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PRE-TRIAL CHAMBER II

Before: Judge Rosario Salvatore Aitala, Presiding Judge
Judge Tomoko Akane
Judge Sergio Gerardo Ugalde Godínez

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II
IN THE CASE OF *THE PROSECUTOR* v. *MAXIME JEOFFROY ELI MOKOM
GAWAKA***

Public

**Public redacted version of the Confidential Annex A
“Document Containing the Charges”
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I. THE SUSPECT

1. Maxime Jeoffroy Eli Mokom Gawaka (“**MOKOM**”) was born on 30 December 1978 in BANGUI. He is a national of the Central African Republic (“CAR”).

2. Shortly after President François BOZIZÉ (“BOZIZÉ”) was overthrown on 24 March 2013 by the largely Muslim coalition of armed groups known as the Séléka (“24 March 2013 *Coup*”), he fled to CAMEROON together with members of his inner circle—including **MOKOM**’s father Bernard MOKOM (“Bernard MOKOM”), and Patrice-Edouard NGAÏSSONA (“NGAÏSSONA”). **MOKOM** fled to ZONGO in the Democratic Republic of the Congo (“DRC”), which is geographically close to BANGUI.

3. By at least June 2013, some or all of these persons, with others, had conceived a strategy to (re)claim political power, including through the commission of crimes under the Statute. Their plan to oust Séléka leader Michel DJOTODIA (“DJOTODIA”), the Séléka and its perceived supporters required structuring, organising, financing, and arming a fighting force. This was composed of former members of the Presidential Guard (“PG”) and *Forces Armées Centrafricaines* (“FACA”), together with new recruits and members of pre-existing self-defence groups of a known propensity or intention to commit crimes, including violent crimes, against Muslim civilians. This force became known as the Anti-Balaka (“Anti-Balaka”).

4. Consequently, the Anti-Balaka shared a common purpose which entailed the violent targeting of the Muslim civilian population in western CAR who—based on their national, political, religious or ethnic affiliation—were seen as collectively responsible for violent crimes and atrocities allegedly committed by the Séléka before, during, or after the 24 March 2013 *Coup*, or otherwise complicit with or supportive of the Séléka. This common purpose included at least the charged crimes (“Common Purpose”). As a result, from September 2013 until at least December 2014, the Anti-Balaka targeted the Muslim civilian population in western CAR for deliberate attacks involving the crimes described below.

5. From ZONGO, **MOKOM** participated in planning the implementation of the Common Purpose, including the structuring, organising, financing, and arming of the

Anti-Balaka. From at least September 2013, **MOKOM** was a senior Anti-Balaka leader and the *de facto* coordinator responsible for the group's military operations. **MOKOM** played a critical role in organising the Anti-Balaka's attacks in BANGUI and BOSSANGO in December 2013. In January 2014, **MOKOM** was formally designated as the Anti-Balaka National Coordinator for Operations, and held this senior position throughout 2014. **MOKOM** monitored and facilitated the activities of Anti-Balaka chiefs and or zone commanders ("ComZones") on the ground. He liaised directly with local commanders and with senior members of the National Coordination, including NGAÏSSONA.

6. In the exercise of his key role within the Anti-Balaka, **MOKOM** contributed to its commission of crimes under the Statute from at least 5 December 2013 through at least the end of April 2014. These include: directing attacks against the civilian population (article 8(2)(e)(i)), murder (articles 7(1)(a) and 8(2)(c)(i)), rape (articles 7(1)(g) and 8(2)(e)(vi)), directing attacks against buildings dedicated to religion (article 8(2)(e)(iv)), destruction of property (article 8(2)(e)(xii)), pillage (article 8(2)(e)(v)), deportation and forcible transfer (articles 7(1)(d) and 8(2)(e)(viii)), severe deprivation of personal liberty (article 7(1)(e)), and persecution (article 7(1)(h)).

7. **MOKOM** made these contributions with the intent and knowledge requisite for criminal responsibility. This is shown by factors such as: his knowledge and endorsement of BOZIZÉ's and his inner circle's collective portrayal of the Muslim civilian population in western CAR as foreigners and supporters of the Séléka; his knowledge that these views were shared by the Anti-Balaka, including on the basis of his awareness of the propensity and/or intention of Anti-Balaka elements to commit crimes, including violent crimes, against Muslim civilians, and his awareness of such crimes committed by the Anti-Balaka beginning at least in September 2013; and his acceptance and approval of such crimes.

8. For these reasons, **MOKOM** is responsible for:

- (i) aiding, abetting or otherwise assisting in the commission of the charged crimes, aware that these types of crimes would occur in the ordinary course of events, and while acting with the purpose of facilitating their commission, pursuant to article 25(3)(c) of the Statute; and

- (ii) contributing to the commission of the charged crimes by the Anti-Balaka acting with a common purpose, with the aim of furthering the group's criminal activities and/or purpose, and aware of its intention to commit such crimes, pursuant to article 25(3)(d)(i) and (ii) of the Statute.

II. CONTEXTUAL ELEMENTS OF CHARGED CRIMES

A. Existence of a non-international armed conflict (article 8)

9. At all times material to the crimes charged, a non-international armed conflict existed in CAR between the Séléka and the group which came to be known as the Anti-Balaka. Both parties exhibited a sufficient degree of organisation, and the protracted hostilities remained of sufficient intensity throughout. The perpetrators of the charged crimes were aware of the factual circumstances establishing the existence of the armed conflict.

10. The Séléka exhibited a sufficient degree of organisation. Around August 2012, a coalition of armed groups opposing then President BOZIZÉ emerged in north-eastern CAR under the name of the 'Séléka'. From late 2012 to early 2013, the Séléka advanced towards BANGUI—attacking several towns and prefectural capitals, occupying military bases, and targeting suspected BOZIZÉ supporters. On 24 March 2013, they took control of BANGUI, toppling the government and forcing BOZIZÉ to flee to CAMEROON. DJOTODIA, the leader of the Séléka coalition, proclaimed himself President.

11. The Anti-Balaka similarly exhibited a sufficient degree of organisation. Until the 24 March 2013 *Coup*, the FACA and PG formed part of the State armed forces of CAR. While BOZIZÉ and his inner circle were forced to flee BANGUI on 24 March 2013, they soon began planning a response to the Séléka offensive and BOZIZÉ's return to power. To this end, links were established between members of the FACA and the PG who remained loyal to BOZIZÉ, on the one hand, and pre-existing and new self-defence groups which had formed in different parts of the CAR, on the other hand. From June 2013 onwards, they were organised into a military-like structure which came to be known as the 'Anti-Balaka', including MOKOM as the *de facto* coordinator of operations. From September 2013, the Anti-Balaka engaged in attacks against the Séléka, including the

coordinated attack on BANGUI on 5 December 2013. On 10 January 2014, DJOTODIA resigned. The Séléka forces retreated, as a new transitional government led by President Catherine SAMBA-PANZA took office. With a view to engaging with the transitional government, the existing *de facto* Anti-Balaka structure was further formalised beginning in January 2014 through the establishment of a National Coordination (“National Coordination”). NGAÏSSONA was designated the National General Coordinator, and **MOKOM** the National Coordinator of Operations.

12. The hostilities between the Séléka and Anti-Balaka were protracted. Their intensity exceeded mere internal disturbances and tensions. In particular, from late 2012, the Séléka carried out a series of attacks and took control of areas of CAR territory by military force, culminating in their seizure of BANGUI on 24 March 2013. Between September 2013 and December 2013, the intensity of hostilities in western CAR between the Anti-Balaka and the Séléka was again acute. Hostilities continued from December 2013 onwards, even as the Séléka retreated towards the north and east of the CAR. There was no peaceful settlement at any time material to the charges. Various attempts to bring about the cessation of hostilities failed to achieve a lasting absence of armed confrontations between the parties, without real risk of resumption.

13. The charged crimes were committed in the context of, and were associated with, this armed conflict. In particular, the Anti-Balaka equated the Muslim civilian population in CAR with the Séléka, and drew no distinction between fighters and persons not taking direct part in hostilities.

B. Attack against a civilian population in western CAR (article 7)

14. From at least September 2013 to at least December 2014, the Anti-Balaka committed a widespread and/or systematic attack directed against the Muslim civilian population of western CAR, pursuant to or in furtherance of an organisational policy to commit such an attack. This involved the multiple commission of acts prohibited under article 7 of the Statute. As the perpetrators of these acts, Anti-Balaka elements knew or intended that their conduct was part of the attack.

15. At all times material to the charges, the Anti-Balaka constituted an ‘organisation’ within the meaning of article 7(2)(a). Consistent with the group’s ability to conduct military operations as a party to the ongoing conflict, it was fully able to carry out multiple criminal acts against the civilian population.

16. The Anti-Balaka carried out such attacks pursuant to an organisational policy. In particular, alongside their objective to oust the Séléka, the Anti-Balaka also targeted the Muslim civilian population in western CAR who, based on their national, political, religious or ethnic affiliation, were perceived as collectively responsible for the crimes allegedly committed by the Séléka, or otherwise complicit with, or supportive of the Séléka.

17. The attack was widespread. It resulted in a large number of victims, and was carried out across a broad geographical area, including in western CAR prefectures such as OUHAM (BOSSANGO), OMBELLA M’POKO (YALOKÉ), and MAMBERE-KADEI (CARNOT and BERBERATI). It also spanned a long period of time—from September 2013 to December 2014.

18. The attack was also systematic. The crimes were not committed at random, but rather were deliberately executed by Anti-Balaka members according to a consistent pattern, involving similar victims and a similar *modus operandi*. In each instance, Muslim civilians were subjected to crimes such as murder and other forms of serious physical abuse or coercion, their homes and religious buildings were destroyed, and they were compelled to leave. If they sought shelter locally, in so-called “enclaves”, they were compelled to remain there under threat of death—often in poor conditions—until such time as third parties enabled them to leave.

19. The nexus between such acts and the widespread and/or systematic attack against the civilian population is demonstrated by factors, such as the identity of the perpetrators (Anti-Balaka members), the identity of the victims (Muslim civilians), and the consistent nature of the acts and their consequences.

III. CHARGED CRIMES

20. Within the context described above, the Anti-Balaka committed the following crimes in BANGUI and BOSSANGO, from at least 5 December 2013 until at least the end of April 2014.

A. BANGUI (Counts 1-8)

21. BANGUI, the capital of CAR, is situated on the opposite bank of the OUBANGUI river less than two kilometres from ZONGO (DRC), where **MOKOM** was based. Before the conflict, approximately 130,000 Muslims—approximately 18% of the total population—resided in the city's eight *arrondissements*.

22. By at least around mid-November 2013, under **MOKOM**'s coordination, the Anti-Balaka began their advance toward BANGUI in preparation to attack the city. In the early hours of 5 December 2013, over 1,500 of the Anti-Balaka launched the attack, proceeding simultaneously from different directions. Multiple locations were targeted, including *Camp Kassai* (a Séléka base), *Camp de Roux*, *Camp des sapeurs pompiers*, *Assemblée Nationale*, and the *Centre protestant pour la jeunesse* ("CPJ"). While Séléka fighters were targeted first, attacks against Muslim civilians soon followed. This was planned: Christian civilians were warned of the attack in advance and advised to identify their houses so they would be spared. In the following weeks, systematic house-to-house searches and killings took place in various BANGUI neighbourhoods.

23. The Anti-Balaka's intention to target the Muslim population violently was clear not only in the crimes it committed, but also the hateful rhetoric publicly disseminated, reported, espoused, and which its leadership defended. The message to the Muslim population was clear—leave CAR or die.

24. Accordingly, the Anti-Balaka's violent attacks on Muslim civilians in BANGUI caused them to flee *en masse* within CAR and/or to neighbouring countries such as CAMEROON or CHAD. Between 5 December 2013 and April 2014, thousands of Muslim civilians fled Anti-Balaka attacks. Some were assisted by United Nations agencies, MISCA, Sangaris, Chadian, or other forces, although on occasion the Anti-Balaka

attacked protected convoys. Many others walked for weeks before reaching the border, while being hunted down by the Anti-Balaka. Others were displaced into enclaves, where they were then confined.

25. The conduct of the Anti-Balaka in carrying out the following acts, and the contemporaneous statements of Anti-Balaka elements, demonstrate the perpetrators' intent and knowledge regarding the charged crimes.

Count 1 – Directing attacks against the civilian population (article 8(2)(e)(i))

26. The Anti-Balaka intentionally directed acts of violence against the civilian population as such or individual civilians not taking direct part in hostilities. These acts of violence included at least the conduct also addressed under other counts below. The civilian status was readily apparent to the perpetrators from the victims' activities at the time of the attacks, their personal characteristics, and similar factors.

Count 2 – Attacks against buildings dedicated to religion (article 8(2)(e)(iv))

Count 3 – Destruction of the adversary's property (article 8(2)(e)(xii))

27. During the 5 December attack and/or in its aftermath, the Anti-Balaka intentionally dismantled and destroyed numerous mosques, including the mosques of GOBONGO, FOUH, PETEVO, LAKOUANGA, PK12, MISKINE, MALIMAKA, and other neighbourhoods in BANGUI, leaving Muslims with no place of worship and clearly signalling that they should leave. By June 2014, only a handful of over 30 mosques in BANGUI remained intact; most were completely destroyed. None of the damaged or destroyed mosques constituted a legitimate military objective, nor was their destruction justified by military necessity.

28. Similarly, in the course of the attack and/or in its aftermath, the Anti-Balaka intentionally destroyed or damaged houses in predominantly Muslim neighbourhoods, such as FOUH, MISKINE, COMBATTANT, KINA, SARA, PK5, KOKORO, BOUCA, PK12, and PK13. Meanwhile, predominantly Christian neighbourhoods remained intact. None of this destruction was justified by military necessity.

Count 4 – Pillage (article 8(2)(e)(v))

29. The Anti-Balaka pillaged Muslim houses and shops, including roofs, doors, and windows. This was carried out with the intent to appropriate property for private or personal use. This property was appropriated without genuine or valid consent by its owners.

Count 5 – Deportation and forcible transfer (article 7(1)(d))

Count 6 – Displacement of the civilian population (article 8(2)(e)(viii))

30. Without grounds permitted under international law, and by expulsion or other coercive acts, the Anti-Balaka forced Muslim civilians of all ages, including children and the elderly, to leave their homes and communities, where they were lawfully present. These civilians moved either to the predominantly Muslim neighbourhood of PK5, and/or to other parts of CAR, or to neighbouring countries. As a result of these acts, thousands of Muslims left BANGUI from 5 December 2013 until at least the end of April 2014.

Count 7 – Severe deprivation of physical liberty (article 7(1)(e))

31. From 5 December 2013 until at least the end of April 2014, the Anti-Balaka prevented Muslim civilians of all ages, including children and the elderly, from leaving the BANGUI neighbourhood known as PK5. While remaining in this enclave (“PK5 Enclave”) meant enduring the lack of adequate food, shelter, or healthcare, leaving risked death at the hands of the Anti-Balaka. In this way, the Anti-Balaka severely deprived thousands of Muslim civilians in the PK5 Enclave of their physical liberty, in violation of fundamental rules of international law.

Count 8 – Persecution (article 7(1)(h))

32. By the acts described above, the Anti-Balaka severely deprived Muslim civilians in BANGUI of their fundamental rights, contrary to international law, including the rights to liberty, mental and bodily integrity, dignity, property and religious freedom. By targeting the Muslim civilian population on the basis of their perceived national, political, religious or ethnic affiliation, the Anti-Balaka exhibited the specific intent for the crime of persecution.

B. BOSSANGOA (OUHAM prefecture) (Counts 9-20)

33. BOSSANGOA is the capital of OUHAM Prefecture. An estimated 20% of its population of approximately 36,000 were Muslims. In the period from September to December 2013—and notably including the attack on 17 September 2013—the Anti-Balaka had terrorised the Muslim population around BOSSANGOA for months.

34. Either directly or through Danboy DEDANE, **MOKOM** assisted the Anti-Balaka to carry out a second attack on Bossangoa on 5 December 2013. The attack was led by former FACA *Caporal* and ComZone Florent KEMA (“KEMA”), [REDACTED] Alexis MANDAGO (“MANDAGO”) (aka “Sol-Sol”), [REDACTED], and other local Anti-Balaka elements. The attack began a few hours after the attack on BANGUI on the same day.

35. Having defeated the Séléka, the Anti-Balaka went on to target the town’s Muslim civilian population, killing and injuring many. No distinction was made between Séléka fighters and Muslim civilians. The Anti-Balaka considered all Muslims as the Séléka, and their objective was to rid OUHAM Prefecture of them altogether.

36. The conduct of the Anti-Balaka in carrying out the following acts, and the contemporaneous statements of Anti-Balaka elements, demonstrate the perpetrators’ intent and knowledge regarding the charged crimes.

Count 9 – Directing attacks against the civilian population (article 8(2)(e)(i))

37. The Anti-Balaka intentionally directed acts of violence against the civilian population as such or individual civilians not taking direct part in hostilities. These acts of violence included at least the conduct also addressed under other counts below. The civilian status was readily apparent to the perpetrators from the victims’ activities at the time of the attacks, their personal characteristics, and similar factors.

Count 10 – Murder (article 7(1)(a))

Count 11 – Murder (article 8(2)(c)(i))

38. In the course of the attack, the Anti-Balaka killed at least 18 Muslim civilians taking no active part in the hostilities, including [REDACTED] and her [REDACTED], a Peuhl wounded earlier by the Anti-Balaka; [REDACTED]; and a certain [REDACTED] and [REDACTED].

Count 12 – Rape (article 7(1)(g))

Count 13 – Rape (article 8(2)(e)(vi))

39. In the course of the attack, the Anti-Balaka raped at least two people. These included a [REDACTED] Muslim woman, [REDACTED]. [REDACTED] while attempting to flee [REDACTED] took the victim [REDACTED] and raped her. Another Muslim woman, [REDACTED], was [REDACTED] raped by two Anti-Balaka elements while attempting to flee to safety [REDACTED]. She was identifiable as a Muslim at the time, dressed in a *pagne* and a *taraka* headscarf. In both incidents, the perpetrators invaded the body of the victims by conduct resulting in penetration, however slight, of their bodies with body parts of the perpetrators. This was done by force, threat of force or coercion, or by taking advantage of the coercive environment.

Count 14 – Attacks against buildings dedicated to religion (article 8(2)(e)(iv))

Count 15 – Destruction of the adversary’s property (article 8(2)(e)(xii))

40. During the attack and/or in its aftermath, the Anti-Balaka intentionally dismantled and destroyed several mosques, including the central mosque of BOSSANGO, leaving Muslims with no place of worship. None of the damaged or destroyed mosques constituted a legitimate military objective, nor was their destruction justified by military necessity.

41. Similarly, in the course of the attack or afterwards, the Anti-Balaka destroyed or damaged many of the houses in neighbourhoods which were regarded as predominantly Muslim in character, such as BORO, ARABE, and FULBE. Meanwhile, predominantly Christian neighbourhoods remained intact. By the end of January 2014, an estimated 1,500 Muslim houses had been destroyed. None of this destruction was justified by military necessity.

Count 16 - Pillage (article 8(2)(e)(v))

42. The Anti-Balaka pillaged Muslim houses and shops, including roofs, doors, and windows. This activities was carried out with the intent to appropriate property for private or personal use. This property was appropriated without genuine or valid consent by its owners.

Count 17 – Deportation and forcible transfer (article 7(1)(d))

Count 18 – Displacement of the civilian population (article 8(2)(e)(viii))

43. Without grounds permitted under international law, and by expulsion or other coercive acts, the Anti-Balaka forced Muslim civilians of all ages, including children and the elderly, to leave their homes and communities, where they were lawfully present. These civilians moved to the *École de la Liberté*—a school turned into a refugee camp, where many Muslims from the surrounding villages fleeing Anti-Balaka violence had already settled in previous weeks—and/or to other parts of CAR, or to neighbouring countries. By the end of December 2013, the *École de la Liberté* sheltered over 7,000 people—mostly women and children from the Muslim neighbourhood of BORO. Some had been forcibly escorted from their homes by the Anti-Balaka to the *École de la Liberté*. By the end of April 2014, virtually the entire Muslim population remaining in BOSSANGOVA had left.

Count 19 – Severe deprivation of physical liberty (article 7(1)(e))

44. Muslim civilians of all ages, including children and the elderly, had to be protected by international forces at the *École de la Liberté*, as the Anti-Balaka prevented them from leaving on threat of death. For example, some weeks after BOSSANGOVA was overrun, the body of Muslim civilian [REDACTED] was found two days after he had left the *École* to check on his house. He had been hacked to death with a machete. In this way, the Anti-Balaka severely deprived Muslim civilians of their physical liberty, in violation of fundamental rules of international law.

Count 20 – Persecution (article 7(1)(h))

45. By the acts described above, the Anti-Balaka severely deprived Muslim civilians in BOSSANGOA of their fundamental rights, contrary to international law, including the rights to life, liberty, mental and bodily integrity, dignity, property and religious freedom. By targeting the Muslim civilian population on the basis of their perceived national, political, religious or ethnic affiliation, the Anti-Balaka exhibited the specific intent for the crime of persecution.

IV. MOKOM'S INDIVIDUAL CRIMINAL RESPONSIBILITY

46. In his *de facto* and *de jure* role as the Anti-Balaka's Coordinator for Operations, **MOKOM** is criminally responsible for the above crimes in BANGUI and BOSSANGOA (Counts 1-20) under article 25(3)(c) and article 25(3)(d) of the Statute. **MOKOM** meant to engage in the conduct described below, and acted with the required intent and knowledge, including with regard to the crimes committed by the Anti-Balaka.

A. MOKOM's contribution to the crimes

47. **MOKOM** contributed to the charged crimes (Counts 1-20) committed by the Anti-Balaka by:

- a. Participating in planning the implementation of the Common Purpose after the 24 March 2013 *Coup*;
- b. Participating in the formation, structuring, development, and organisation of the Anti-Balaka—including the incorporation of pre-existing and new self defence groups—from at least June 2013 until at least April 2014;
- c. Coordinating the deployment and military operations of the Anti-Balaka from at least September 2013 until at least the end of April 2014, including the 5 December 2013 attacks on BANGUI and BOSSANGOA;
- d. Providing the Anti-Balaka with logistical support for military operations from at least September 2013 until at least the end of April 2014, including by providing funds, weapons, medication, and ammunition;

- e. Supporting, promoting and endorsing the crimes of the Anti-Balaka against the Muslim civilian population, from at least September 2013 until at least the end of April 2014.

i. MOKOM participated in planning the implementation of the Common Purpose

48. Following the 24 March 2013 *Coup*, from ZONGO, **MOKOM** participated with BOZIZÉ and his inner circle in CAMEROON in planning the implementation of the Common Purpose. This directly facilitated the commission of the charged crimes. MOKOM was based in ZONGO with members of the PG, FACA, and others loyal to BOZIZÉ. These persons included some of BOZIZÉ's sons, Patrick OROFEI, Aimé Abel DENAMGANAI, [REDACTED], and others who later became key members of the Anti-Balaka National Coordination ("National Coordination"). From ZONGO, MOKOM was in contact with both Bernard MOKOM and NGAÏSSONA in CAMEROON.

ii. MOKOM participated in forming, structuring, developing, and organising the Anti-Balaka

49. Under **MOKOM**'s coordination, from at least June 2013 to at least 5 December 2013, pre-existing and new self-defence groups gathered in GOBERE (near BOSSANGO). With **MOKOM**'s guidance, assistance, and encouragement, these groups were reinforced by an increasing number of former PG and FACA members, including from BANGUI. Together with similar concentrations assembled at locations such as the CAMEROON/CAR border area, also coordinated by **MOKOM**, this combined force (the Anti-Balaka) was organised into a military-like structure. This enabled the Anti-Balaka to commit the charged crimes.

iii. MOKOM coordinated the deployment and military operations of the Anti-Balaka in BANGUI and BOSSANGO

50. Between at least September 2013 and at least the end of April 2014, **MOKOM** coordinated the deployment of the Anti-Balaka, and instructed them on when and how to

attack specific towns and villages. This included BANGUI and BOSSANGO, leading to the commission of the charged crimes.

51. Prior to the formal establishment of the Anti-Balaka National Coordination in January 2014, **MOKOM** coordinated Anti-Balaka military operations from his base in ZONGO. In doing so, he liaised with various Anti-Balaka chiefs in CAR, who would later become key figures in the Anti-Balaka National Coordination. Under **MOKOM**'s coordination, the Anti-Balaka attacked villages in western CAR, and gained terrain, on the way from BOSSANGO to BANGUI. At least from around mid-November 2013, Anti-Balaka groups under **MOKOM**'s coordination began preparing to carry out the 5 December 2013 BANGUI Attack. For this purpose, **MOKOM** deployed additional Anti-Balaka elements from ZONGO, and provided additional ammunition. **MOKOM** also arranged for other Anti-Balaka groups to simultaneously attack BOSSANGO.

52. Following the 5 December 2013 attacks, **MOKOM** continued to operate from ZONGO. His ongoing *de facto* role in coordinating military operations was confirmed by his formal designation in January 2014 as the Anti-Balaka Coordinator of Operations. **MOKOM** was informed of the operations, gave specific instructions, and was in charge of people on the ground.

iv. MOKOM provided the Anti-Balaka with logistical support, including money, weapons, medication, and ammunition for military operations

53. Between at least September 2013 and at least the end of April 2014, **MOKOM** provided logistical support to the Anti-Balaka, including money, weapons, ammunition, and medication. This provided, directly or indirectly, the means for the Anti-Balaka to commit the charged crimes.

54. Prior to 5 December 2013, **MOKOM** funded the Anti-Balaka with his own money, which was used to finance Anti-Balaka activities including by the purchase of weapons, ammunition, and medication. In addition, **MOKOM** also requested and channelled financial support from the BOZIZÉ family to further the supply of weapons and ammunition for the Anti-Balaka in the field. **MOKOM** personally arranged for weapons and ammunition to be bought in ZONGO, where he was based, and then transported to the

Anti-Balaka in CAR, including in BOSSANGO. He also organised the purchase and distribution of ammunition in BANGUI. At times, he liaised with Bernard MOKOM on such matters. After 5 December 2013, **MOKOM** continued to organise the funding of the Anti-Balaka, including through money collected at checkpoints in BANGUI.

v. MOKOM supported, promoted, and endorsed the crimes of the Anti-Balaka against the Muslim civilian population

55. Between at least September 2013 and at least the end of April 2014, through the conduct set out above, **MOKOM** used his position, authority, and influence within the Anti-Balaka to support, promote, and endorse the Common Purpose including the commission of crimes against the Muslim civilian population. This provided moral support for, and encouraged, the Anti-Balaka in respect of the commission of the charged crimes.

56. Consistent with his role described above, **MOKOM**'s words and deeds had a clear effect on the Anti-Balaka. ComZones were required to report and reported directly to **MOKOM**, and attended meetings called by him. The Anti-Balaka complied with his orders. **MOKOM**'s function and seniority in the Anti-Balaka was also recognised by non-governmental organisations and foreign governments. He represented the Anti-Balaka in national and international negotiations, including those held in BRAZZAVILLE and NAIROBI.

B. MOKOM's intent and knowledge

57. **MOKOM** knew that the charged crimes would occur in the ordinary course of events, and of the intention of the Anti-Balaka to commit such crimes.

58. Furthermore, in making the contributions described above, **MOKOM** acted with the purpose of facilitating the commission of crimes such as the charged crimes and the aim of furthering the criminal activities or purpose of the Anti-Balaka.

59. **MOKOM**'s intent and knowledge is shown in particular by factors including:

- a. his knowledge and endorsement of the views of BOZIZÉ and his inner circle, who regarded the Muslim civilian population in western CAR as foreigners and supporters of the Séléka and an obstacle to BOZIZÉ regaining power;
- b. his knowledge that these views were shared by the Anti-Balaka, including on the basis of his awareness of the propensity and/or intention of Anti-Balaka elements to commit crimes, including violent crimes, against Muslim civilians, and his awareness of such crimes committed by the Anti-Balaka beginning at least in September 2013; and
- c. his acceptance and approval of such crimes, as demonstrated by his consistent support for Anti-Balaka operations until at least December 2014.

i. MOKOM knew of and endorsed the Common Purpose, as well as the views of BOZIZÉ and his inner circle

60. By at least June 2013, **MOKOM** knew of and endorsed the Common Purpose, which entailed the targeting of the Muslim civilian population in western CAR. In particular, for example, **MOKOM** knew of BOZIZÉ's public speeches in late 2012 and early 2013, which expressed the view that the Muslim civilian population were collectively responsible for the crimes of the Séléka, and characterised the desire of the Anti-Balaka to exact violent revenge and retribution against them. **MOKOM** agreed with and actively participated in plans to reclaim power for BOZIZÉ by force, which were situated in the context of these views.

61. The fact that **MOKOM** likewise shared these views is illustrated by his own care to distinguish in his speech between "Central Africans" and "Muslims". Likewise, other declarations by **MOKOM** were consistent with the Anti-Balaka propaganda portraying Muslims as traitors and collaborators, equating them with the Séléka, and denying the legitimacy of Muslims by labelling them as 'foreigners'.

62. **MOKOM** also appointed significant Anti-Balaka members who had publicly expressed hatred or intolerance towards the Muslim population, and/or commanded

elements involved in the commission of crimes against Muslims—such as YAGOUZOU, HOURONTI, [REDACTED], ANDJILO, among others—to key positions within the Anti-Balaka.

63. Similarly, even after the December 2013 attacks in BANGUI and BOSSANGO, at a meeting with the CAR Prime Minister sometime between April and June 2014, **MOKOM** further confirmed his intention to raze to the ground the predominantly Muslim neighbourhood of PK5 in BANGUI (which contained the PK5 Enclave).

ii. MOKOM knew of the commission of crimes by the Anti-Balaka pursuant to the Common Purpose

64. Even when **MOKOM** participated in forming, structuring, developing, and organising the Anti-Balaka, from at least June 2013, he knew that the self-defence groups which he sought to incorporate made no distinction between Séléka fighters and Muslim civilians, and intended to exact violent retribution against them.

65. Furthermore, as concerted Anti-Balaka operations increased in September, October, and November 2013, **MOKOM**'s knowledge of the propensity of these groups was further confirmed by crimes actually committed by the Anti-Balaka, for example in and around BOSSANGO and YALOKÉ. Any conceivable doubt was dispelled by at least late November 2013, when **MOKOM** coordinated the preparation of the attacks on BANGUI and BOSSANGO which took place on 5 December 2013.

66. **MOKOM** had various means by which he could and did learn about crimes actually being committed by the Anti-Balaka. His actual knowledge of such crimes is demonstrated by his personal statements acknowledging Anti-Balaka crimes against Muslims. In particular:

- Anti-Balaka ComZones and leaders regularly reported to **MOKOM** in his capacity as coordinator for operations both before and after his formal designation in the Anti-Balaka National Coordination. He also contacted them for updates on the “situation” in their areas of control.

- **MOKOM** was also in frequent contact with Anti-Balaka leaders in the provinces and in BANGUI.
- **MOKOM** could not have escaped information about Anti-Balaka crimes given their ubiquitous nature, their wide reporting by local and international press, international organisations and UN agencies while he was in charge of Anti-Balaka operations, and his own prominent role in the Anti-Balaka.

iii. **MOKOM accepted and approved of Anti-Balaka crimes**

67. **MOKOM**'s personal conduct with specific regard to the 5 December 2013 attacks on BANGUI and BOSSANGO, and their aftermath, demonstrates his acceptance and approval of Anti-Balaka crimes, which had already characterised their operations over the preceding months. Through his close engagement with all the relevant Anti-Balaka leaders in BANGUI and BOSSANGO, **MOKOM** worked tirelessly to assist the 5 December 2013 attacks to take place—which in turn resulted in widespread criminality as before. Thus:

- BANGUI: **MOKOM** played a 'hands on' role in coordinating Anti-Balaka operations in the 5 December 2013 attack, which entailed the commission of crimes against Muslim civilians. He was in direct contact with the key players. The Anti-Balaka kept him apprised of their operations as they occurred, including criminal acts. In the aftermath, **MOKOM** not only continued to work with them, even as they perpetrated further crimes across western CAR, but also recognised them as key members of the National Coordination.
- BOSSANGO: **MOKOM** likewise coordinated this attack, which also began on 5 December 2013. He regularly received information from the Anti-Balaka in the area, including with regard to attacks preceding 5 December 2013, the 5 December 2013 attack itself, and thereafter—including with regard to the forced 'enclaving' of Muslim civilians which lasted until April 2014. He benefited not only from direct reports, but also personal experience when he visited the area himself. Again, despite knowing of the commission of crimes, **MOKOM** recognised some

of the Anti-Balaka implicated as key members of the National Coordination, and appointed one of them as the BOSSANGO ComZone.

68. Despite knowing that the Anti-Balaka were committing violence against Muslim civilians, **MOKOM** never condemned such acts of violence. While he required Anti-Balaka elements to be punished if Christian civilians were killed, this did not apply to Muslims. Even after reports of Muslim civilians being killed, **MOKOM** directed further Anti-Balaka attacks. Likewise, **MOKOM** punished and threatened elements who helped Muslims. When CAR authorities sought to bring well-known Anti-Balaka members to justice, such as NGAÏSSONA and 10 others in February 2014, **MOKOM** actively sought to prevent their arrests and/or to free them, and constantly opposed reconciliation with the national authorities or disarmament.

69. Further, despite knowing of the deplorable circumstances affecting Muslim civilians forced by the Anti-Balaka into enclaves in western CAR, **MOKOM** endorsed the conduct of the Anti-Balaka members responsible. He accepted their continued membership in the group, including by inviting them to National Coordination meetings; officially recognising them as Anti-Balaka Coordinators; and/or designating them to represent the Anti-Balaka at various summits, including the July 2014 BRAZZAVILLE Summit, and the NAIROBI Summit. He took no action to punish or condemn their conduct, or to instruct them to act differently and/or to end the 'enclavement'.

70. To the extent **MOKOM** continued to acknowledge and accept Anti-Balaka crimes without demur even after April 2014, this is consistent with his intent and knowledge for such crimes at the time of his contributions to the charged crimes.



Karim A. A. Khan KC, Prosecutor

Dated this 13th day of March 2023
At The Hague, The Netherlands