>482</sup> **P-1839:** [T-171 \[ENG\]](#), p. 28, line 20 to p. 31, line 8 (Conf); **P-0487:** [T-201 \[ENG\]](#), p. 65, line 3 to p. 75, line 20 (Conf).

<sup>483</sup> **P-1839:** [T-171 \[ENG\]](#), p. 70, line 9 to p. 71, line 4.

<sup>484</sup> **P-1839:** [T-171 \[ENG\]](#), p. 27, line 4 to p. 31, line 8 (Conf); **P-1339:** [T-152 \[ENG\]](#), p. 10, line 12 to p. 14, line 22 (Conf); **P-0487:** [T-201 \[ENG\]](#), p. 42, line 11 to p. 45, line 12 (Conf); p. 65, line 3 to p. 75, line 20 (Conf).

<sup>485</sup> **P-0954:** [T-166 \[ENG\]](#), p. 37, line 20 to p. 42, line 9; **P-1858:** [T-185 \[ENG\]](#), p. 26, line 4 to p. 30, line 7 (Conf).

<sup>486</sup> **P-1339:** [T-152 \[ENG\]](#), p. 10, line 12 to p. 14, line 22 (Conf).

<sup>487</sup> **P-1339:** [T-152 \[ENG\]](#), p. 69, line 10 to p. 85, line 20 (Conf).

<sup>488</sup> **P-1339:** [T-152 \[ENG\]](#), p. 61, lines 3-12 (Conf).

<sup>489</sup> **P-0954:** [T-168 \[ENG\]](#), p. 43, line 24 to p. 48, line 15 (Conf).

<sup>490</sup> **P-0487:** [T-207 \[ENG\]](#), p. 81, line 5 to p. 82, line 17 (Conf).

The Accused failed to issue clear orders to his group to refrain from harming, attacking, or targeting civilians, particularly Muslim civilians. Instead, he told his elements that their targets were not just Seleka members, but Muslims.<sup>491</sup>

*d) Intent and knowledge*

175. Mr Yekatom committed the crimes charged jointly with or through another by his participation in, and essential contributions to, the crimes. By December 2013, Mr Yekatom and others participated in a plan or agreement to violently target the Muslim civilian population in Bangui (including Cattin) and Boeing pursuant to the common purpose and criminal policy.<sup>492</sup> Mr Yekatom and his co-perpetrators knew that implementing the plan would result in the commission of the charged crimes and acted with intent to bring them about.<sup>493</sup> P-0876 confronted the Accused about the unjustified killings of Muslims and the latter did not offer any explanation.<sup>494</sup> This shows that he was indeed fully aware and intended, through his acts and omissions, that these crimes would be committed in furtherance of the common purpose and the Anti-Balaka's criminal policy.<sup>495</sup> Mr Yekatom was further aware of the fundamental structural, organisational, and ideological features of his group, which enabled him, jointly with other co-perpetrators, to control and use his elements to commit the charged crimes, thereby controlling their commission.<sup>496</sup> Mr Yekatom was also aware that elements of his group committed the charged crimes<sup>497</sup> and that his orders contributed to their commission.<sup>498</sup> He never investigated or held anyone accountable for the crimes committed against Muslim civilians.<sup>499</sup> His intent to commit the charged crimes is further shown by his participation, including his planning, ordering and personally leading the attacks against Muslims in Cattin and Boeing.<sup>500</sup> The persecutory intent is shown by his explicit and violent anti-Muslim language and that used by his subordinates in his presence,<sup>501</sup> showing that, like other Anti-Balaka leaders, Mr Yekatom and his elements harboured an anti-Muslim animus.<sup>502</sup>

<sup>491</sup> P-1339: [T-152 \[ENG\]](#), p. 10, line 12 to p. 14, line 22 (Conf).

<sup>492</sup> P-1858: [T-185 \[ENG\]](#), p. 13, line 19 to p. 19, line 7.

<sup>493</sup> P-1858: [T-185 \[ENG\]](#), p. 13, line 19 to p. 19, line 7.

<sup>494</sup> P-0876: [T-085 \[ENG\]](#), p. 47, line 2 to p. 48, line 3 (Conf).

<sup>495</sup> P-0954: [T-166 \[ENG\]](#), p. 37, line 20 to p. 42, line 9.

<sup>496</sup> P-0954: [T-166 \[ENG\]](#), p. 37, line 20 to p. 42, line 9.

<sup>497</sup> P-0487: [T-202 \[ENG\]](#), p. 34, line 13 to p. 46, line 17 (Conf).

<sup>498</sup> P-0801: [T-035 \[ENG\]](#), p. 75, line 12 to p. 80, line 7; P-0954: [T-166 \[ENG\]](#), p. 37, line 20 to p. 42, line 9; P-1647: [T-194 \[ENG\]](#), p. 65, line 20 to p. 66, line 2; P-1839: [T-170 \[ENG\]](#), p. 29, line 5 to p. 32, line 9 (Conf); [T-171 \[ENG\]](#), p. 15, lines 16-23 (Conf).

<sup>499</sup> P-1839: [T-171 \[ENG\]](#), p. 70, line 9 to p. 71, line 4.

<sup>500</sup> P-1858: [T-185 \[ENG\]](#), p. 13, line 19 to p. 19, line 7; P-1339: [T-152 \[ENG\]](#), p. 10, line 12 to p. 14, line 22 (Conf).

<sup>501</sup> P-1839: [T-170 \[ENG\]](#), p. 29, line 5 to p. 32, line 9 (Conf); [T-171 \[ENG\]](#), p. 15, lines 16-23 (Conf); P-1339: [T-152 \[ENG\]](#), p. 10, line 12 to p. 14, line 22 (Conf); P-0487: [T-201 \[ENG\]](#), p. 65, line 3 to p. 75, line 20 (Conf).

<sup>502</sup> P-1839: [T-175 \[ENG\]](#), p. 9, line 19 to p. 10, line 2; P-1339: [T-152 \[ENG\]](#), p. 10, line 12 to p. 14, line 22 (Conf).

### 3. Mr Ngaïssona's role and authority

176. Mr Ngaïssona was an elected member of parliament and Minister of Youth in the Government of National Unity, under Bozize.<sup>503</sup> After the 24 March 2013 coup, he fled to Cameroon where he met with other CAR exiles, including Bozize and Bernard Mokom.<sup>504</sup> They were the master minds<sup>505</sup> who planned to reclaim power in the CAR, oust Djotodia and the Seleka regime using, *inter alia*, the youth, pre-existing self-defence groups, new recruits, and members of the CAR armed forces, later collectively known as the Anti-Balaka.<sup>506</sup> Mr Ngaïssona and other members of Bozize's inner circle mobilised, organised and instrumentalised the Anti-Balaka who they knew were motivated to exact deadly vengeance on Muslims and who violently targeted the Muslim civilian population, through the charged crimes, pursuant to the group's organisational criminal policy and common purpose.<sup>507</sup> From September 2013 at the latest, Mr Ngaïssona was part of the Anti-Balaka's leadership as a self-declared political coordinator.<sup>508</sup> On his 14 January 2014 return to Bangui, he was formally designated the Anti-Balaka National General Coordinator,<sup>509</sup> a position he held throughout 2014.<sup>510</sup>

177. Mr Ngaïssona assisted Anti-Balaka members in committing the crimes with the aim of facilitating their commission. He was aware that Anti-Balaka elements would, in the ordinary course of events, commit the charged crimes.<sup>511</sup> Mr Ngaïssona also intentionally contributed to the commission of the crimes by the Anti-Balaka acting pursuant to the criminal policy and common purpose which entailed targeting the Muslim civilian population, based on their religious or ethnic affiliation and their perceived collective responsibility for, complicity with, and/or support of, the Seleka.

<sup>503</sup> **P-1847:** [T-023 \[ENG\]](#), p. 11, line 13 to p. 12, line 4.

<sup>504</sup> **P-0801:** [T-034 \[ENG\]](#), p. 5, line 7 to p. 19, line 5 and p. 20, line 19 to p. 35, line 15.

<sup>505</sup> **P-1719:** [T-141 \[ENG\]](#), p. 41, line 10 to p. 42, line 16 (Conf).

<sup>506</sup> **P-0801:** [T-034 \[ENG\]](#), p. 5, line 7 to p. 19, line 5 and p. 20, line 19 to p. 35, line 15; **P-2328:** [T-046 \[ENG\]](#), p. 77, line 14 to p. 79, line 18; **P-2625:** [T-189 \[ENG\]](#), p. 32, line 16 to p. 33, line 12.

<sup>507</sup> **P-2012:** [T-025 \[ENG\]](#), p. 18, line 5 to p. 19, line 19; **P-2328:** [T-047 \[ENG\]](#), p. 59, line 6 to p. 60, line 21 (Conf); **P-2625:** [T-189 \[ENG\]](#), p. 32, line 16 to p. 33, line 12; **P-2625:** [T-189 \[ENG\]](#), p. 65, line 17 to p. 68, line 5.

<sup>508</sup> **P-0291:** [T-051 \[ENG\]](#), p. 24, line 21 to p. 25, line 7.

<sup>509</sup> **P-0287:** [T-020 \[ENG\]](#), p. 13, line 3 to p. 14, line 20; **P-0884:** [T-056 \[ENG\]](#), p. 41 line 1 to p. 49 line 25 (Conf).

<sup>510</sup> **P-0287:** [T-020 \[ENG\]](#), p. 13, line 3 to p. 14, line 20; **P-1847:** [T-023 \[ENG\]](#), p. 46, lines 2-11; **P-0952:** [T-249 \[ENG\]](#), p. 38, lines 9-16.

<sup>511</sup> **P-2012:** [T-025 \[ENG\]](#), p. 18, line 5 to p. 19, line 19.

a) *Structuring the Anti-Balaka*

178. Mr Ngaïssona took steps to structure the Anti-Balaka.<sup>512</sup> He helped mobilise, support, and equip Anti-Balaka groups and FACA and Presidential Guard members loyal to Bozize in strategic positions in order to execute attacks against the Seleka. In July-August 2013, the Accused and others created FROCCA, which openly advocated the removal of the Seleka regime as well as Bozize's return to power.<sup>513</sup> He took steps to further structure the group, including by liaising more closely with actors [REDACTED],<sup>514</sup> paying them visits, coordinating further actions and providing money for the acquisition of weapons and ammunition.<sup>515</sup> As P-2625 testified, while meeting with Bozize and his inner circle in Cameroon, Mr Ngaïssona said that he was in constant contact with those in the field and "*his children*", a clear reference to the fact that the militiamen or the former soldiers were ready to fight.<sup>516</sup>

179. In September 2013, as part of the preparations for coordinated Anti-Balaka attacks, Mr Ngaïssona personally met with elements from Bertoua, Garoua-Boulai and Bouar in order to ensure their readiness to fight.<sup>517</sup> [REDACTED].<sup>518</sup> The integration of various armed groups into the Anti-Balaka – facilitated by the Accused – fortified the group and made it better structured, organised, and coordinated.<sup>519</sup> It was instrumental to the group's capacity to commit the charged crimes, which required logistics, communications, planning, coordination, strategy, manpower and firepower.<sup>520</sup>

180. Post-January 2014, Mr Ngaïssona's designation as the National General Coordinator formalised his leadership of the Anti-Balaka<sup>521</sup> in Bangui<sup>522</sup> and CAR's provinces.<sup>523</sup> He

<sup>512</sup> P-0287: [T-020 \[ENG\]](#), p. 13, line 3 to p. 14, line 20.

<sup>513</sup> P-0287: [T-020 \[ENG\]](#), p. 13, line 3 to p. 14, line 20; P-2012: [T-025 \[ENG\]](#), p. 11, line 14 to p. 12, line 6; P-0884: [T-055 \[ENG\]](#), p. 43, line 1 to p. 47, line 1 (Conf).

<sup>514</sup> P-0974: [T-243 \[ENG\]](#), p. 10, line 6 to p. 11, line 8 (Conf).

<sup>515</sup> P-0801: [T-034 \[ENG\]](#), p. 51, line 22 to p. 52, line 4.

<sup>516</sup> P-2625: [T-189 \[ENG\]](#), p. 6, lines 10-20.

<sup>517</sup> P-2673: [T-041 \[ENG\]](#), p. 13, line 25 to p. 15, line 5 and p. 31, lines 3-17.

<sup>518</sup> P-2232: [T-075 \[ENG\]](#), p. 44, line 24 to p. 47, line 1 (Conf).

<sup>519</sup> P-2012: [T-025 \[ENG\]](#), p. 17, lines 4-22; P-0291: [T-051 \[ENG\]](#), p. 41, line 2 to p. 42, line 1; P-0965: [T-061 \[ENG\]](#), p. 20, line 9 to p. 22, line 1; P-2556: [T-145 \[ENG\]](#), p. 24, lines 14-23.

<sup>520</sup> P-2625: [T-189 \[ENG\]](#), p. 42, line 12 to p. 43, line 17.

<sup>521</sup> P-1847: [T-023 \[ENG\]](#), p. 48, lines 7-11.

<sup>522</sup> P-2012: [T-025 \[ENG\]](#), p. 17, lines 4-22; P-0884: [T-056 \[ENG\]](#), p. 59, line 1 to p. 61, line 9 (Conf).

<sup>523</sup> P-2012: [T-025 \[ENG\]](#), p. 17, lines 4-22; P-0884: [T-056 \[ENG\]](#), p. 59, line 1 to p. 61, line 9 (Conf).

exercised authority over said groups in Bangui<sup>524</sup> and in the provinces.<sup>525</sup> The Accused<sup>526</sup> held himself out as Anti-Balaka General Coordinator in private and public pronouncements and signed statements and orders in this capacity.<sup>527</sup> Anti-Balaka members/leaders recognised him as the Anti-Balaka's National General or "Sole"<sup>528</sup> Coordinator.<sup>529</sup> In this capacity, the Accused had the power to appoint Anti-Balaka members to positions of authority within the national and provincial leaderships.<sup>530</sup> He appointed ComZones and/or gave them mandates, and had the power to replace them.<sup>531</sup> He also appointed National Coordination Committee members, including his Deputy Coordinator and other Anti-Balaka representatives.<sup>532</sup> Mr Ngaïssona also issued orders to Anti-Balaka leaders,<sup>533</sup> including Mr Yekatom,<sup>534</sup> and made decisions concerning Anti-Balaka groups.<sup>535</sup> For instance, Mr Ngaïssona issued orders to execute missions and operations to attack certain targets or locations,<sup>536</sup> to erect and remove roadblocks,<sup>537</sup> and to disturb the peace process or otherwise create disorder, including through the organisation of strikes.<sup>538</sup>

181. In addition, Mr Ngaïssona could order the Anti-Balaka to immediately cease all hostilities or to permit the free flow of people and goods<sup>539</sup> and lift road barriers.<sup>540</sup> He was also able to summon Anti-Balaka leaders, including ComZones from the provinces and National Coordination members, to attend regular meetings during which he would discuss the security

<sup>524</sup> **P-2012:** [T-025 \[ENG\]](#), p. 17, lines 4-22; **P-0884:** [T-056 \[ENG\]](#), p. 59, line 1 to p. 61, line 9 (Conf); **P-0306:** [T-065 \[ENG\]](#), p. 54, lines 17-25 (Conf); **P-0952:** [T-249 \[ENG\]](#), p. 38, lines 9-16.

<sup>525</sup> **P-1847:** [T-023 \[ENG\]](#), p. 48, lines 7-11 (Conf); **P-0884:** [T-056 \[ENG\]](#), p. 59, line 1 to p. 61, line 9 (Conf); **P-0306:** [T-065 \[ENG\]](#), p. 54, lines 17-25 (Conf); **P-2556:** [T-145 \[ENG\]](#), p. 9, lines 19-24.

<sup>526</sup> **P-0287:** [T-020 \[ENG\]](#), p. 13, line 3 to p. 14, line 20; **P-1847:** [T-023 \[ENG\]](#), p. 48, lines 7-11 (Conf); **P-0884:** [T-056 \[ENG\]](#), p. 59, line 1 to p. 61, line 9 (Conf); **P-0306:** [T-065 \[ENG\]](#), p. 54, lines 17-25 (Conf).

<sup>527</sup> **P-2012:** [T-025 \[ENG\]](#), p. 11, line 14 to p. 12, line 6 and p. 87, lines 7-25; **P-0287:** [T-020 \[ENG\]](#), p. 13, line 3 to p. 14, line 20; **P-1847:** [T-023 \[ENG\]](#), p. 48, lines 7-11 (Conf); **P-0884:** [T-056 \[ENG\]](#), p. 59, line 1 to p. 61, line 9 (Conf); **P-0306:** [T-065 \[ENG\]](#), p. 54, lines 17-25 (Conf).

<sup>528</sup> **P-1962:** [T-139 \[ENG\]](#), p. 19, lines 3-23 (Conf).

<sup>529</sup> **P-1847:** [T-023 \[ENG\]](#), p. 48, lines 7-11 (Conf); **P-0884:** [T-056 \[ENG\]](#), p. 59, line 1 to p. 61, line 9 (Conf).

<sup>530</sup> **P-0884:** [T-056 \[ENG\]](#), p. 59, line 1 to p. 61, line 9 (Conf).

<sup>531</sup> **P-0884:** [T-056 \[ENG\]](#), p. 59, line 1 to p. 61, line 9 (Conf).

<sup>532</sup> **P-0801:** [T-036 \[ENG\]](#), p. 42, line 23 to p. 44, line 14; **P-0884:** [T-056 \[ENG\]](#), p. 59, line 1 to p. 61, line 9 and p. 74, line 11 to p. 76, line 15 (Conf).

<sup>533</sup> **P-0954:** [T-166 \[ENG\]](#), p. 64, line 13 to p. 66, line 16; **P-2556:** [T-145 \[ENG\]](#), p. 11, lines 1-4 (Conf).

<sup>534</sup> **P-0446:** [T-096 \[ENG\]](#), p. 70, line 23 to p. 72, line 8; **P-1193:** [T-124 \[ENG\]](#), p. 51, line 20 to p. 54, line 16 (Conf).

<sup>535</sup> **P-2328:** [T-047 \[ENG\]](#), p. 38, line 7 to p. 39, line 23 (Conf); **P-2556:** [T-145 \[ENG\]](#), p. 18, lines 8-17 (Conf).

<sup>536</sup> **P-2556:** [T-145 \[ENG\]](#), p. 11, lines 23-25 (Conf).

<sup>537</sup> **P-0954:** [T-166 \[ENG\]](#), p. 64, line 13 to p. 66, line 16; **P-2556:** [T-145 \[ENG\]](#), p. 13, lines 8-10, 14-25 (Conf).

<sup>538</sup> **P-0801:** [T-036 \[ENG\]](#), p. 47, line 20 to p. 48, line 24; **P-0992:** [T-092 \[ENG\]](#), p. 70, line 25 to p. 74, line 8 (Conf); **P-0952:** [T-249 \[ENG\]](#), p. 38, lines 9-16.

<sup>539</sup> **P-2328:** [T-047 \[ENG\]](#), p. 33, line 12 to p. 35, line 12 (Conf).

<sup>540</sup> **P-0446:** [T-096 \[ENG\]](#), p. 70, line 23 to p. 72, line 8 (Conf).

situation,<sup>541</sup> including crimes committed by the Anti-Balaka, distribute money and/or issue orders.<sup>542</sup>

182. Mr Ngaïssona issued orders not only through direct contacts with the ComZone,<sup>543</sup> but also transmitted them through other National Coordination members, including through written orders and other means (radio, electronic communication networks etc.) directed to the Anti-Balaka.<sup>544</sup> Mr Ngaïssona also directly issued orders to Anti-Balaka leaders in the course of regular meetings.<sup>545</sup> ComZones and National Coordination Committee members complied with Mr Ngaïssona's orders and reported to him.<sup>546</sup>

183. The Accused had the authority to implement disciplinary measures and remove members of the Anti-Balaka leadership.<sup>547</sup> For example, he replaced Mr Maxime Mokom in the Coordination with another member.<sup>548</sup> To implement his orders and directions, he appointed individuals to oversee their execution.<sup>549</sup> Mr Ngaïssona also had the power to intervene and to stop individuals from being killed by the Anti-Balaka,<sup>550</sup> in addition to the capacity to release Muslim captives<sup>551</sup> or to resolve conflict caused by robbery of Anti-Balaka members.<sup>552</sup>

184. Mr Ngaïssona placed his father's residence in Boy Rabe at the disposal of the Anti-Balaka to be used as the seat of the National Coordination.<sup>553</sup> As such, he put in place an administrative structure where the group could formulate, coordinate, and disseminate propaganda nationally. From there, the National Coordination communicated with the press and the public. In addition, Mr Ngaïssona represented the Anti-Balaka in meetings with the transitional President<sup>554</sup> and government, and the MISCA, and at peace negotiations,<sup>555</sup> undertaking formal commitments on the group's behalf and acted as a mediator.<sup>556</sup>

<sup>541</sup> **P-1193:** [T-125 \[ENG\]](#), p. 15, lines 18-21 (Conf).

<sup>542</sup> **P-0884:** [T-056 \[ENG\]](#), p. 69, line 23 to p. 71, line 13 (Conf); **P-0965:** [T-061 \[ENG\]](#), p. 32, line 5 to p. 34, line 8 (Conf).

<sup>543</sup> **P-2556:** [T-146 \[ENG\]](#), p. 34, lines 8-17 (Conf).

<sup>544</sup> **P-2232:** [T-077 \[ENG\]](#), p. 14, line 19 to p. 17, line 20; **P-0446:** [T-097 \[ENG\]](#), p. 32, lines 5-14 (Conf).

<sup>545</sup> **P-2232:** [T-077 \[ENG\]](#), p. 14, line 19 to p. 17, line 20.

<sup>546</sup> **P-1847:** [T-023 \[ENG\]](#), p. 48, lines 1-11 (Conf); **P-0801:** [T-034 \[ENG\]](#), p. 51, line 22 to p. 52, line 4; **P-2556:** [T-145 \[ENG\]](#), p. 16, lines 8-14 (Conf).

<sup>547</sup> **P-0954:** [T-166 \[ENG\]](#), p. 64, line 13 to p. 66, line 16.

<sup>548</sup> **P-1858:** [T-185 \[ENG\]](#), p. 33, line 12 to p. 35, line 9.

<sup>549</sup> **P-0446:** [T-098 \[ENG\]](#), p. 3, line 17 to p. 4, line 19.

<sup>550</sup> **P-2232:** [T-077 \[ENG\]](#), p. 58, line 6 to p. 63, line 1 (Conf).

<sup>551</sup> **P-0475:** [T-091 \[ENG\]](#), p. 70, lines 20-25 (Conf).

<sup>552</sup> **P-1521:** [T-083 \[ENG\]](#), p. 43, line 19 to p. 44, line 11.

<sup>553</sup> **P-0884:** [T-056 \[ENG\]](#), p. 78, line 10 to p. 80, line 16 (Conf); **P-0965:** [T-061 \[ENG\]](#), p. 32, line 5 to p. 34, line 8 (Conf).

<sup>554</sup> **P-0952:** [T-249 \[ENG\]](#), p. 38, lines 9-16.

<sup>555</sup> **P-0801:** [T-035 \[ENG\]](#), p. 34, line 4 to p. 35, line 17 (Conf).

<sup>556</sup> **P-0801:** [T-035 \[ENG\]](#), p. 34, line 4 to p. 35, line 17 (Conf); **P-1193:** [T-124 \[ENG\]](#), p. 77, line 20 to p. 78, line 10 (Conf).

**b) Financing the Anti-Balaka**

185. Mr Ngaïssona financed the Anti-Balaka<sup>557</sup> by spending “*a great deal of money*”,<sup>558</sup> including for the purchase of weapons.<sup>559</sup> According to P-2625, Mr Ngaïssona admitted that he was financing the Anti-Balaka combatants on the ground by sending money via Western Union to the elements in the field,<sup>560</sup> since they were “*his children*” and he was “*responsible for their upkeep*”.<sup>561</sup> Mr Ngaïssona provided money to Anti-Balaka elements and their leaders (for example Mr Maxim Mokom<sup>562</sup> and Mr Ngaïkosset<sup>563</sup>), including prior to his return to Bangui,<sup>564</sup> and, in particular, between the end of November and the beginning of December 2013.<sup>565</sup>

186. [REDACTED].<sup>566</sup> They also financed Anti-Balaka groups to execute attacks against Seleka positions.<sup>567</sup> They provided money to elements on the ground, *inter alia*, to buy ammunition and weapons, medication, food, phones or phone credit.<sup>568</sup> From Cameroon, Mr Ngaïssona financed the youth in Bangui, including for the acquisition of weapons and ammunition.<sup>569</sup> The Accused even personally handed over a gun to one of the Anti-Balaka leaders<sup>570</sup> and distributed weapons<sup>571</sup> and ammunitions.<sup>572</sup> Days before the 5 December 2013 attack, weapons were distributed on his behalf to the Anti-Balaka elements positioned outside

<sup>557</sup> P-0801: [T-034 \[ENG\]](#), p. 49, line 25 to p. 53, line 8; P-0884: [T-056 \[ENG\]](#), p. 78, line 10 to p. 80, line 16 (Conf).

<sup>558</sup> P-2625: [T-190 \[ENG\]](#), p. 23, line 13 to p. 24, line 1.

<sup>559</sup> P-2841: [T-029 \[ENG\]](#), p. 43, line 22 to p. 56, line 11 (Conf); [T-030 \[ENG\]](#), p. 15, line 14 to p. 22, line 21 (Conf); P-2673: [T-041 \[ENG\]](#), p. 20, line 20 to p. 22, line 9 (Conf); P-0965: [T-061 \[ENG\]](#), p. 35, line 9 to p. 36, line 18 (Conf); P-2625: [T-190 \[ENG\]](#), p. 35, line 11 to p. 37, line 4.

<sup>560</sup> P-2625: [T-189 \[ENG\]](#), p. 38, lines 1-14 (Conf).

<sup>561</sup> P-2625: [T-189 \[ENG\]](#), p. 34, line 20 to p. 35, line 24 (Conf).

<sup>562</sup> P-2232: [T-078 \[ENG\]](#), p. 48, line 7 to p. 51, line 25 (Conf).

<sup>563</sup> P-1847: [T-023 \[ENG\]](#), p. 87, line 3 to p. 88, line 20; P-2841: [T-029 \[ENG\]](#), p. 43, line 22 to p. 56, line 11 (Conf).

<sup>564</sup> P-2841: [T-029 \[ENG\]](#), p. 43, line 22 to p. 56, line 11 (Conf); [T-030 \[ENG\]](#), p. 15, line 14 to p. 22, line 21 (Conf); P-2673: [T-041 \[ENG\]](#), p. 18, line 15 to p. 20, line 19 (Conf); P-0965: [T-061 \[ENG\]](#), p. 35, line 9 to p. 36, line 18 (Conf); P-1719: [T-143 \[ENG\]](#), p. 44, line 2 to p. 46, line 2 (Conf).

<sup>565</sup> P-1719: [T-143 \[ENG\]](#), p. 44, lines 2-25 (Conf).

<sup>566</sup> P-2232: [T-075 \[ENG\]](#), p. 50, line 23 to p. 53, line 1 (Conf).

<sup>567</sup> P-1847: [T-023 \[ENG\]](#), p. 87, line 3 to p. 88, line 20; P-2673: [T-041 \[ENG\]](#), p. 25, line 21 to p. 27, line 25 (Conf); P-0306: [T-064 \[ENG\]](#), p. 73, lines 13-24 (Conf).

<sup>568</sup> P-0801: [T-035 \[ENG\]](#), p. 30, line 22 to p. 33, line 4; P-2673: [T-041 \[ENG\]](#), p. 20, line 20 to p. 22, line 9 and p. 23, line 21 to p. 25, line 24; P-0884: [T-056 \[ENG\]](#), p. 78, line 10 to p. 80, line 16 (Conf); P-0965: [T-061 \[ENG\]](#), p. 35, line 9 to p. 36, line 18 (Conf); P-0306: [T-064 \[ENG\]](#), p. 73, lines 13-24 (Conf); P-2232: [T-075 \[ENG\]](#), p. 50, line 23 to p. 53, line 1 (Conf); P-0952: [T-249 \[ENG\]](#), p. 39, line 18 to p. 40, line 1; P-2556: [T-146 \[ENG\]](#), p. 39, lines 20-25 and p. 40, line 13 (Conf).

<sup>569</sup> P-2673: [T-041 \[ENG\]](#), p. 39, line 22 to p. 41, line 7 (Conf); P-0974: [T-244 \[ENG\]](#), p. 46, line 5 to p. 47, line 7.

<sup>570</sup> P-0965: [T-061 \[ENG\]](#), p. 39, lines 1-12.

<sup>571</sup> P-0876: [T-088 \[ENG\]](#), p. 42, line 2 to p. 44, line 7 (Conf).

<sup>572</sup> P-0306: [T-068 \[ENG\]](#), p. 16, line 2 to p. 17, line 1 (Conf).

Bangui.<sup>573</sup> Upon his return to Bangui, Mr Ngaïssona provided money to Anti-Balaka members to enable them to carry out operations.<sup>574</sup> Mr Ngaïssona distributed money to ComZones in Bangui and in the provinces for their support, including to pay for food, accommodation and other expenditures.<sup>575</sup> The Accused also promised Anti-Balaka elements money or other types of rewards, including positions in the military or in the government. In financing the Anti-Balaka, Mr Ngaïssona was able to influence its members and secure their loyalty.<sup>576</sup>

**c) Issuing instructions to the Anti-Balaka**

187. The Accused issued instructions to Anti-Balaka members<sup>577</sup>, including with regard to the 5 December attack.<sup>578</sup> Mr Ngaïssona and Mr Bernard Mokom were in direct contact with Anti-Balaka members on the ground to advance preparations for the attacks.<sup>579</sup> In November 2013, from Cameroon, Mr Ngaïssona coordinated the military deployments together with Mr Bernard Mokom and Mr Maxime Mokom,<sup>580</sup> in a way that P-1719 qualified as being “*like a captain of the ship*”.<sup>581</sup> At the same time, he provided instructions to Mr Konate’s group in Bangui and transmitted information on enemy positions.<sup>582</sup> In preparation of the Bangui attack, on or around 24 November 2013, he ordered the elements in Bouar to reach Bossembélé in three days. [REDACTED].

<sup>573</sup> **P-2232:** [T-077 \[ENG\]](#), p. 22, line 6 to p. 23, line 6.

<sup>574</sup> **P-0801:** [T-034 \[ENG\]](#), p. 51, line 22 to p. 53, line 8; **P-0884:** [T-056 \[ENG\]](#), p. 78, line 10 to p. 80, line 16 (Conf).

<sup>575</sup> **P-0884:** [T-056 \[ENG\]](#), p. 78, line 10 to p. 80, line 16 (Conf).

<sup>576</sup> **P-0884:** [T-056 \[ENG\]](#), p. 78, line 10 to p. 80, line 16 (Conf); **P-0808:** [T-069 \[ENG\]](#), p. 19, lines 1-11 (Conf).

<sup>577</sup> **P-1847:** [T-023 \[ENG\]](#), p. 63, lines 5-20 (Conf); **P-1719:** [T-143 \[ENG\]](#), p. 45, line 2 to p. 48, line 9 (Conf); [T-142 \[ENG\]](#), p. 33, lines 11-22 (Conf).

<sup>578</sup> **P-0801:** [T-035 \[ENG\]](#), p. 7, line 21 to p. 8, line 9 (Conf); **P-0306:** [T-064 \[ENG\]](#), p. 26, line 20 to p. 56, line 24 (Conf); [T-065 \[ENG\]](#), p. 12, line 20 to p. 16, line 2 (Conf) and p. 17, lines 12-16; **P-1719:** [T-142 \[ENG\]](#), p. 23, line 23 to p. 24, line 10 (Conf).

<sup>579</sup> **P-1847:** [T-023 \[ENG\]](#), p. 64, line 20 to p. 66, line 6 (Conf); [T-024 \[ENG\]](#), p. 26, line 25 to p. 28, line 25 (Conf); **P-0801:** [T-034 \[ENG\]](#), p. 51, lines 17-21; **P-2673:** [T-041 \[ENG\]](#), p. 23, line 21 to p. 25, line 24 (Conf); **P-0884:** [T-056 \[ENG\]](#), p. 6, line 8 to p. 13, line 9 (Conf); **P-0306:** [T-064 \[ENG\]](#), p. 52, line 1 to p. 53, line 4 (Conf); **P-1719:** [T-142 \[ENG\]](#), p. 23, line 23 to p. 24, line 10 (Conf).

<sup>580</sup> **P-1847:** [T-023 \[ENG\]](#), p. 64, line 20 to p. 66, line 6 (Conf); [T-024 \[ENG\]](#), p. 26, line 25 to p. 28, line 25 (Conf); **P-0801:** [T-034 \[ENG\]](#), p. 58, line 17 to p. 59, line 18; **P-2673:** [T-041 \[ENG\]](#), p. 49, lines 7-15 (Conf); **P-0884:** [T-056 \[ENG\]](#), p. 6, line 8 to p. 13, line 9 (Conf).

<sup>581</sup> **P-1719:** [T-142 \[ENG\]](#), p. 24, line 25 to p. 25, line 18.

<sup>582</sup> **P-0306:** [T-064 \[ENG\]](#), p. 55, line 11 to p. 56, line 24 (Conf).

*d) Liaising with Anti-Balaka members exercising key functions*

188. Mr Ngaïssona and Mr Bernard Mokom gathered the Anti-Balaka groups, provided them with supplies and instructed them in preparation for the 5 December 2013 attack.<sup>583</sup> They were also in contact with Mr Maxime Mokom, who directed Anti-Balaka actions from Zongo.<sup>584</sup> Mr Ngaïssona was also in contact with, and provided support to ComZones in Bangui who kept him informed of operations on the ground.<sup>585</sup> From Cameroon, Mr Ngaïssona also liaised with Mr Wenezoui, Mr Ngaya, Mr Ngremangou and Mr Konate, who remained in Bangui and were coordinating various groups there, together with Mr Maxim Mokom.<sup>586</sup> On 5 December 2013, the Anti-Balaka attacked Bangui, targeting Muslim civilians. These attacks were led by the group of Anti-Balaka elements from Gobere to whom Mr Ngaïssona and Mr Bernard Mokom provided money and ammunition. After his appointment as the National General Coordinator, Mr Ngaïssona held influence with the Anti-Balaka's leaders.<sup>587</sup> He was in frequent contact with these leaders, including when crimes were being committed. In particular, he was in contact with key Anti-Balaka, including Mr Yekatom.<sup>588</sup> Mr Ngaïssona further validated Mr Yekatom's actions by accepting his continued membership in the Anti-Balaka, recognising him as a key-member, and designating him to represent the Anti-Balaka at high-level meetings and negotiations.<sup>589</sup>

*e) Intent and knowledge*

189. Mr Ngaïssona assisted the Anti-Balaka to commit the charged crimes with the aim of facilitating their commission. The Accused was well aware that elements of the Anti-Balaka would, in the ordinary course of events, commit the crimes charged.<sup>590</sup> Indeed, according to P-2232, the instinct of the Anti-Balaka was to kill the Muslim<sup>591</sup> and, as P-1576 testified, the Anti-Balaka militia was drunk with vengeance.<sup>592</sup>

<sup>583</sup> **P-0884:** [T-055 \[ENG\]](#), p. 69, line 15 to p. 71, line 21 (Conf); **P-1719:** [T-142 \[ENG\]](#), p. 23, line 23 to p. 24, line 10 (Conf).

<sup>584</sup> **P-1847:** [T-023 \[ENG\]](#), p. 46, lines 1-10 (Conf); **P-884:** [T-055 \[ENG\]](#), p. 69, line 15 to p. 71, line 21 (Conf); **P-1719:** [T-142 \[ENG\]](#), p. 23, line 23 to p. 24, line 10 (Conf).

<sup>585</sup> **P-0965:** [T-061 \[ENG\]](#), p. 29, line 17 to p. 30, line 18 (Conf).

<sup>586</sup> **P-0884:** [T-055 \[ENG\]](#), p. 16, line 5 to p. 18, line 5.

<sup>587</sup> **P-0884:** [T-056 \[ENG\]](#), p. 69, line 23 to p. 71, line 13 (Conf).

<sup>588</sup> **P-0884:** [T-056 \[ENG\]](#), p. 69, line 23 to p. 71, line 13 (Conf); **P-0992:** [T-092 \[ENG\]](#), p. 67, line 9 to p. 70, line 22 (Conf); **P-0487:** [T-203 \[ENG\]](#), p. 4, line 6 to p. 6, line 3 (Conf).

<sup>589</sup> **P-0884:** [T-056 \[ENG\]](#), p. 69, line 23 to p. 71, line 13 (Conf); **P-0992:** [T-092 \[ENG\]](#), p. 67, line 9 to p. 70, line 22 (Conf); **P-0487:** [T-203 \[ENG\]](#), p. 4, line 6 to p. 6, line 3 (Conf).

<sup>590</sup> **P-2012:** [T-025 \[ENG\]](#), p. 18, line 5 to p. 19, line 19; **P-2556:** [T-145 \[ENG\]](#), p. 28, lines 7-9 (Conf).

<sup>591</sup> **P-2232:** [T-075 \[ENG\]](#), p. 65, lines 14-24 (Conf).

<sup>592</sup> **P-1576:** [T-239 \[ENG\]](#), p. 24, line 5 to p. 27, line 7 (Conf).

190. From at least September 2013, Anti-Balaka crimes, including deportation and forcible transfer, murder, torture and cruel treatment, severe deprivation of liberty, the destruction of homes and mosques, and pillaging against Muslim civilians and others perceived as supporting the Seleka, were common knowledge.<sup>593</sup> Mr Ngaïssona knew about the developments on the ground and the attacks.<sup>594</sup> He knew that Anti-Balaka elements were committing and intended to commit the charged crimes<sup>595</sup> as he contributed to the group's formation, organisation, financing, arming, instructing and as he liaised with other key figures in the group, before his designation as National General Coordinator.<sup>596</sup> Despite his clear knowledge of their crimes, Mr Ngaïssona persisted in his involvement with the group,<sup>597</sup> therefore acknowledging the commission of the crimes by the Anti-Balaka.<sup>598</sup> He further made statements and/or signed documents acknowledging that the Anti-Balaka were committing crimes.<sup>599</sup> Yet, no investigations were conducted.

191. Mr Ngaïssona maintained his behaviour throughout his tenure as the National Coordinator. He knew the crimes committed were serious and continuing.<sup>600</sup> His occasional advice to members not to commit crimes only underscores his awareness and knowledge of them.<sup>601</sup> Mr Ngaïssona was also regularly notified of continuing Anti-Balaka crimes by CAR authorities and residents, the MINUSCA,<sup>602</sup> Sangaris forces, the media and Anti-Balaka members.<sup>603</sup> He knew about the Anti-Balaka crimes, including those committed by Mr Yekatom and his group. Yet, he persisted in denying the Anti-Balaka's commission of crimes and continued to involve himself in the group's leadership.<sup>604</sup> Mr Ngaïssona coordinated with Mr Maxime Mokom and Mr Yekatom in sending Anti-Balaka elements from Bangui to the provinces as reinforcements, with weapons and military expertise.<sup>605</sup>

<sup>593</sup> **P-0952:** [T-250 \[ENG\]](#), p. 5, lines 2-11; **P-2556:** [T-146 \[ENG\]](#), p. 22, lines 21-25 (Conf).

<sup>594</sup> **P-0287:** [T-020 \[ENG\]](#), p. 19, lines 7 to p. 20, line 1 (Conf); **P-2012:** [T-025 \[ENG\]](#), p. 18, line 5 to p. 19, line 19; **P-2556:** [T-145 \[ENG\]](#), p. 34, lines 16-19 and p. 46, lines 18-23 (Conf).

<sup>595</sup> **P-2012:** [T-025 \[ENG\]](#), p. 18, line 5 to p. 19 line 19; **P-2556:** [T-145 \[ENG\]](#), p. 34, lines 16-19 and p. 46, lines 19-24 (Conf).

<sup>596</sup> **P-0287:** [T-020 \[ENG\]](#), p. 19, line 7 to p. 20, line 1 (Conf).

<sup>597</sup> **P-0287:** [T-020 \[ENG\]](#), p. 19, line 7 to p. 20, line 1 (Conf); **P-2012:** [T-025 \[ENG\]](#), p. 18, line 5 to p. 19, line 19.

<sup>598</sup> **P-0287:** [T-020 \[ENG\]](#), p. 19, line 7 to p. 20, line 1 (Conf); **P-2012:** [T-025 \[ENG\]](#), p. 18, line 5 to p. 19, line 19.

<sup>599</sup> **P-0287:** [T-020 \[ENG\]](#), p. 19, line 7 to p. 20, line 1 (Conf); **P-2012:** [T-025 \[ENG\]](#), p. 18, line 5 to p. 19, line 19.

<sup>600</sup> **P-0287:** [T-020 \[ENG\]](#), p. 19, line 7 to p. 20, line 1 (Conf); **P-2012:** [T-025 \[ENG\]](#), p. 18, line 5 to p. 19, line 19; **P-2556:** [T-145 \[ENG\]](#), p. 34, lines 16-19 (Conf).

<sup>601</sup> **P-2251:** [T-043 \[ENG\]](#), p. 41, line 23 to p. 42, line 17 (Conf); **P-0808:** [T-071 \[ENG\]](#), p. 51, line 20 to p. 53, line 16.

<sup>602</sup> **P-0801:** [T-035 \[ENG\]](#), p. 35, line 18 to p. 36, line 23 (Conf).

<sup>603</sup> **P-0801:** [T-035 \[ENG\]](#), p. 59, line 10 to p. 61, line 20 (Conf); **P-1962:** [T-139 \[ENG\]](#), p. 30, line 20 to p. 32, line 15 (Conf); **P-2556:** [T-145 \[ENG\]](#), p. 23, lines 3-19 (Conf).

<sup>604</sup> **P-0287:** [T-020 \[ENG\]](#), p. 19, line 7 to p. 20, line 1 (Conf); **P-2012:** [T-026 \[ENG\]](#), p. 38, line 11 to p. 39, line 6.

<sup>605</sup> **P-0884:** [T-056 \[ENG\]](#), p. 69, line 23 to p. 71, line 13 (Conf); **P-0487:** [T-203 \[ENG\]](#), p. 4, line 6 to p. 6, line 3 (Conf).

192. The Accused failed to take any meaningful action within his ability, or to obstruct or frustrate the Anti-Balaka's commission of crimes against Muslim civilians.<sup>606</sup> He did not direct the halting of Anti-Balaka actions; the group's withdrawal from deployments, including the Muslim enclaves; nor act to protect imperilled Muslim civilians within the control of the Anti-Balaka.<sup>607</sup> Rather, he put the blame on the transitional Government<sup>608</sup> and even praised the criminal elements of the Anti-Balaka as heroes and liberators.<sup>609</sup>

193. In conclusion, the evidence demonstrates beyond reasonable doubt that both Accused are liable for all the crimes charged.

194. The CLRV also submit that Mr Yekatom and Mr Ngaissona must be cumulatively convicted for all charges brought against them since each of the charges has a materially distinct element not contained in the other. Regarding Mr Yekatom, Counts 2, 15 and 26 have different contextual elements (as crimes against humanity) than Counts 3, 16 and 27 (as war crimes); and Counts 4, 11, 12 and 24 have different contextual elements (as crimes against humanity) than Counts 5, 13 and 25 (as war crimes), respectively. Regarding Mr Ngaissona, Counts 2, 15, 26 and 31 have different contextual elements (as crimes against humanity) than Counts 3, 16, 27 and 32 (as war crimes); Counts 4, 24 and 37 have different contextual elements (as crimes against humanity) than Counts 5, 25 and 38 (as war crimes); and Counts 11, 12 and 40 have different contextual elements (as crimes against humanity) than Counts 13 and 41 (as war crimes), respectively.

195. Cumulative convictions are permissible under the statutory framework.<sup>610</sup> A Chamber may enter multiple convictions for the same conduct only if each statutory provision at stake has a "materially distinct" element not contained in the other, considering the legal elements of each provision (including the contextual elements) and not the acts/or omissions of the accused.<sup>611</sup>

<sup>606</sup> **P-0287**: [T-020 \[ENG\]](#), p. 19, line 7 to p. 20, line 1 (Conf); **P-1962**: [T-139 \[ENG\]](#), p. 30, line 20 to p. 32, line 15 (Conf); **P-2556**: [T-145 \[ENG\]](#), p. 48, lines 6-19 (Conf).

<sup>607</sup> **P-0287**: [T-020 \[ENG\]](#), p. 19, line 7 to p. 20, line 1 (Conf); **P-1962**: [T-139 \[ENG\]](#), p. 30, line 20 to p. 32, line 15 (Conf); **P-2556**: [T-145 \[ENG\]](#), p. 48, lines 6-19 (Conf).

<sup>608</sup> **P-0952**: [T-249 \[ENG\]](#), p. 38, lines 17-22.

<sup>609</sup> **P-0952**: [T-250 \[ENG\]](#), p. 5, lines 2-11.

<sup>610</sup> See the [Ntaganda Trial Judgment](#), *supra* note 91, para. 1202; and the [Katanga Trial Judgment](#), *supra* note 66, paras. 1692-1696.

<sup>611</sup> See the [Ntaganda Trial Judgment](#), *supra* note 91, para. 1202; the [Bemba et al. Trial Judgment](#), *supra* note 68, paras. 950-954; and the [Bemba Trial Judgment](#), *supra* note 70, paras. 743-751; and the [Katanga Trial Judgment](#), *supra* note 66, paras. 1692-1696.

## VIII. IMPACT OF THE CRIMES UPON VICTIMS AND THEIR COMMUNITIES<sup>612</sup>

196. The CLRV note that the Chamber's duty to determine the truth is not limited to establishing the guilt or innocence of the Accused. Part of the truth to be determined by the Chamber is the victimisation, the suffering and harm caused to those who were directly affected by the crimes committed. During the trial, the Chamber has heard evidence about the crimes committed, as well as factual and emotional accounts of the agony suffered by the Victims, their relatives, and the Muslim community. In its evaluation of the evidence, the Chamber should therefore give due consideration to the accounts of the Victims and the harm they suffered.

197. While the extent of the victimisation is an issue that will be developed further for the purpose of sentencing – and subsequently for reparations, if the Accused are found guilty –, this final section of the brief intends to summarise the main harms suffered by the Victims as a consequence of the crimes committed and the impact that said crimes had on them in order for the Chamber to better understand the gravity and scale of the crimes charged.

198. As recalled *supra*,<sup>613</sup> prior to the events, the Muslim and Christian communities in the CAR lived a peaceful life. When community members are asked about their lives before the conflict broke out, they describe it as very harmonious. Life was peaceful and they were free to go about their daily business. Suddenly, everything changed with the advent of the Seleka and the Anti-Balaka. The lives of thousands of victims were turned upside down between September 2013 and December 2014.

199. Victims were taken by surprise and were deeply affected by the extremely serious acts of violence committed not only against them, but also against their relatives and their communities. As stated by P-1528: “[t]here are more victims among civilians. They have got absolutely nothing to do with politics and they don't know Bozizé or Djotodia personally, but they, nevertheless, fell victim, and they are the sole victims”.<sup>614</sup>

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<sup>612</sup> In this Section, in order to explain the victimisation, the CLRV refer to some applications which were disclosed at trial for the purpose of requesting an expert report. They are a representative sample of all forms filed by Victims in the proceedings.

<sup>613</sup> See *supra* paras. 93 ff., 141 and 158.

<sup>614</sup> **P-1528: T-178 [ENGL]**, p. 49, lines 5-8. See also a/15006/20 ([CAR-V44-00000003](#)) describing how, on 5 December 2013, Bossangoa fell at the hands of the Balaka, with her home being taken by assault because [REDACTED]. In addition to demanding money, [REDACTED] causing her psychological and physical harm as well as long lasting conditions. See also a/15010/20 ([CAR-V44-00000004](#)) describing having to leave Bossangoa empty handed on 5 December 2013 because her belongings were taken by elements of Mr Ngaïssona. She now struggles with psychological problems and the material harm related to the loss of her merchandise, clothing and

200. The extreme violence used by the Anti-Balaka instilled fear and created a climate of terror in the Muslim population. Threats were permanent. Dual status P-2353 described the state of fear in which the population of Mbaïki, especially children and women, lived when the Anti-Balaka invaded the city after the attack on 5 December 2013: “[d]uring that period it was very hard. The Anti-Balaka had completely invaded the city of Mbaiki. They had machetes and weapons. They all had weapons. And when you saw them, you were scared. [...] Women and children were suffering. We were a bit older, so we could put up with that. And someone who shows you a machete and says ‘I’m going to slit your throat today’, it was hard. And they actually did that several times. [...] It was a real threat. Someone who had a weapon and said that they would hurt you, it wasn’t just a single person but there were hundreds who would threaten us”.<sup>615</sup>

201. In the account of the Victims, the word “fear” appears countless times. Dual status P-2353 indicated that he “was threatened on several occasions”.<sup>616</sup> He detailed the type of intimidations, including death threats, he received from the Anti-Balaka.<sup>617</sup> Dual status P-2354 was also the object of such threats<sup>618</sup> and corroborated that Anti-Balaka elements, who had deployed in the town of Mbaïki, were making death threats against Muslim civilians in Mbaïki.<sup>619</sup> He explained that “the situation was very hot, tense. [...] The situation was serious. We were being threatened, intimidated. Everyone was afraid”.<sup>620</sup>

202. Victims described persecution, murder, torture, rape, cruel and inhumane treatments, imprisonment and serious deprivation of physical liberty in their testimonies and in the application forms. They also reported numerous attacks on their property and that of their communities, including the destruction and looting of homes and shops, as well as the destruction of mosques.

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money. Additionally, see a/15035/20 ([CAR-V44-00000005](#)) describing fleeing Bossangoa towards the bush with his children and during his absence, having his home pillaged by elements of Mr Ngaïssona. He now struggles with psychological harm including sadness and trouble sleeping and has issues with nourishment as well as the material harm of the loss and destruction of his home and belongings.

<sup>615</sup> P-2353: [T-161 \[ENG\]](#), p. 26, lines 6-13.

<sup>616</sup> P-2353: [T-161 \[ENG\]](#), p. 26, lines 16-19.

<sup>617</sup> P-2353: [T-161 \[ENG\]](#), p. 26, line 16 to p. 27, line 11.

<sup>618</sup> P-2354: [T-210 \[ENG\]](#), p. 14, line 24 to p. 15, line 20.

<sup>619</sup> P-2354: [T-210 \[ENG\]](#), p. 14, line 24 to p. 16, line 10. See also P-2389: [T-238 \[ENG\]](#), p. 7, line 20 to p. 8, line 23.

<sup>620</sup> P-2354: [T-210 \[ENG\]](#), p. 16, lines 7-10. See also a/15312/20 ([CAR-V44-00000023](#)) describing his flight from Mbaïki: “[REDACTED]”. See also a/15318/20 ([CAR-V44-00000026](#)) describing having to flee because of his religion: “[REDACTED]”.

203. The extent of the prejudice is massive. Victims were in constant fear for their lives and the ones of their loved ones, not knowing where to take refuge, whether their family members were safe and still alive, feeling lost. They faced precariousness and insecurity. In addition, as a result of the attacks by the Anti-Balaka, Victims were forced to flee their homes in extremely difficult conditions and to take refuge in other towns or regions of the CAR or in other countries including Chad.

### 1. Physical harm

204. Victims suffered physical harm and injuries, including chronic and long-lasting health ailments, impairments and handicaps. The attacks have affected individuals of all ages and genders, with women and children most affected by the events. Some Victims suffered injuries which have never properly healed because they are the consequence of serious beatings or because they were shot while fleeing the attack. Their difficult living conditions with no shelter, lack of food and medicine, and poor hygiene exposed them to diseases and deteriorated their physical health, with effects still felt nowadays.

205. Dual status P-2049 recounted the torture he suffered at the hands of the Anti-Balaka in September 2013, before he managed to escape,<sup>621</sup> as follows: “[REDACTED]”.<sup>622</sup>

206. [REDACTED] recounted the rape she suffered during the 5 December 2013 attack in Bossangoa, [REDACTED]”.<sup>623</sup> [REDACTED]<sup>624</sup> and [REDACTED].<sup>625</sup>

207. [REDACTED] described the torture and other inhumane acts and physical harm [REDACTED] at the Yamwara School base.<sup>626</sup>

208. [REDACTED]P-1811 testified that [REDACTED].<sup>627</sup> [REDACTED].<sup>628</sup> [REDACTED]”.<sup>629</sup>

209. In the words of [REDACTED]P-1716: “”.<sup>630</sup>

<sup>621</sup> P-2049: [T-100 \[ENG\]](#), p. 58, lines 9-19 (Conf). See also P-2049: [T-103 \[ENG\]](#), p. 7, line 22 to p. 8, line 2.

<sup>622</sup> P-2049: [T-100 \[ENG\]](#), p. 58, line 22 to p. 59, line 8 (Conf). See also P-2049: [T-103 \[ENG\]](#), p. 6, lines 17-19 (Conf).

<sup>623</sup> [REDACTED]. See also [REDACTED].

<sup>624</sup> [REDACTED].

<sup>625</sup> [REDACTED].

<sup>626</sup> See *supra* paras. 113 and 115.

<sup>627</sup> P-1811: [CAR-OTP-2058-0003-PRV](#), at 0007, para. 26.

<sup>628</sup> P-1811: [CAR-OTP-2058-0003-PRV](#), at 0008, para. 28.

<sup>629</sup> P-1811: [CAR-OTP-2058-0003-PRV](#), at 0008, paras. 31-32.

<sup>630</sup> P-1716: [T-147 \[ENG\]](#), p. 15, lines 5-10 (Conf).

210. He further testified to the long-lasting consequences of the events [REDACTED]: “[REDACTED]”.<sup>631</sup>

211. Dual status P-1704 also indicated [REDACTED]”.<sup>632</sup> [REDACTED] long-lasting consequences because of the events, [REDACTED]”.<sup>633</sup>

## 2. Psychological harm

212. The Anti-Balaka attacks had a profound psychological impact on the Muslim civilians. Victims suffered psychological and emotional harm because of the loss of their family members and the separation from their families; the witnessing of the murder of relatives, friends, imams; the cruel and inhumane treatments; the forced displacement; the disruption of social cohesion in their communities, the loss of traditions and customs, and the erosion of cultural structures.

213. Victims described in their testimonies and in their application forms feelings of fear, sadness, anguish, pain, embarrassment, desolation, frustration, loss of hope, and depression.<sup>634</sup>

214. Dual status P-2657 expressed her mental and physical suffering in these words: “[REDACTED]”.<sup>635</sup>

215. The vast majority of the Victims lost at least one family member during the events. Dual status P-2049 testified that, during the Anti-Balaka attack in Bossangoa on 5 December 2013, [REDACTED] was injured,<sup>636</sup> [REDACTED] killed,<sup>637</sup> [REDACTED],<sup>638</sup> [REDACTED].<sup>639</sup> Answering to a question by the Presiding Judge, he explained the sadness and pain he [REDACTED] felt at the death [REDACTED]: “[REDACTED]”.<sup>640</sup>

<sup>631</sup> P-1716: [T-147 \[ENG\]](#), p. 15, lines 13-18 (Conf). See also P-1704: [T-128 \[ENG\]](#), p. 25, lines 6-16 (Conf).

<sup>632</sup> P-1704: [T-128 \[ENG\]](#), p. 25, lines 6-16 (Conf).

<sup>633</sup> P-1704: [T-128 \[ENG\]](#), p. 25, line 21 to p. 26, line 3 (Conf).

<sup>634</sup> See a/15309/20 ([CAR-V44-00000021](#)) describing being persecuted for having Muslim faith. She narrates having to flee to Chad with her family with the help of the MINUSCA and having returned eventually to CAR but not to Mbaïki because of fear. Furthermore, in her description of psychological harm she mentions fear, sadness, loss of memory and lack of focus. See also a/15297/20 ([CAR-V44-00000013](#)) and a/20817/21 ([CAR-V44-00000043](#)) who describe similar psychological harm.

<sup>635</sup> P-2657: [T-104 \[ENG\]](#), p. 22, lines 12-25 (Conf).

<sup>636</sup> P-2049: [T-100 \[ENG\]](#), p. 71, line 13 to p. 72, line 24 (Conf). See also P-2657: [T-104 \[ENG\]](#), p. 36, lines 9-22.

<sup>637</sup> P-2049: [T-100 \[ENG\]](#), p. 71, line 13 to p. 72, line 24 (Conf) and p. 73, lines 3-6 (Conf). See also P-2657: [T-104 \[ENG\]](#), p. 19, lines 3-11, 13-14; p. 24, line 23 to p. 25, line 1; and p. 26, lines 21-23 (Conf).

<sup>638</sup> P-2049: [T-100 \[ENG\]](#), p. 73, lines 1-3 (Conf). See also P-2657: [T-104 \[ENG\]](#), p. 19, lines 12-25 (Conf).

<sup>639</sup> P-2049: [T-100 \[ENG\]](#), p. 73, line 5 (Conf).

<sup>640</sup> P-2049: [T-101 \[ENG\]](#), p. 49, lines 11-16 (Conf).

216. The loss of their loved ones had not only a psychological and emotional impact but also affected in a significant way the family members who were financially dependent on the deceased Victims, particularly, in instances in which the deceased person was the economic pillar of the family or household. Dual status P-2682 – who lost her husband – described her suffering in this way: “[a]fter the death of my husband, I know that once he's dead, everything is over. I cannot stop thinking about him, reminiscing about our life, his generosity, especially towards my family, because I came from a poor family and we were lucky to have him as part of our family. [...] When I lack something, I think about what he would do if he had been present, and so this drives me into a situation where I become practically sick”.<sup>641</sup>

217. Dual status P-1705 [REDACTED]: “[REDACTED]”.<sup>642</sup> Asked how he felt, he answered: “[REDACTED]”.<sup>643</sup>

218. As many other Victims, P-1705 and his family found themselves in great difficulty when [REDACTED].<sup>644</sup>

219. During the events, it was impossible for Muslim families to bury their dead in accordance with the ceremonies, rituals and practices of their religion due to the inaccessibility of cemeteries reserved for Muslims in the country.<sup>645</sup> This situation forced the families of Muslims to bury their loved ones in their concessions and sometimes in the fields.<sup>646</sup> Some of the Victims have been unable to mourn their loved ones killed in the attacks, up to this day, in the absence of information on the exact circumstances of their deaths and of the place where their remains are buried.

220. P-1654, [REDACTED], never had the chance to properly bury the body of his son [REDACTED], nor to know the reasons behind his murder: “[REDACTED]”.<sup>647</sup>

221. Similarly, V44-0001 testified: “[w]e don't know whether they were burnt alive or buried somewhere or if they're still in the bush. Let us hope that one day they come back home. I don't know. Only God knows”.<sup>648</sup> When asked if she had been able to hold a mourning ceremony

<sup>641</sup> P-2682: [T-017 \[ENG\]](#), p. 42, lines 10-16.

<sup>642</sup> P-1705: [T-211 \[ENG\]](#), p. 37, lines 16-19 (Conf).

<sup>643</sup> P-1705: [T-211 \[ENG\]](#), p. 37, line 21 to p. 38, line 3 (Conf).

<sup>644</sup> P-1705: [T-211 \[ENG\]](#), p. 54, lines 8-14 (Conf).

<sup>645</sup> P-1838: [T-215 \[ENG\]](#), p. 37, line 22 to p. 38, line 13.

<sup>646</sup> P-0475: [T-090 \[ENG\]](#), p. 69, lines 15-23.

<sup>647</sup> P-1654: [CAR-OTP-2050-0737](#), at 0738. Similarly, [REDACTED]P-0967: “[REDACTED]”: P-0967: [T-200 \[ENG\]](#), p. 10, lines 15-25 (Conf) and p. 11, lines 11-15 (Conf). See also P-1705: [T-211 \[ENG\]](#), p. 55, lines 5-8 (Conf).

<sup>648</sup> V44-0001: [T-267 \[ENG\]](#), p. 13, lines 1-3.

following the death of her husband, victim V44-0001 observed that she is still mourning her husband “*even now*”.<sup>649</sup>

222. The desperate need to know about the fate of their family members/relatives and to ensure appropriate burial was highlighted by dual status [REDACTED]. Referring to the circumstances of the disappearance [REDACTED], she expressed the pain that haunts [REDACTED] with these words: “[REDACTED]”.<sup>650</sup>

### 3. Material harm

223. The pillaging and destruction of properties caused significant harm to the Muslim civilians. Illustrating the looting and destruction of Muslim homes, offices and shops in Berberati, P-1719 indicated that “[a]ll the houses inhabited by the Muslims in the Poto-Poto neighbourhood had been destroyed. You had mosques, municipal buildings, diamond dealership houses, private residences. Everything was destroyed. [...] All property belonging to Muslims were destroyed. Private homes, shops, sales houses. Everything was destroyed”.<sup>651</sup>

224. Dual status P-1666 testified that his house was occupied [REDACTED] and his belongings [REDACTED] were taken and resold.<sup>652</sup> He used the term “vandalized” to describe the extent of the looting: “[t]he house had been vandalised, the ceilings, the furniture which were in the house had been taken away, so the house was in a poor state, completely vandalised”.<sup>653</sup> When asked about the economic losses suffered, he answered that he could not make such an estimate, explaining that “[i]t's very difficult to give you an estimate. I can't do that. It's something I can't calculate. The loss [and] the separation, I don't know how to estimate or evaluate that. It's very difficult to repair. I can't really say”.<sup>654</sup>

225. Dual status P-2353 also stated that his property had been looted and destroyed in Mbaïki by the Anti-Balaka and that he was no longer able to recover it: “[REDACTED]”.<sup>655</sup>

<sup>649</sup> V44-0001: [T-267 \[ENG\]](#), p. 12, lines 16-17.

<sup>650</sup> [REDACTED].

<sup>651</sup> P-1719: [T-143 \[ENG\]](#), p. 5, line 24 to p. 6, line 12. See also a/20817/21 ([CAR-V44-0000043](#)) and a/66142/19 ([CAR-V44-0000052](#)) who describe their property being taken and looted. See also a/15300/20 ([CAR-V44-0000016](#)) who describes she did not return home due to her house being destroyed and to avoid retaliation.

<sup>652</sup> P-1666: [T-231 \[ENG\]](#), p. 48, line 20 to p. 49, line 3 (Conf). See also P-1666: [T-232 \[ENG\]](#), p. 39, line 23 to p. 40, line 2 and p. 40, lines 7-9 (Conf).

<sup>653</sup> P-1666: [T-231 \[ENG\]](#), p. 49, lines 18-20.

<sup>654</sup> P-1666: [T-231 \[ENG\]](#), p. 55, lines 11-13 and P-1666: [T-231 \[FR\]](#), p. 55, lines 14-16.

<sup>655</sup> P-2353: [T-161 \[ENG\]](#), p. 38, lines 9-11 (Conf). See also P-2353: [T-161 \[ENG\]](#), p. 38, line 12 to p. 39, line 19 (Conf).

226. Dual status P-2354 estimated at “45 million CFA francs” the economic harm suffered at the time of the evacuation from Mbaïki.<sup>656</sup> He owned “[REDACTED]houses in a compound” that each contained “a television set, a dresser, a bed”, .<sup>657</sup>

227. The consequences of the massive pillaging and systematic destruction of properties that the Victims have been suffering are not only material. Such extended loss and damages not only robbed them of all their resources, tools and living places, but also heavily impacted on the future of their whole families. Victims have undergone a drastic change in their living conditions, since they had to flee their original places of residence, leaving behind their belongings, homes and, for many, their businesses. The majority of them now live in extreme poverty.<sup>658</sup>

228. Not only were they deprived of common resources to live on a daily basis and a roof above their heads, but the brutality of the attacks, the abrupt and definite loss they encountered and the void in which they were left created extreme anxiety. Victims felt helpless and deeply traumatised. How can one live and ensure the subsistence of his or her family without a house, food or a business to give the means to survive? The damages resulting from the massive pillaging and destruction of which they have been suffering ever since the attacks are material and economical, but also psychological and, consequently, correlatively affect their physical and mental health.

229. V44-0001 explained that she left the refugee camp because “it was hard to obtain food” and in order to be able to find work and earn some money.<sup>659</sup> Moreover, after noting that “a woman without a husband has terrible difficulty renting a house”, she observed that she “had to fight as a woman”.<sup>660</sup>

230. Dual status P-2353 described the drastic change in his life and those of his children, as follows: “[b]efore, I was a father, a responsible father. I had a lot of property. I had my house. The children of some of my family members were schooled at my place, I was paying for their schools. And everything was fine. After these events, you could no longer take care of the children of other family members. I'm no longer in position to fend for my children, my wives. I've lost everything. As I'm speaking, we are actually living by the grace of God. I have a lot of

<sup>656</sup> P-2354: T-210 [ENG], p. 29, lines 22-23 (Conf).

<sup>657</sup> P-2354: T-210 [ENG], p. 29, lines 13-23 (Conf).

<sup>658</sup> See a/15413/20 (CAR-V44-00000031) mentioning she suffers for the loss of her economy and is unable to find a way to survive.

<sup>659</sup> V44-0001: T-267 [ENG], p. 16, lines 15-24.

<sup>660</sup> V44-0001: T-267 [ENG], p. 17, lines 8-9.

*problems, housing issues, problems in paying for my children's school. You see, it's very difficult. At some point of time children drop out of school, and I've got three or four children who have dropped out. Some have to work as cobblers, others work as loaders, and it is terrible".*<sup>661</sup>

231. Similarly, dual status P-2354 explained his efforts upon arrival in Chad to provide for his family explaining that “[o]nce we got to Chad, [...] we weren't familiar with that country. We had some money and we were able to feed ourselves and get healthcare. UNHCR gave us a bit -- 3,000 per household, but what would that pay for? We worked hard. We are religious people. I worked hard. I'm a businessman, and my fellow traders gave me food to eat and a bit of money. I bought some peanuts and I sold them. So I worked hard to get some money and support my children and family. When we got to Chad, we had nothing. We had been stripped of all our possessions and even now, it's difficult for me to get back on my feet and resume my business activities. I hope God will help me in the future”.<sup>662</sup> In fact, dual status P-2354 [REDACTED].<sup>663</sup> He expressed his feelings as follows: “[i]n Mbaïki, we had been there for 20 or 30 years. We had traded there, we had property there, we had goods in our shops. We had our cafés, we had to leave everything behind. When the trucks [...] came to expatriate us, that was to take us with our possessions, but the Chadians refused. They said we could only take a few things. They refused to take our goods with us. People left in tears because they left all their possessions and their goods behind. We escaped with our lives, but we left everything behind in Mbaïki”.<sup>664</sup>

232. Dual status P-2049 testified that during the attack of 5 December 2013 in Bossangoa, Muslims lost all their belongings.<sup>665</sup>

233. Regarding his economic damage, dual status P-2389 said that he had “*lost a considerable amount*” because he owned, at the time of his departure from Mbaïki “*a shop*”, as well as in his “*warehouse [...] two motorbikes [...] a quantity of coffee, perhaps a tonne, [...] building materials, [...] fridges, freezers*”, and “*two houses*”.<sup>666</sup>

<sup>661</sup> P-2353: [T-161 \[ENG\]](#), p. 44, lines 12-21.

<sup>662</sup> P-2354: [T-210 \[ENG\]](#), p. 30, lines 2-12 (Conf).

<sup>663</sup> P-2354: [T-210 \[ENG\]](#), p. 32, line 19 to p. 33, line 2 (Conf): “[I]n Mbaïki, [REDACTED] I worked a lot in Mbaïki. I had resources. I had shops, but the conflict destroyed everything. What I'm asking is at least -- well, I thank God for keeping me alive and for the determination that I have. If I hadn't been determined, I would not be in this state. Today, if I ask for assistance from a friend who's a trader, he can help me. But I have lost most of my business. I don't even have one quarter of that, and I merely thank God for keeping me alive”.

<sup>664</sup> P-2354: [T-210 \[ENG\]](#), p. 21, line 21 to p. 22, line 3.

<sup>665</sup> P-2049: [T-101 \[ENG\]](#), p. 27, line 25 to p. 28, line 8.

<sup>666</sup> P-2389: [T-238 \[ENG\]](#), p. 18, lines 13-20.

#### 4. Impact of the forced displacement on the Victims

234. The attacks by the Anti-Balaka on the Muslim civilian population forced the Victims to flee their original places of residence and seek refuge in other parts of the CAR, as well as outside the CAR, because “[t]heir lives were in danger. If someone quickly leaves his home, it's because he wants to get away and save his skin. There was this threat of cleansing of Muslims from localities. They wanted to take refuge in a place that was much safer. That was their main purpose”.<sup>667</sup>

235. Victims were faced with a devastating decision: flee and lose their societal and economic stability or stay and face massacre. Victims were displaced several times during the events. The impact of said displacements was distressing since Victims suffered harm at the time of the displacement, during their stay at the place of first refuge, at the time of their evacuation from their first place of refuge and at their final destination.

236. In his Report, Professor Reicherter described the displacement’s trajectory in six stages: 1) pre-expulsion, in which the threat of harm and loss is imminent and victims experience famine, poverty and religious (or other type of) persecution; 2) departure/expulsion, marked by fear and a quick turn of events as a person is actually forced to physically flee their home; 3) migration, in which traumatic events are acutely recalled and re-experienced as they are newly experienced with traumas compounded because individuals are exposed to other harms, such as familial separation and exposure to conflict; 4) transition and adaptation during initial relocation, in which individuals are forced to cope with the losses and traumas they have endured while also attempting to adapt to the new surroundings. A trauma which has been associated with economic, occupational, educational and familial problems; 5) prolonged resettlement, in which individuals are modifying all aspects of their life and they often live in unsafe environments characterised by insecurity and lack of privacy, facing mental health issues; and 6) (rarely) return.<sup>668</sup>

237. As explained by Professor Reicherter, “following the 2013 displacement, a 2014 study with IDPs in 34 (out of 35) sites in CAR found the main needs to be food security, camp management and shelter, nutrition, health and access to employment (IOM, 2014). Two third of CAR IDPs sampled were forced to resort to negative coping strategies, selling belongings and incurring debt to meet basic food needs; further 94% of IDPs reported lowering their daily

<sup>667</sup> P-1666: T-231 [ENG], p. 25, line 25 to p. 26, line 3.

<sup>668</sup> See P-0925’s Expert Report, *supra* note 65, at 6834-6835.

*meals and 85% spending full days with eating anything. In terms of family separation, which can have a significant impact on mental health, 21% of surveyed CAR IDPs mentioned having had to send their family members elsewhere to ensure their survival and well-being. In terms of reasons for displacement, 90% of CAR IDPs surveyed had faced insecurity; 71% had belongings stolen; 55% reported damage to their houses and 48% reported facing direct physical threat. Not surprisingly, the resumption of security was cited as the main precondition for return to their place of origin”.*<sup>669</sup>

238. For Victims who sought safety in another country, prolonged stay in camps has been linked to negative mental health. Statistically, they experience increased rates of post-traumatic stress disorder (“PTSD”), depression, anxiety and comorbidity between these three. These negative mental health outcomes have lasting effects, with depression and PTSD lasting for years. Victims live in a state of constant fear facing food, shelter and privacy shortages, making the stress of daily hassles more unbearable because their stress tolerance has been disrupted, increasing the psychological distress they experience.<sup>670</sup>

*a) Conditions under which the displacement took place*

239. Victims recalled the abrupt nature of their departure from their places of residence, which was done urgently out of fear for their lives and those of their loved ones.

240. V44-0001 fled her home twice, first from Bossangoa and then from Bangui. After being informed of the killing of her husband, she fled the same day and walked from Bossangoa to Sibut, and then took a vehicle to Bangui,<sup>671</sup> accompanied by her two children.<sup>672</sup> She also recounted her flight from Bangui, a month later, with her children, siblings and neighbours.<sup>673</sup> This chaotic escape, which took place on 5 December 2013 when “*shooting was everywhere*”,<sup>674</sup> led them from PK12 to Gobongo.<sup>675</sup> They then continued on foot to PK5 and from there to Bangui airport,<sup>676</sup> where they were evacuated by plane to Chad a few hours later.<sup>677</sup> When she fled to the airport, V44-0001 was dressed as a Christian for fear of being attacked by the Anti-Balaka who had set up roadblocks.<sup>678</sup>

<sup>669</sup> *Idem*, at 6836.

<sup>670</sup> *Idem*, at 6839.

<sup>671</sup> V44-0001: [T-267 \[ENG\]](#), p. 10, lines 10-14.

<sup>672</sup> V44-0001: [T-267 \[ENG\]](#), p. 33, lines 5-11.

<sup>673</sup> V44-0001: [T-267 \[ENG\]](#), p. 13, line 10 to p. 14, line 2.

<sup>674</sup> V44-0001: [T-267 \[ENG\]](#), p. 13, line 16.

<sup>675</sup> V44-0001: [T-267 \[ENG\]](#), p. 13, lines 21-25.

<sup>676</sup> V44-0001: [T-267 \[ENG\]](#), p. 14, lines 1-8.

<sup>677</sup> V44-0001: [T-267 \[ENG\]](#), p. 14, lines 12-16.

<sup>678</sup> V44-0001: [T-267 \[ENG\]](#), p. 27, lines 8-11.

241. Dual status P-2682 explained the circumstances in which she fled from Boeing during the attack of 5 December 2013: “[W]e started hearing gunshots. I woke up abruptly, I was trembling. I opened the gate and I went out. I saw people who were injured, with broken arms, and they were telling all sorts of stories. My heart was beating fast. [...] But then I decided to go to Boeing. On my way, I saw people with injuries all over their bodies. [...] I crossed the main road, the tarred road, but someone asked me, “Where are you going?” And I said, “I’m going to look for my husband.” But he told me, “Look, the Anti-Balaka are everywhere. You cannot go there.” So I started running back [...]”.<sup>679</sup>

242. Victims were confronted with the same situation of panic and fear everywhere in the CAR. Dual status P-2049 recounted his flight and that of his family members from their home in Bossangoa on 5 December 2013 as follows: “[REDACTED]”,<sup>680</sup> “[REDACTED]”.<sup>681</sup> He had previously faced the same situation on 17 September 2013: “in the morning, at around 5 a.m., we heard gunshots from the four corners of Bossangoa. There were explosions everywhere. I was compelled to wake up. And when I woke up, I saw people running in all directions and saying that the Anti-Balaka had arrived. [...] So we fled to go and seek refuge in the imam’s house. With the gunshots and everything, we did not know what to do”.<sup>682</sup>

243. Dual status P-2353, [REDACTED],<sup>683</sup> observed: “[REDACTED]”.<sup>684</sup>

244. Because of their hasty escape, Victims could only bring with them very few personal belongings. In fact, “[t]he conditions were difficult. People had to rush. People just took what was absolutely necessary. But when it comes to goods or farm animals, no. People who had money could, but people who did not couldn’t, and they just took what was absolutely necessary and they had to leave behind their other possessions. There was no other way”.<sup>685</sup>

<sup>679</sup> P-2682: [T-017 \[ENG\]](#), p. 26, line 24 to p. 27, line 10. See also a/15307/20 ([CAR-V44-00000020](#)) in which the victim explains she left her home in fear: “[REDACTED]”. See also a/66166/19 ([CAR-V44-00000057](#)) in which the victim narrates fleeing Bangui: “[REDACTED]”. Additionally, see a/66186/19 ([CAR-V44-00000062](#)) narrates fleeing after having been accused of being close to the Seleka because of her family relationship: “[REDACTED]”.

<sup>680</sup> P-2049: [T-103 \[ENG\]](#), p. 63, lines 18-20 (Conf).

<sup>681</sup> P-2049: [T-103 \[ENG\]](#), p. 64, lines 1-4 (Conf).

<sup>682</sup> P-2049: [T-100 \[ENG\]](#), p. 62, line 21 to p. 63, line 6. See also a/15286/20 ([CAR-V44-00000009](#)) in which the victim describes being threatened and how he escaped: “[REDACTED]”. See also a/15288/20 ([CAR-V44-00000010](#)) in which the victim describes what led him to flee: “[REDACTED]”.

<sup>683</sup> P-2353: [T-161 \[ENG\]](#), p. 17, line 20 to p. 18, line 6 (Conf).

<sup>684</sup> P-2353: [T-161 \[ENG\]](#), p. 22, lines 9-12 (Conf).

<sup>685</sup> P-1666: [T-231 \[ENG\]](#), p. 24, lines 1-5.

245. Some Victims fled with only their outfits.<sup>686</sup> Some “*were able to flee with their property while others were not lucky enough to flee with their goods. [...] it is not possible to take away all the goods in a house on one day. So there was quite some distance between some homes and the École de la Liberté. And so when the firing started, people could not move all their property out. And that is why many people lost some of their property. Some people were able to leave with some of their property, while others were not lucky enough to take any of their property*”.<sup>687</sup>

246. Victims described their physical and emotional suffering while leaving their homes, their belongings and sometimes members of their family behind. V44-0001 expressed the suffering experienced by her and her children during the walk from Bossangoa to Sibut with the following words: “[w]e suffered greatly. When the events happened, we couldn't feel all that suffering and pain. There was an internal strength that kept us walking and moving ahead. Once we got there, we felt the pain and we realised that our feet were hurting, our backs were hurting, but we didn't sense these things when we were actually travelling. It's once we got to our destination, that's when we began to feel these things”.<sup>688</sup>

247. Dual status P-2419 testified that following the Anti-Balaka attacks in Bimon, he fled into the bush where he met 29 Muslims, among them, women, children and elderly, and that they stayed there for almost two weeks.<sup>689</sup> He then made a two-day journey on foot to reach Bangui, where he took refuge in the Central Mosque.<sup>690</sup>

248. Moreover, a number of Victims were separated from their family members during the flight, suffering significant psychological distress and great sadness. Dual status P-2419 lost track of his family, including his wife and children for six months: “[t]he separation for me? I thought my wife and my children were already dead. I fled, and I had no information about my family. I would like to tell the judges that, when I was at the Central Mosque, sometimes I couldn't even eat because all I could think about was my family”.<sup>691</sup>

#### **b) Living conditions at the temporary places of refuge**

249. At the places of temporary refuge, Victims were often obliged to move constantly as a result of the continuous attacks by the Anti-Balaka and the catastrophic living conditions.

<sup>686</sup> P-2419: [T-176 \[ENG\]](#), p. 24, lines 18-19; P-1528: [T-178 \[ENG\]](#), p. 47, lines 7-8.

<sup>687</sup> P-2049: [T-101 \[ENG\]](#), p. 41, line 22 to p. 42, line 7.

<sup>688</sup> V44-0001: [T-267 \[ENG\]](#), p. 11, lines 14-19.

<sup>689</sup> P-2419: [T-176 \[ENG\]](#), p. 17, line 23 to p. 18, line 7.

<sup>690</sup> P-2419: [T-176 \[ENG\]](#), p. 18, line 3.

<sup>691</sup> P-2419: [T-176 \[ENG\]](#), p. 26, line 24 to p. 27, line 4.

Others found themselves in the impossibility of leaving the enclaves where they took refuge for fear of being killed.

250. As already recalled, in Bangui, after the attack of 5 December 2013, a large number of members of the Muslim population, including a number of participating Victims, found refuge in PK5 and at the Central Mosque in Bangui.<sup>692</sup> More than 20,000 Muslims were present at the mosque.<sup>693</sup>

251. At PK5 the living conditions were extremely difficult. As explained by dual status P-1666 – who lived there between 2014 and 2017 – : “[w]e left Mbaiki thinking that we would go to PK5, but the situation was very difficult. It's a neighbourhood that was grouping all the Muslim community. [...] in 2014-2015, that was a period that was extremely difficult. If there was [sic] no gunshots in the morning, then it happened in the evening. [...] We couldn't find enough food. And in this enclave we stayed for about one year. We didn't have anywhere else to go. We survived, thanks to the mercy of God and security -- then relative security returned to the country which allowed us to continue living, more or less”.<sup>694</sup>

252. The sanitary conditions were precarious due to the fact that several bodies of Muslims killed during the attack of 5 December 2013 were in a state of putrefaction in the Central Mosque, since it was not possible to access the Muslim cemetery to bury the deceased individuals.<sup>695</sup>

253. From December 2013 to February 2014, the Muslim population confined at PK5<sup>696</sup> survived only thanks to the food brought to them by the FOMAC.<sup>697</sup>

254. Some of the Victims living in villages along the PK9-Mbaiki axis initially found refuge in Mbaiki, mainly hosted by Muslims, or in schools, in the mosque or with imams<sup>698</sup> between 5 December 2013 and early February 2014.<sup>699</sup> Around 15,000 or 16,000 people arrived in Mbaiki from neighbouring villages,<sup>700</sup> and were accommodated mainly in the concessions or

<sup>692</sup> P-1666: [T-231 \[ENG\]](#), p. 10, lines 8-17.

<sup>693</sup> P-2419: [T-176 \[ENG\]](#), p. 21, lines 14-15 and p. 22, line 1. See also application a/15056/20 ([CAR-V44-0000006](#)) in which the victim refers having had difficult moments after fleeing to the mosque: “[REDACTED]”.

<sup>694</sup> P-1666: [T-231 \[ENG\]](#), p. 32, line 22 to p. 33, line 4.

<sup>695</sup> P-2050: [T-240 \[ENG\]](#), p. 18, line 13 to p. 19, line 13 (Conf). P-0475 also confirmed that the only cemetery of Muslims in Bangui located near the airport, more precisely at Boeing, was blocked by the Anti-Balaka: P-0475: [T-090 \[ENG\]](#), p. 57, lines 5-19.

<sup>696</sup> P-0475: [T-091 \[ENG\]](#), p. 58, lines 21-24.

<sup>697</sup> P-0884: [T-057 \[ENG\]](#), p. 26, line 20 to p. 27, line 1.

<sup>698</sup> P-1666: [T-231 \[ENG\]](#), p. 22, line 19 to p. 27, line 19. See also P-2354: [T-210 \[ENG\]](#), p. 27, lines 1-12 (Conf).

<sup>699</sup> See *supra* paras. 125-135.

<sup>700</sup> P-1666: [T-231 \[ENG\]](#), p. 24, lines 19-23.

houses of other Muslim families or with imams.<sup>701</sup> Among them there were children, women, old people, young men, women.<sup>702</sup>

255. The living conditions of the Muslims who found refuge in Mbaïki were also extremely challenging. Dual status P-2353 testified that *“they could barely eat. A person who has a house and who has fled from his house, he is not used to living like this. He has children, he was hungry. And, in fact, people who fled, abandoned their shops and their plantations to seek refuge somewhere. So they came and they had nothing on them. Fortunately, the bishop of the Catholic church, Father Rhino, who helped these people and fed them. He gave them food to eat. And we also had our own reserves, even though it wasn't enough, given the size of the family. We did our best to help them, to feed them. Father Rhino would give them rice and soap in order to help them out and make their ends meet, but they were living in very difficult conditions”*.<sup>703</sup> Two were the major difficulties: “[REDACTED]”.<sup>704</sup>

256. Victims were exposed to medical issues since hospitals were not functioning, medical personnel were absent and there were not enough medicines. In this regard, dual status P-2353 explained that *“[t]here were health problems [...], because the hospitals and the health centres were not working. We did not have enough reserves of medicine to treat people. It was very difficult at that period of time”*.<sup>705</sup> Dual status P-2354 corroborated this statement indicating that *“[a]t that point of time, there were no doctors and no nurses. People were self-treating themselves. It's true that there were matrons and there were also staff to help out, but the heads were no longer there. They had all fled”*.<sup>706</sup>

257. As already recalled, in September 2013 in Bossangoa, Victims (mainly coming from the surrounding villages of Koro-M'poko, Benzambe, Zéré, Ohuam-Bac, and others)<sup>707</sup> found

<sup>701</sup> P-1666: [T-231 \[ENG\]](#), p. 26, line 18 to p. 27, line 2. See also P-2353 testifying that the Muslims evacuated from the neighbouring villages were numerous: P-2353: [T-161 \[ENG\]](#), p. 17, line 19 to p. 19, line 14 (Conf).

<sup>702</sup> P-2353: [T-161 \[ENG\]](#), p. 19, lines 17-18 (Conf).

<sup>703</sup> P-2353: [T-161 \[ENG\]](#), p. 23, lines 3-12. See also a/20078/21 ([CAR-V44-00000036](#)) in which the victim states having to flee towards the Central Mosque de Mbaïki when the Anti-Balaka arrived and the hardships endured: *“J'avais fait deux semaines, je dormais sur le sol, je n'avais pas à manger. J'étais séquestrée dans l'enceinte de la mosquée. Après l'armée Tchadienne était venue avec de camions pour nous faire sortir de la ville, c'est comme ça, que j'étais sortie de la ville”*.

<sup>704</sup> P-2353: [T-161 \[ENG\]](#), p. 43, lines 14-17 (Conf). See also a/15291/20 ([CAR-V44-00000012](#)) in which the victim narrates the circumstances that led him to flee Mbaïki: *“Moi et ma famille étions persécutés à cause de ma religion musulmane. J'étais contraint de fuir de Mbaïki avec ma famille pour rejoindre Bangui avec l'assistance des forces des Nations Unies. Je ne plus retourner à Mbaïki parce que tous mes biens ont été détruits et pillés pour les éléments de Yekatom”*.

<sup>705</sup> P-2353: [T-161 \[ENG\]](#), p. 23, lines 16-18.

<sup>706</sup> P-2354: [T-210 \[ENG\]](#), p. 26, lines 17-25.

<sup>707</sup> P-2462: [T-059 \[ENG\]](#), p. 31, lines 23-24.

refuge at the *École de la Liberté*<sup>708</sup> before being evacuated to Chad or elsewhere. Around 7,000 people took refuge at the school.<sup>709</sup>

258. The living conditions at the school were similar to the ones faced by the Victims at PK5 in Bangui and in Mbaïki. Dual status P-2049 testified that “[REDACTED]”.<sup>710</sup> Hundreds of victims lived under the tarpaulins and did not have anything to eat, and they had to wait in line to access the toilets because the facilities were insufficient.<sup>711</sup> Many displaced people stayed in the school until April 2014.<sup>712</sup> Children could not go to school. Similarly to what happened in other parts of CAR, the dead bodies could not be buried because the Muslim cemetery was inaccessible. As a consequence, bodies were buried in the compound of the school.<sup>713</sup> There were no health facilities available and medicine was scarce.<sup>714</sup>

### c) *Evacuation to other countries*

259. Many of the Victims subsequently left the CAR to seek refuge in Chad or other countries due to the impossibility to return to their place of residence and the prevailing climate of discrimination against Muslims in the country.<sup>715</sup> Evacuations were urgently organized and, in some cases, by Chadian military contingents or the FOMAC. Some victims were evacuated to Chad by road and others by plane.

260. Several trucks and military vehicles transported Muslims who were at PK5 to Chad, as well as to Cameroon, in Garoua-Boulai.<sup>716</sup> Evacuations were, generally, organized in convoys by Chadian troops. Victims described the risks they faced during their evacuation and the death threats from the Anti-Balaka who had erected barriers on major roads. Victims who could not find a place in the Chadian vehicles found personal means to leave, but sometimes had to dress as Christians in order to escape. In this regard, dual status P-1823 testified: “[b]ecause to identify a Muslim, they do that with the black marks on the face. And it's easy to recognise a Muslim. So I had to disguise myself and my accent, because I'm a Central African first of the

<sup>708</sup> P-2049: [T-101 \[ENG\]](#), p. 17, lines 4-5. See also P-2657: [T-104 \[ENG\]](#), p. 20, lines 3-5 (Conf).

<sup>709</sup> P-2049: [T-101 \[ENG\]](#), p. 45, lines 7-11.

<sup>710</sup> P-2049: [T-101 \[ENG\]](#), p. 48, lines 2-7 (Conf).

<sup>711</sup> P-2462: [T-059 \[ENG\]](#), p. 43, line 19 to p. 44, line 2. See also a/20776/21 ([CAR-V44-00000039](#)) in which the victim describes the conditions he endured staying at *École de la Liberté*: “*J’ai passé 15 jours dans une situation très difficile, je dormais avec mes enfants à même le sol sous les arbres de l’école*”.

<sup>712</sup> P-2462: [T-059 \[ENG\]](#), p. 43, lines 9-12.

<sup>713</sup> P-2657: [T-104 \[ENG\]](#), p. 36, line 25 to p. 37, line 9.

<sup>714</sup> P-2419: [T-176 \[ENG\]](#), p. 21, lines 18-20.

<sup>715</sup> See a/15285/20 ([CAR-V44-00000008](#)) in which the victim states the reason he and his family had to flee Mbaïki: “[c]ette situation d’acte de pillage de mes marchandises et de tous mes bien et ceux de ma famille nous avaient contraint de fuir pour se réfugier au Tchad”.

<sup>716</sup> P-2419: [T-176 \[ENG\]](#), p. 22, lines 17-18, 23.

[REDACTED]ethnic group before going into Islam. So I have my accent, and [...] with my accent, I can pass through. And I disguised myself in order to flee. Everybody was fleeing. And they were all looking for the Muslims, and the Muslims were taking risks. But, first of all, I'm a Central African from the [REDACTED]who -- before embracing Islam. So my accent -- from my accent, nobody can know that I'm Muslim, and that is how I was able to disguise myself in order to return. And with all -- throughout, with the roadblocks, all the way to Mbaïki".<sup>717</sup>

261. The convoys moved under the constant threats of the Anti-Balaka, as explained by dual status P-2682 who recalled: *"we did meet some Anti-Balaka. We took the main route, the Avenue des Martyrs and there we met young people. They had machetes and sticks. Others had makeshift guns. They had gris-gris. They threatened us, "We're going to kill you." They made gestures with their hands and saying, "We're going to kill you. We're going to slit your throats." We know that sign isn't a good sign, to do something like that or to make gestures that you're going to slit our throat isn't a good sign"*.<sup>718</sup> P- 1577 also witnessed the attacks by the Anti-Balaka on convoys of Muslims coming from the PK12 and PK13 neighbourhoods: *"[t]here were several Chadian vehicles that were taking a convoy of lorries from the enclave in PK12 out of the county towards Chad. I can't recall how many trucks, I would imagine like 40, 50. I think I remember and counting the trucks and I counted I think at least 50 trucks leaving. The image we see now is of a Chadian special forces soldier guarding these communities. We followed them for several kilometres up the road and saw evidence that there had been attacks on these trucks and some bodies had -- or some people had been shot whilst they were on the trucks as they drove through villages, by Anti-Balaka, and those bodies were on the ground as we, you know, went north. There were also bodies that fell off these trucks more in the actually centre of Bangui. One instance was that a man we were told was caught by an electric wire or a telephone wire over the road and it dragged him on to the floor and -- and he was lynched much in a way that we saw the previous bodies from Combattant where he was -- his arms were cut off and his penis was cut off and his legs was cut off. So, yeah, so these -- these convoys, whilst they were accompanied by Chadians, they -- they were also being attacked on the road as they went north"*.<sup>719</sup>

262. Many Victims were evacuated from Mbaïki to Chad on 6 February 2014.<sup>720</sup> They were not only from Mbaïki but also from the surrounding villages including Pissa, Mongoumba,

<sup>717</sup> P-1823: [T-183 \[ENG\]](#), p. 12, lines 2-11 (Conf).

<sup>718</sup> P-2682: [T-017 \[ENG\]](#), p. 38, lines 12-18.

<sup>719</sup> P-1577: [T-027 \[ENG\]](#), p. 77, line 16 to p. 78, line 8.

<sup>720</sup> P-2354: [T-210 \[ENG\]](#), p. 21, lines 9-13.

Batalimo and Bagandou.<sup>721</sup> According to dual status P-2354, at least 16 trucks were used by the Chadians to evacuate the Muslim population.<sup>722</sup>

263. Victims were evacuated from Mbaïki “*in the space of three hours. Everything was done extremely quickly*”<sup>723</sup> by the Chadian soldiers and the Victims could not take their personal belongings.<sup>724</sup> Dual status P-1666 estimated that 30 members of his family were evacuated that day, including more than 10 children.<sup>725</sup>

264. Dual status P-2389 also provided details of how the Chadian military organized the evacuation of Mbaïki, stating that “*the Chadian soldiers arrived with their vehicles and they parked them by the roadside and they -- they made it obligatory for everybody to get on the vehicles, irrespective of whether you were with your family or not*”.<sup>726</sup> He recalled that 13 members of his family, including his two wives, were evacuated from Mbaïki,<sup>727</sup> and that they were evacuated separately and that they could reunite at the airport in Bangui.<sup>728</sup> According to him, the number of vehicles used was 20<sup>729</sup> and estimated that “[e]ach could transport almost 80 persons without their luggage.”<sup>730</sup> There were a lot of young children and women and some of them even fainted in the vehicles.<sup>731</sup>

265. In Bossangoa, according to P-2462, due to the growing insecurity caused in particular by the Anti-Balaka, community leaders and the UNHCR decided to evacuate to Chad by convoys of trucks the displaced people who had taken refuge in the grounds of the *École de la Liberté*.<sup>732</sup>

266. The enclave in Bossangoa was considered “a prison” and people could barely tolerate the living conditions<sup>733</sup>: “[w]e were enclaved in the *École de Liberté*. It was almost like a prison. Many [...] people couldn't handle it anymore to live under these conditions, so many took the decision, the majority took the decision to leave”.<sup>734</sup>

<sup>721</sup> P-2354: [T-210 \[ENG\]](#), p. 21, lines 12-14.

<sup>722</sup> P-2354: [T-210 \[ENG\]](#), p. 21, lines 12-16.

<sup>723</sup> P-1666: [T-231 \[ENG\]](#), p. 29, lines 13-14.

<sup>724</sup> P-1666: [T-231 \[ENG\]](#), p. 29, lines 7-23.

<sup>725</sup> P-1666: [T-231 \[ENG\]](#), p. 53, line 19 to p. 54, line 1.

<sup>726</sup> P-2389: [T-238 \[ENG\]](#), p. 11, lines 5-8.

<sup>727</sup> P-2389: [T-238 \[ENG\]](#), p. 18, lines 1-5.

<sup>728</sup> P-2389: [T-238 \[ENG\]](#), p. 11, lines 9-16.

<sup>729</sup> P-2389: [T-238 \[ENG\]](#), p. 11, line 25 to p. 12, line 1.

<sup>730</sup> P-2389: [T-238 \[ENG\]](#), p. 11, line 25 to p. 12, line 2.

<sup>731</sup> P-2389: [T-238 \[ENG\]](#), p. 11, line 9 to p. 12, line 10.

<sup>732</sup> P-2462: [T-059 \[ENG\]](#), p. 46, lines 5-8. See also P-2049: [T-101 \[ENG\]](#), p. 48, lines 8-19 (Conf).

<sup>733</sup> P-2657: [T-104 \[ENG\]](#), p. 37, lines 12-15.

<sup>734</sup> P-2657: [T-104 \[ENG\]](#), p. 37, lines 12-15.

267. Families were often separated during the evacuation with *“the children on one side and the father on the other”*.<sup>735</sup>

268. Victims left behind, in the country to which they were attached and which was theirs, a large part of their life stories, and for some even their families. They suffered from anxiety about having no prospects for the future. Victims also reported their great moral suffering for leaving behind their communities and their homes and property, some of which were destroyed and looted.

269. V44-0001 testified that fleeing Bossangoa had created *“a great wound within [her] and that wound has not healed or become scarred. Only God will be able to help [her] heal and only through God will a scar form”*.<sup>736</sup>

270. Dual status P-1666 expressed the immense sadness he felt leaving Mbaïki, indicating that he *“had tears in [his] 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”*.<sup>737</sup>

271. Similarly, dual status P-2353 said: *“I did not know where to go. Mbaïki was where I invested, it was the centre of my business. And it was about choosing between life and death and I couldn't stay on. I had to leave. It was very difficult. I was forced to leave. There were too many problems. It's with a lot of worry and bitterness that we left, my family and myself”*.<sup>738</sup>

272. In the words of dual status P-2354, leaving *“had a great impact. In Mbaïki, we had been there for 20 or 30 years. We had traded there, we had property there, we had goods in our shops. We had our cafés, we had to leave everything behind. When the trucks [...] came to expatriate us, that was to take us with our possessions, but the Chadians refused. They said we could only take a few things. They refused to take our goods with us. People left in tears because they left all their possessions and their goods behind. We escaped with our lives, but we left everything behind in Mbaïki”*.<sup>739</sup>

<sup>735</sup> P-0475: [T-090 \[ENG\]](#), p. 72, lines 15-19 (Conf).

<sup>736</sup> V44-0001: [T-267 \[ENG\]](#), p. 12, lines 10-12.

<sup>737</sup> P-1666: [T-231 \[ENG\]](#), p. 54, line 23 to p. 55, line 4.

<sup>738</sup> P-2353: [T-161 \[ENG\]](#), p. 46, lines 5-9.

<sup>739</sup> P-2354: [T-210 \[ENG\]](#), p. 21, line 21 to p. 22, line 3.

273. Dual status P-2389, when asked about the impact on his family of his departure from the CAR, replied that “[t]here was a very negative impact. We lost everything. We were sleeping in difficult conditions and the children had problems when it came to accessing health care. We were confronted with lots of different problems”.<sup>740</sup>

274. The Report by Human Rights in Trauma Mental Health Program (the “HRTMHP Report”) – in the record of the case – clearly describes the effect of the displacement on the Victims, indicating that “[d]isplaced populations often face a traumatic, stressful, and unsafe journey to reach safety – in the case of CAR, following events of 2013, displaced persons were attacked during their journey and relocation (IOM, 2014)”.<sup>741</sup>

275. Regarding the traumatic impact of forced displacement, the Report states that: “Displacements often occur on the heels of atrocities such as massacres or brutality, compounding the traumatic experience of running from one’s home. The compounding effects of trauma and displacement lead to a psychopathology course that ends in increased risk for PTSD, depression, anxiety disorders, somatic issues, increased substance use issues used to cope with the loss and traumatic experiences, and increased suicide risk (Shultz et al., 2014)”.<sup>742</sup>

276. Moreover, “the trauma experienced during the displacement – to save life – has been associated with economic, occupational, educational, and familial problems during this phase of relocation. Displaced persons in CAR were faced with a disastrous decision – flee and lose their social and economic stability; stay and face massacre. During the prolonged relocation phase, displaced individuals are modifying all aspects of their life. Displaced individuals often live in externally unsafe environments characterized by insecurity and lack of privacy”.<sup>743</sup>

**d) Living conditions at the places where Victims currently reside**

277. Some of the Victims continue to live in the CAR, including in Bangui and other areas of the country where they have been hosted by family members or in IDP camps. Other Victims live in refugee camps in Chad.

<sup>740</sup> P-2389: [T-238 \[ENG\]](#), p. 15, lines 22-24.

<sup>741</sup> See [P-0925’s Expert Report](#), *supra* note 65, at 6833.

<sup>742</sup> *Idem*, at 6834.

<sup>743</sup> *Idem*, at 6835.

278. As noted in the HRTMHP Report: “[i]n CAR, displaced persons lost access to their land, crops were damaged, livelihoods were lost, and food insecurity became acute. Citizens of CAR were too displaced to neighbouring African countries with acute humanitarian needs as well as their own levels of insecurity”.<sup>744</sup>

279. The living conditions of the Victims who remained in the CAR, whether in Bangui, Bossangoa or elsewhere, were for years extremely difficult. They have still not returned to their original places of residence<sup>745</sup> and to the living conditions prior to the commission of the crimes.<sup>746</sup> Families broke up and, for some, never reunited. Victims lost their jobs and professional activities, including their businesses, which forced them to start from scratch.<sup>747</sup>

280. Dual status P-2353, who lived in Mbaïki, was evacuated to Chad and now lives in Bangui, recounted the “[REDACTED]”<sup>748</sup> that the events had on him and his family, saying: “[REDACTED]”.<sup>749</sup>

281. Victims also recounted the very precarious living conditions in the refugee camps in Chad from the moment they arrived until today.<sup>750</sup> V44-0001 testified to the total precariousness of life and suffering endured in the refugee camp in Chad, observing that: “[w]e suffered. I wasn't the only person who was suffering. There were many of us. Many, many of us. [...] there were many women, many men, many children. Orphans, widows who had just lost their husbands. There were many of us”.<sup>751</sup> She also spoke about the great difficulties encountered as a result of her new situation as a refugee and widow and the many struggles she had to face to overcome said difficulties.<sup>752</sup> As a consequence, she left the refugee camp because it was hard to obtain food and find work.<sup>753</sup> For her, the most painful consequence of the displacement is the fact that she no longer lives with her children, who are in DRC with her

<sup>744</sup> *Idem*, at 6834.

<sup>745</sup> **P-0475**: [T-090 \[ENG\]](#), p. 71, lines 22-25.

<sup>746</sup> See a/15307/20 ([CAR-V44-00000020](#)).

<sup>747</sup> See also a/15305/20 ([CAR-V44-00000018](#)) in which the victim narrates his journey fleeing Mbaïki, how his family got separated and how he has not returned since the events: “A cause des événements ma famille a dû fuir pour Bangui. Ma famille a été transportée par les forces internationales de la CEEAC tandis que je suivais le convoi à bord de mon propre véhicule. Arrivée à Bangui, ma famille a été conduite à la frontière Tchadienne, à Sido. J'ai été accompagné de PK9 au PK5 par les forces Burundaises. Je suis resté au PK5 12 jours avant d'être accompagné jusqu'à Sido ou j'ai retrouvé ma famille. J'ai passé 3 mois à Sido avant de retourner à Bangui. A ce jour, une partie de ma famille est à Sido, un autre à Moundou. Depuis mon retour à Bangui je ne me suis jamais rendu à Mbaïki”.

<sup>748</sup> **P-2353**: [T-161 \[ENG\]](#), p. 40, line 11 (Conf).

<sup>749</sup> **P-2353**: [T-161 \[ENG\]](#), p. 40, line 11 to p. 41, line 2 (Conf).

<sup>750</sup> See the [Eleventh Periodic Report](#), *supra* note 1, p. 10.

<sup>751</sup> **V44-0001**: [T-267 \[ENG\]](#), p. 15, lines 15-21.

<sup>752</sup> **V44-0001**: [T-267 \[ENG\]](#), p. 15, line 23 to p. 17, line 12.

<sup>753</sup> **V44-0001**: [T-267 \[ENG\]](#), p. 16, lines 15-24.

sister,<sup>754</sup> a difficult decision she took in order to provide them with a better life.<sup>755</sup> However, she hopes that one day she will be able to have her children with her again: “[i]f God continues to support me, I will continue to fight so I can bring my children back to me”.<sup>756</sup>

282. Dual status P-2353, who was initially evacuated to Sido with some of his family members, said, “[i]t was hard in Sido. It was hard to get potable water, and there were also other problems”<sup>757</sup> and: “[o]nce we got there, our children lived under the trees. But those children were not born under the trees. We spent three months there. And three months later, it was very difficult there, so we had to leave that place and move onward”.<sup>758</sup> He and his family were later evacuated to Moundou, but, considering that “things were really difficult”, he decided to return to Bangui in 2016.<sup>759</sup> One of his wives and some of his children joined him there, but two of his wives and some of his children still live in Chad.<sup>760</sup>

283. Dual status P-2354 corroborated that the people living in the refugee camp in Chad are “trying to survive”<sup>761</sup> and said that he, as a father, was fighting to support his family.<sup>762</sup> Dual status P-2389, who had taken refuge with his family in Sido, explained that “[w]hat the HCR would give us, [...] they would give the products, but they weren't sufficient for us and that was the reason why we had to leave the camp”.<sup>763</sup> Moreover, the hygienic situation was precarious and the UNHCR had to help them build latrines.<sup>764</sup> He also recalled that although “there was a school in the camp”, the children's conditions for learning were “not at all agreeable” because “[t]he children were sat on the ground, so you couldn't hope that they would get a good schooling with this type of education”.<sup>765</sup>

284. Dual status P-1666, who stayed in the CAR because “there was nowhere else to go”,<sup>766</sup> still suffers a lot because of the separation from the women and girls of his family who found refuge in Chad: first in the Maidam refugee camp and then in the town of Moundou, where they still live and “are waiting for true peace before they return”.<sup>767</sup>

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<sup>754</sup> **V44-0001**: [T-267 \[ENG\]](#), p. 17, line 17 to p. 18, line 17.

<sup>755</sup> **V44-0001**: [T-267 \[ENG\]](#), p. 19, lines 5-18.

<sup>756</sup> **V44-0001**: [T-267 \[ENG\]](#), p. 18, lines 3-4.

<sup>757</sup> **P-2353**: [T-161 \[ENG\]](#), p. 45, lines 14-15.

<sup>758</sup> **P-2353**: [T-161 \[ENG\]](#), p. 46, lines 15-18.

<sup>759</sup> **P-2353**: [T-161 \[ENG\]](#), p. 45, lines 18-19.

<sup>760</sup> **P-2353**: [T-161 \[ENG\]](#), p. 45, line 25 to p. 46, line 2.

<sup>761</sup> **P-2354**: [T-210 \[ENG\]](#), p. 31, lines 22-23.

<sup>762</sup> **P-2354**: [T-210 \[ENG\]](#), p. 31, line 25 to p. 32, line 3.

<sup>763</sup> **P-2389**: [T-238 \[ENG\]](#), p. 14, lines 22-25.

<sup>764</sup> **P-2389**: [T-238 \[ENG\]](#), p. 15, lines 3-4.

<sup>765</sup> **P-2389**: [T-238 \[ENG\]](#), p. 15, lines 7-10.

<sup>766</sup> **P-1666**: [T-231 \[ENG\]](#), p. 31, line 13.

<sup>767</sup> **P-1666**: [T-231 \[ENG\]](#), p. 32, line 19. See also **P-2049**: [T-101 \[ENG\]](#), p. 49, lines 1-6 (Conf); **P-2657**: [T-104 \[ENG\]](#), p. 38, lines 22-25.

285. The very precarious living conditions in the refugee camps in Chad continue to this day. Victims have not received humanitarian assistance since 2015 and are facing an unprecedented humanitarian crisis.<sup>768</sup> They feel they have been abandoned by the Chadian authorities and by the humanitarian organizations.<sup>769</sup>

286. The CLRV, who are in regular contact with the Victims living in the said refugee camps or in the CAR, have been able to observe the deterioration of the Victims' physical and mental health over the years. Some of the victims have become blind and some can no longer move due to illness or have developed mental disorders.<sup>770</sup>

287. In this regard, the HRTMHP Report shows that “[p]rolonged detention in camps has been linked to negative mental health outcomes; the longer the detention, the worse the outcome. Individuals who could be considered refugees experience increased rates of PTSD, depression, anxiety, and comorbidity between the three (Li, Liddell, & Nickerson, 2016), as well as reported somatic complaints and functional impairment from these symptoms (Riley, Varner, Ventevogel, & Hasan, 2017). These negative mental health outcomes have lasting effects, with some research indicating that depression and PTSD can persist for years (Canttekin, 2018; Li, Liddell, & Nickerson, 2016)”.<sup>771</sup>

## 5. Transgenerational harm

288. The constellation of harms described by the Victims has also repercussions over generations. In fact, any effect of trauma on key or trusted adults can result in magnified psychological effects on the children they care for.<sup>772</sup> As described by Professor Reicherter, “[p]arents who are depressed and suffering from PTSD have greater difficulty in comforting their children, are more likely to ask children to take on an adult role, are less likely to bond well with their children, and are more likely to abuse and neglect their children”.<sup>773</sup> This impacts on their offspring and on how the effects of the crimes materialise on the community as a whole, including on the next generations.

289. In context of mass-victimisation, it is more likely than not that transgenerational harm occurs for the children of direct victims. In fact, this reality has been progressively

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<sup>768</sup> See the [Twenty-Eighth Registry Assessment Report](#), *supra* note 23, para. 23.

<sup>769</sup> *Ibid.*

<sup>770</sup> *Ibid.*

<sup>771</sup> See [P-0925's Expert Report](#), *supra* note 65, at 6839.

<sup>772</sup> *Idem*, at 6830.

<sup>773</sup> *Idem*, at 2127-6831.

acknowledged by several courts confronted with similar situations of mass-victimisation. Notably, the Inter-American Court of Human Rights recognises that situations of mass violence lead to multi-faceted harm, including transgenerational harm.<sup>774</sup> Additionally, research has shown that even unconscious trauma experienced by the parents can be passed on to the children.<sup>775</sup>

290. Traumatized parents, who live in constant and unresolved fear, unconsciously adopt a frightening behaviour. This affects the child's emotional behaviour, attachment and well-being, increasing the risk that offspring will suffer PTSD, mood disorders and anxiety issues themselves.<sup>776</sup> There is a cascading impact from each direct victim onto their children who then became indirect victims of the events.

291. In the present instance, the case record is full of evidence demonstrating the mass-victimisation. Victims were systematically attacked, lived in constant fear; and they were obliged to flee leaving behind their livelihood and possessions, thinking of their home, missing their loved ones, and worrying about their fate and the fate of their children who could not continue their education and have chances for the future. General family functioning was disrupted, together with stability and security.<sup>777</sup>

## 6. Specific harm of rape

292. Sexual violence causes terror and destabilisation by undermining the victim's feeling of community and safety. A sense of safety dissipates when victims are rendered powerless to control what is happening to them and their bodies. As a result, victims of sexual violence develop PTSD, they experience a significant increase in anxiety symptoms and specific

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<sup>774</sup> See IACtHR, *Gómez Palomino v. Peru*, [Judgment \(Merits, reparations and costs\)](#), 22 November 2005, para. 146: “[t]he Court takes into account that serious violations of human rights as that at issue in the instant case, leave *lingering after-effects* on the victims and next of kin directly harmed, *which also affect the new generations*. Thus, the predicament of the current generations, directly affected by the violation of their human rights, affects future generations in different ways” (emphasis added). See also IACtHR, *Tibi v. Ecuador*, [Judgment \(Preliminary objections, merits, reparations and costs\)](#), 7 September 2004, paras. 161 and 205, and the Separate Concurring Opinion of Judge Sergio García-Ramírez, paras. 91-93; IACtHR, *Río Negro Massacres v. Guatemala*, [Judgment \(Preliminary objection, merits, reparations and costs\)](#), 4 September 2012, para.162. In relation to sexual violence, see IACtHR, *Rosendo Cantú et al. v. Mexico*, [Judgment \(Preliminary objections, merits, reparations and costs\)](#), 31 August 2010, paras. 138-139 and 257, in which the Inter-American Court of Human Rights acknowledged the inter-generational consequences on a few months old child of the rape suffered by her mother.

<sup>775</sup> See KELLERMANN (N.), “[Epigenetic transmission of Holocaust Trauma: Can nightmares be inherited?](#)”, *Israel Journal of Psychiatry and Related Sciences*, Vol. 50(1), 2013, pp. 33-39.

<sup>776</sup> See YEHUDA (R.), and BIERER (L.M.), “Transgenerational Transmission of Cortisol and PTSD Risk”, *Progress in Brain Research*, vol. 167, 2007, pp. 121-135. See also “[Mother-Infant Attachment and the Intergenerational Transmission of Posttraumatic Stress Disorder](#)”, *Development and Psychopathology*, Vol. 26(1), 2014, pp. 41-65; and HUMAN RIGHTS WATCH, [I Just Sit and Wait to Die: Reparations for Survivors of Kenya's 2007-2008 Post-Election Sexual Violence](#), February 2016, p. 61.

<sup>777</sup> See [P-0925's Expert Report](#), *supra* note 65, at 6832.

phobias, mood instability, feeling of hopelessness, persistent confusion and fear, and a severe impact on their self-esteem and their self-efficacy caused by shame and self-blame.<sup>778</sup>

## 7. Community harm

293. Mosques were systematically attacked, burned, destroyed, and looted during Anti-Balaka attacks in Muslim-inhabited areas and localities. According to P-0475, [REDACTED] mosques were destroyed during the conflict in the CAR.<sup>779</sup> All the mosques in Bangui were destroyed except for those in the 3<sup>rd</sup> *arrondissement*.<sup>780</sup> According to P-0884, when the Seleka lost power, the Anti-Balaka began burning mosques in Bangui.<sup>781</sup> In particular, the mosque in Boeing completely disappeared after its bricks and metal sheet were removed.<sup>782</sup>

294. Dual status P-2049 reported that the central mosque in Bossangoa was destroyed two or three days after the 5 December 2013 attack<sup>783</sup> and that small mosques in other neighbourhoods were set on fire.<sup>784</sup> On the instructions of the mayor of Kapou, the imam of the region was chased away, the mosque was destroyed and the place where the mosque was installed was sold.<sup>785</sup> As for the village of Sekia, according to P-0475's testimony, the Muslims were no longer there: “[t]hey do not like to see any Muslims in Sekia, to this very day. Because, in Sékia, the mosque was sold. All houses belonging to Muslims have been sold. So they no longer want to see any Muslims there. [...], I'm alluding [...] to the mayor of Sékia, who is the one with responsibility over everything that happened. He is the one who sold the mosque. He is the one who sold all the land belonging to Muslims in Sekia”.<sup>786</sup>

295. Destroying mosques, to which Muslim civilians had an emotional attachment, erased part of their cultural heritage and tradition and the Victims felt emotionally devastated, upset and humiliated.

296. Referring to his feelings about the destruction of mosques by the Anti-Balaka, P-1528 expressed his emotions in these words: “[i]t'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

<sup>778</sup> *Idem*, at 6852-6855. See also a/15397/20 ([CAR-V44-00000028](#)) who describes the psychological harm she endured: “[REDACTED]”.

<sup>779</sup> P-0475: [T-090 \[ENG\]](#), p. 39, lines 10-17 (Conf); [CAR-OTP-2104-0149](#); [CAR-OTP-2104-0153-R02](#).

<sup>780</sup> P-0475: [T-090 \[ENG\]](#), p. 38, line 21 to p. 39, line 4.

<sup>781</sup> P-0884: [T-057 \[ENG\]](#), p. 55, lines 18-19.

<sup>782</sup> P-0884: [T-057 \[ENG\]](#), p. 57, lines 5-6.

<sup>783</sup> P-2049: [T-101 \[ENG\]](#), p. 23, line 24 to p. 24, line 7.

<sup>784</sup> P-2049: [T-101 \[ENG\]](#), p. 29, lines 2-8.

<sup>785</sup> P-0475: [T-091 \[ENG\]](#), p. 4, line 25 to p. 5, line 9.

<sup>786</sup> P-0475: [T-090 \[ENG\]](#), p. 43, lines 4-12.

*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 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".<sup>787</sup>*

297. Addressing the consequences of the destruction of mosques, P-0475 mentioned the loss of religiosity that the Muslim community has experienced due to the absence of a mosque where they can assemble together for regular prayers.<sup>788</sup> In addition, other Muslims have been forced to deny their religion, their faith,<sup>789</sup> because of fear, which has resulted in the loss of their identity.<sup>790</sup>

298. In this regard, Professor Reicherter in his Report explained that the destruction of culturally significant properties, sites and artefacts has long been weaponised in war and genocide for its exactly profound psychological effect, *"because in recognizing the enemy's sacred symbols, you are de facto recognizing their humanity, their capacity for pride, unity, and connection to their past and, probably most of all, their capacity of experiencing pain"- and in denying their symbols you are in turn denying their capacity for provide, unity, past and humanity (Sapolsky, 2017)".<sup>791</sup> Therefore, "the effects of the destruction of sociocultural infrastructure of a community could be reasonably conceptualised similarly to the destruction of the survivor's role in the community but in a far grander scale: preventing the post-conflict societal reintegration of minority communities given the violent cutting of psychological attachment to space".<sup>792</sup> In fact, the witnessing of destruction or desecration of cultural or religious sites adversely contributes to the long-term psychological response of bereavement and complex grief, leading to an accumulation of stress and lack of sense of safety.<sup>793</sup>*

299. Victims suffered multi-dimensional harms. Entire communities were targeted in the perpetration of the crimes, through the attacks against the civilian population and persecution against Muslims. The harms they suffered continue to this day and for many have even

<sup>787</sup> P-1528: [T-178 \[ENG\]](#), p. 23, line 20 to p. 24, line 4.

<sup>788</sup> P-0475: [T-090 \[ENG\]](#), p. 67, line 21 to p. 68, line 5.

<sup>789</sup> P-0475: [T-090 \[ENG\]](#), p. 67, line 19 to p. 68, line 5; p. 68, lines 10-13; and p. 41, line 22 to p. 42, line 5.

<sup>790</sup> P-0475: [T-090 \[ENG\]](#), p. 68, line 14 to p. 69, line 1.

<sup>791</sup> See [P-0925's Expert Report](#), *supra* note 65, at 6828.

<sup>792</sup> *Ibid.*

<sup>793</sup> *Ibid.*

worsened since the commission of the crimes, since Victims have seen their physical and psychological health and well-being weaken over the years and their material living conditions diminished.

300. Victims also experience great mental suffering from living far from their places of origin, family members and communities. Uncertainty about their future and that of their loved ones affects them every day.

301. V44-0001 expressed the suffering she has felt to date: *“the wound in my heart, I do not know if one day if this wound can be healed. I don't even want to live. I've lost all desire to live”*.<sup>794</sup> However, she testified about her wish to see her living conditions improve and *“to have a better future”* so that she can take care of her children”.<sup>795</sup>

302. Dual status P-1666 spoke of the profound impact that the crimes had on his family and their material living conditions, indicating that the conflict *“had an enormous impact on my family. It was a very big family. We separated. I have lost some brothers who died during exile. Today, we haven't been able to come together yet. Before, I was stable, I had my own work, I did my own activities. But for the moment I'm living in a house, I'm forced to pay rent, I'm with a family who live [...] abroad. I'm a man, I'm trying to turn the page and start afresh, but it's not easy at all. You know, when you have a family who live [...] abroad, [...] at the end of every month, I try and send them money for food, for health, but when we were living together as a family, it was possible to share the little we had. Our separation and the fact that they live elsewhere has a very negative impact on me. I have brothers who've lost their lives. Today, I don't know, it's true if we would have the possibility of coming together again one day. But if the situation doesn't develop, I fear that we'll never have an opportunity to see each other again, to come together again. So the impact on my personal life is very negative and very real”*.<sup>796</sup>

303. Dual status P-2389, whose children are still living in refugee camps in Chad, described his difficulties in living away from his loved ones indicating that his *“greatest wish is to be able to live with my entire family, those who are in Chad. We've been separated [...]. We are living in perfect harmony and my greatest wish is that we should be able to be together once again and to live as we were doing at the time”*.<sup>797</sup>

<sup>794</sup> V44-0001: [T-267 \[ENG\]](#), p. 22, lines 23-25.

<sup>795</sup> V44-0001: [T-267 \[ENG\]](#), p. 20, lines 1-4.

<sup>796</sup> P-1666: [T-231 \[ENG\]](#), p. 50, lines 1-14.

<sup>797</sup> P-2389: [T-238 \[ENG\]](#), p. 17, lines 8-13.

304. In conclusion, the crimes had a multi-faceted impact upon Victims and, left untreated and unaddressed, they resulted in “*devastating, pervasive and long-lasting*”<sup>798</sup> consequences “*for individuals and communities across multiple generations*”.<sup>799</sup>

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<sup>798</sup> See [P-0925's Expert Report](#), *supra* note 65, at 6859.

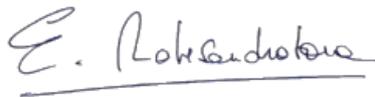
<sup>799</sup> *Ibid.*

## IX. CONCLUSION

305. The CLRV submit that there is sufficient evidence to believe, beyond reasonable doubt, that both Accused are responsible for all the crimes charged and respectfully request the Chamber to declare Mr Yekatom and Mr Ngaïssona guilty of all the charges alleged against them and to acknowledge the harm suffered by the Victims of said crimes.



Paolina Massidda



Elisabeth Rabesandratana



Yaré Fall



Abdou Dangabo Moussa



Marie-Edith Douzima-Lawson

Common Legal Representatives  
Victims of Other Crimes

Dated this 22<sup>nd</sup> day of November 2024

At The Hague (The Netherlands), Bangui (Central African Republic), La Rochelle (France)  
and Dakar (Senegal)