

1 International Criminal Court
2 Pre-Trial Chamber II
3 Situation: Central African Republic II
4 In the case of The Prosecutor v. Alfred Rombhot Yekatom and Patrice-Edouard
5 Ngaïssona - ICC-01/14-01/18
6 Presiding Judge Antoine Kesia-Mbe Mindua, Judge Tomoko Akane and
7 Judge Rosario Salvatore Aitala
8 Confirmation of Charges Hearing - Courtroom 1
9 Friday, 20 September 2019
10 (The hearing starts in open session at 9.31 a.m.)
11 THE COURT USHER: [9:31:15] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE MINDUA: [9:31:44](Interpretation) Good morning to everyone. I would like to
15 welcome you all to this second day of the confirmation of charges hearing. I welcome everyone in the
16 courtroom as well as in the public gallery.
17 Court officer, please call the case.
18 THE COURT OFFICER: [9:32:12] Good morning, Mr President, your Honours.
19 The situation in the Central African Republic II, in the case of the Prosecutor versus Alfred Yekatom
20 and Patrice-Edouard Ngaïssona, case reference ICC-01/14-01/18.
21 And for the record, we are in open session.
22 PRESIDING JUDGE MINDUA: [9:32:35](Interpretation) Thank you very much, court officer.
23 Based on our schedule, we will continue with the oral submissions today and then we move on to the
24 conclusions.
25 We shall have the OTP, and then the Legal Representatives of Victims who will make their

1 observations.

2 And without further ado, I will hand the floor to the Office of the Prosecutor.

3 But before that, I have three observations:

4 First of all, let me point out that today, Friday, 20 September, we have a slight amendment to our

5 schedule. We are going to begin at 9.30, and we will finish the first session at 11. Then we have

6 a break of 30 minutes, to resume at 11.30, and then stop at 1 p.m. for the lunch break. Then we will

7 resume at 2.30 p.m. and adjourn for the day at 4 p.m.

8 Second observation, yesterday I underscored the necessity to summarise all presentations and

9 observations, because the Chamber is already in possession of the filings so we will prefer to hear only

10 new materials. It is true that that is quite difficult, especially when you have already presented -- or,

11 rather, prepared your presentations, but I will appeal to you to please make an effort to that effect.

12 Third observation, we are using many languages in this courtroom and we are fortunate to have the

13 assistance of the interpreters. It is for that reason that we must speak slowly, while observing pauses, in

14 order to enable the interpreters to do their job properly.

15 To the OTP, I would like to remind you that you have three -- that you 3 hours 51 minutes left.

16 You have the floor, Mr Prosecutor.

17 MR VANDERPUYE: [9:35:44] Good morning, Mr President. Good morning, your Honours. Good

18 morning, everyone.

19 We take note of the Chamber's advice and we will try to adhere to it. You're right, we do have

20 preprepared presentations, so it is a bit difficult for us to change things on the fly, but we will try to do

21 that.

22 Today, the Office is represented by Eric Iverson, Olivia Struyven, Nicholas Leddy, Maria Berdennikova,

23 represented by Claire Henderson, Sylvie Wakchom, Irina Galupa, Chantal Daniels, Manochitra

24 Prathaban and Lillian Robb.

25 I am Kweku Vanderpuye. Good morning, again.

1 PRESIDING JUDGE MINDUA: [9:36:34](Interpretation) Thank you very much. Good morning.

2 MR ROBINSON: [9:36:39] Excuse me, Mr President, before we --

3 PRESIDING JUDGE MINDUA: [9:36:45](Interpretation) Please proceed, Counsel.

4 MR ROBINSON: [9:36:47] Thank you.

5 Before we begin with the presentation of the Office of the Prosecutor, I would just like to return for

6 a moment to the status of our filing 358, which yesterday you were about to reclassify as public,

7 pending an email from the Office of the Prosecutor.

8 We didn't receive any such email, so we are ready to receive a decision from you to reclassify that as

9 public.

10 PRESIDING JUDGE MINDUA: [9:37:30](Interpretation) Thank you very much, Counsel, but the

11 Chamber suspended the reclassification for the time being. Are you aware of that?

12 MR ROBINSON: [9:37:39] I'm aware of your oral ruling suspending the reclassification yesterday,

13 and you directed the Prosecution to send an email within 30 minutes, and they said they would do it in

14 a few minutes. Since then - unless you've had some communications that we're not privy to - we

15 haven't received anything.

16 So in the absence of a reason for the reclassification suspension, we think you ought to go back and put

17 it in public. Thank you.

18 (Pre-Trial Chamber confers)

19 PRESIDING JUDGE MINDUA: [9:38:58](Interpretation) Mr Prosecutor, you want to take the floor?

20 MR VANDERPUYE: [9:39:04] (Overlapping speakers) Yes, Mr President.

21 The subject of the concern of the Office of the Prosecutor related not to the reclassification of the

22 document per se, but as to redacting certain information prior to its release to the public as concerns a

23 security matter in relation to its content.

24 That is the reason why, obviously, the Defence would not be privy to the communication. And from

25 my understanding, it is under consideration by the Chamber along those lines, so I don't believe that

1 there is any -- any issue as concerns -- with respect to the concerns raised by Mr Robinson.

2 Thank you, Mr President.

3 PRESIDING JUDGE MINDUA: [9:39:51](Interpretation) That is actually the correct version. I don't
4 know whether you have understood, Mr Robinson.

5 MR ROBINSON: [9:39:58] Yes, Mr President, I've understood very well. But, honestly, it's not a very
6 good procedure for the Defence to be in the dark when there are communications between the
7 Chamber and the Office of the Prosecutor. At the very least, we should be notified of the fact of such
8 communications, even if we are not allowed to be privy to the content. But this is an *inter partes*
9 proceeding and the proceedings need to be as transparent as possible.

10 So we would ask in the future that we be informed if there is *ex parte* communication between the
11 Prosecution and the Chamber. Thank you.

12 PRESIDING JUDGE MINDUA: [9:40:44](Interpretation) Very well, Counsel.

13 We are going to continue and, as you are aware, the Chamber is considering the redactions that were
14 requested.

15 Mr Prosecutor.

16 MR VANDERPUYE: [9:41:00] Thank you, Mr President.

17 There is one small matter of clean up, if you will, with respect to the transcript. Yesterday I showed
18 a video, it's at transcript page 86, in the English, lines 14 through 19. I just wanted to put on the
19 record the ERN of the video, as well as the transcript reference.

20 So the video was CAR-OTP-2065-0716. The transcript is CAR-OTP-2107 through 69 -- rather, 6924.

21 So I just wanted to make the record clear in respect of that. We are prepared to continue with our
22 presentation.

23 Mr Iverson will present on the modes of liability attendant to the crimes alleged in respect of
24 Mr Yekatom.

25 PRESIDING JUDGE MINDUA: [9:42:03](Interpretation) Thank you very much. Your colleague has

1 the floor.

2 MR IVERSON: [9:42:08] Good morning, Mr President and your Honours.

3 This morning I will turn to the criminal responsibility of Alfred Yekatom, also known as Rambo. He
4 was born in Bimbo, near Bangui and is 44 years old. He was a chief corporal in the FACA before the
5 March 2013 Séléka coup. Mr Yekatom had previously fought as one of the liberators who installed
6 Bozizé as president in 2003. He did so alongside key figures who would later become the leadership
7 of the Anti-Balaka, and with whom he stayed in contact during the relevant period.

8 Alfred Yekatom was an Anti-Balaka leader, a ComZone. Having fled to the DRC after the coup, he
9 gathered thousands of others who had also fled. He organised them in a military-like hierarchy.

10 Returning to a deeply fractured CAR, he commanded these Anti-Balaka elements and encouraged
11 them to take revenge. They were united by hatred of the Séléka and anyone they perceived to be
12 supporting Séléka. Mr Yekatom harnessed that hatred. He trained them, equipped them and
13 commanded them, shaping them into a force that caused death and destruction.

14 Mr Yekatom's affiliation with the wider Anti-Balaka group is clear from the high-level meetings he
15 attended, as well as other documents such as this press release on your screens at evidence 2, dated 3
16 July 2014; this document, signed by him, in which he reaffirms his role as an Anti-Balaka military
17 commander, and his commitment to the National Coordination, including Mr Ngaïssona.

18 Alfred Yekatom presented himself and was recognised by the Anti-Balaka leadership as a powerful
19 ComZone. His key role in the conflict was even recognised by the international community and
20 earned him a place on the European Union's and the United Nations sanctions lists.

21 Alfred Yekatom's hatred of Muslims was well-known. He made no secret of his desire to see all
22 Muslims leave the country. His violent character wasn't a secret either, as he had no hesitation to kill
23 and threaten in public.

24 In June 2013, Mr Yekatom gathered over 1,000 individuals. He based this group in the bush in
25 Kalangoi, DRC. They began military training; learning to use machetes, knives, guns and AK-47

1 rifles.

2 During this time, Mr Yekatom was in frequent contact with the Anti-Balaka leaders who were in

3 Gobere, CAR.

4 After a period of preparation, and over three months training, Yekatom's group participated in the 5

5 December attack on Bangui. They attacked together, and with groups of Anti-Balaka. The

6 Anti-Balaka National Coordination planned a multidirectional offensive into Bangui. Yekatom's

7 group was to attack from one of those directions - the south. The staging point for Yekatom's group

8 was the Boeing junction. The attack commenced at 3 a.m. on 5 December.

9 From the Boeing junction, Yekatom's group split up, taking different routes into Bangui, using three

10 different avenues of approach and attacking as they went.

11 Mr Yekatom, called Rambo by his elements, led one of the three groups into Bangui on 5 December.

12 He was on the phone coordinating with other leaders - his deputies, Habib Beina and Coeur de

13 Lion - and he met with them beforehand to plan the attack.

14 In the words of a witness who participated in that attack, quote:

15 "Rambo, Habib and Coeur de Lion were in charge ... they were the ones speaking and the others were

16 listening." Unquote.

17 Before, during, and after the attack, he stayed in frequent contact with the Anti-Balaka leadership in

18 Zongo. Yekatom's Anti-Balaka elements killed at least 10 Muslim civilians during that attack. They

19 burned houses and shops, and destroyed and desecrated the local mosque.

20 The scale and impact of this attack will be explained by my colleague Mr Leddy, who will also detail

21 some of the direct orders given by Mr Yekatom throughout the attack.

22 I'll now show a video from two days after the attack on Bangui. It depicts Mr Yekatom walking at the

23 head of his elements.

24 And for your reference, your Honours, this is ERN -- the video is at ERN CAR-OTP-2065-0396. This is

25 a video where French is spoken. The ERN of the transcript is CAR-OTP-2107-6918, and this will be

1 a sight translation.

2 Please play the video, if you would.

3 THE COURT OFFICER: [9:49:13] Excuse me, Counsel, before playing the video, could you please
4 state the level of confidentiality of the video.

5 MR IVERSON: [9:49:18] It may be played in public.

6 (Viewing of the video excerpt)

7 THE INTERPRETER: (Interpretation of the video excerpt)

8 "We should go in this way. It's not good.

9 Now, can you explain who you are?

10 I am *caporal-chef* Rombhot Alfred. I am a republican guard from the provincial battalion.

11 So are you a FACA?

12 Yes, I'm FACA.

13 So can you confirm that the attack of two days ago was carried out by the former FACA?

14 Yes, that is true, everywhere you have the FACA. Because ever since the Séléka came in, they chased
15 out the FACA, they do not want to work with the FACA. We have a better way to free the people of
16 Central Africa. So, it is because the FACA are organised, the revolution of the Central African Armed
17 Forces are for the people. We are there to liberate the people.

18 Question: Do we -- do you plan to carry out other actions?

19 No. Our problem is to organise the FACA to return. If they do not want the FACA to return, well,
20 we have to go right to the end.

21 Question: Do you have other people? Do you have other men from two days ago?

22 Yes, currently in my base there, on the other side, I have 1,500 men. And there are others on the other
23 side, also. People are everywhere.

24 Question: Where do you find your weapons and ammunition?

25 Well, you know, we are soldiers."

1 MR IVERSON: [9:51:21] Following the 5 December 2013 attack, Mr Yekatom established a base at the
2 Yamwara school in Boeing, a suburb of Bangui, where he continued training his elements, which had
3 increased to around 3,000 members.
4 Yekatom and his elements were based in the south of Lobaye prefecture, marked on this map on your
5 screens, which is annex F1 of the Prosecution's document containing the charges.
6 From the Yamwara school base, Mr Yekatom deployed his elements in the area along roads between
7 PK9 and Mbaïki, between Pissa and Mongoumba, indicated on this map which is annex F10 to the
8 Prosecution's DCC.
9 Yekatom's elements achieved control over this territory through a series of attacks against Muslim
10 communities, targeting several settlements along the route from Bangui to Mbaïki.
11 As Yekatom's elements controlled an increasingly larger area, heading in the direction of Mbaïki, in the
12 words of an insider witness, quote:
13 "The next place on the way to Mbaïki was Sékia, next Ndangala. We took it, then Bimon, Kapou, and
14 Pissa. ... The Séléka began fleeing of their own volition. We took the villages without fighting."
15 Unquote.
16 Mr Yekatom moved to set up more bases, including at Boeing, PK9, Sékia, and the *Etas-Unis* training
17 camp around 25 kilometres from Bimon. He set up roadblocks and checkpoints at strategic locations.
18 One witness states that, quote:
19 "Yekatom patrolled the barricades on his red motorbike to collect the money, goats, sheep and
20 whatever they extorted from people." Unquote.
21 Along key roads, Yekatom was regulating the flow of individuals and extorting money from passing
22 vehicles, taking cash and supplies.
23 PRESIDING JUDGE MINDUA: [9:54:11](Interpretation) I can see you on your feet, Counsel --
24 MS DIMITRI: [9:54:12] I sincerely apologise to interrupt --
25 PRESIDING JUDGE MINDUA: [9:54:13] -- what is happening?

1 MS DIMITRI: [9:54:16] -- but we lost the live transcript and we're doing live annotation.

2 My apologies, there's no more live transcript, your Honour.

3 PRESIDING JUDGE MINDUA: [9:54:30](Interpretation) We are going to break for a few moments to
4 allow the Registry to try and find out what is going on.

5 (Pause in proceedings)

6 PRESIDING JUDGE MINDUA: [9:55:31](Interpretation) Counsel, the technicians are working on the
7 problem and we need to wait for about one to two minutes.

8 MS DIMITRI: [9:55:59](Interpretation) Thank you, your Honour.

9 (Pause in proceedings)

10 PRESIDING JUDGE MINDUA: [9:58:11](No interpretation)

11 MR IVERSON: [9:58:30] Thank you, Mr President.

12 I'll just -- I'll continue from where I left off.

13 On or about 30 January 2014, Yekatom's elements reached and took control of Mbaïki. Now at the
14 time, Mbaïki hosted between 10,000 and 15,000 Muslims. I say "hosted" because that number
15 included thousands who had fled there. Yekatom's group targeted these people, they killed and
16 destroyed property in the Muslim community.

17 Alfred Yekatom is criminally responsible for the crimes committed by him and by his troops
18 throughout Lobaye prefecture and Bangui. These, your Honours, are scheduled counts 1 through 8,
19 11 through 17, and 24 through 29.

20 Some of these crimes were committed by Mr Yekatom personally, particularly the crimes of torture,
21 mutilation, and imprisonment carried out at the Yamwara school, and his use of child soldiers.

22 Other crimes were committed jointly with members of his command, including his deputies Ouandjio
23 and Habib Beina, and elements of his group.

24 For Mr Yekatom to be held criminally responsible as a co-perpetrator for these crimes, there must have
25 been a common plan between two or more persons, including the suspect, and it must include a critical

1 element of criminality.

2 Throughout the commission of the crimes charged, Mr Yekatom, his command, and elements of his
3 group acted with the common plan. Their objective was to violently target the Muslim civilian
4 population in south-western CAR, Yekatom's area of operations. These civilians were perceived as
5 being one with, complicit with, and supportive of the Séléka based on their religious, national or ethnic
6 affiliation. In response to the very real pain inflicted by the Séléka, Yekatom's group took revenge on,
7 not just the Séléka, but on all Muslims. Their plan took the cruel narrative of the Anti-Balaka and
8 made it a reality. This common plan was referred to by my colleague Mr Vanderpuye as the
9 operational common plan.

10 The operational common plan was inherently criminal. It involved a vengeful and violent attack on
11 Muslim civilians. It involved the commission of all of the many crimes charged. These crimes not
12 only fell within the scope of the plan, but were fundamental to its execution. The crimes committed
13 by members of Yekatom's group were an intended, a natural, and a direct result of the implementation
14 of the operational common plan.

15 Mr Yekatom was a central figure in carrying out the operational common plan. He made essential
16 contributions to it. He provided his elements with the means to commit the crimes by purchasing and
17 distributing weapons and ammunition. Yekatom's elements carried machine guns, rocket-propelled
18 grenades, hand grenades, Kalashnikovs, hunting rifles and machetes. He also provided for the
19 elements who were to execute the plan. He gave them money that had been procured at the many
20 checkpoints. These funds were to be used to pay for their fuel, food, and medical treatment.

21 The operational common plan did not stand in isolation. As we have heard from my colleagues, the
22 Anti-Balaka in CAR operated in furtherance of a common purpose which involved the targeting of the
23 Muslim civilian population of CAR. They were motivated by revenge and united by their shared
24 hatred of Muslims.

25 The crimes of Yekatom, and his elements, paralleled the pattern of crimes that were being committed

1 by Anti-Balaka groups throughout the western CAR.

2 Mr Yekatom was involved in the National Coordination and fully cognisant of their common purpose.

3 He knowingly and intentionally became a fundamental and strategic tool of the Anti-Balaka and the
4 common purpose.

5 Mr Yekatom's told his elements that the enemy were not just members of the Séléka, but also Muslims,
6 and quote, "foreigners" to be, quote, "slaughtered" and "exterminated", including women and children.

7 An insider states, quote:

8 "Rombhot instructed us to kill Sélékas and Muslims. He told us that we should attack the Muslims
9 and break their houses. ... Rombhot ... said that if we capture Muslims, we were to tie them up with
10 a rope and then slit their throats." Unquote.

11 Another witness states, quote:

12 "Rombhot said that we were traitors and traitors deserve to die", unquote, for merely being in the
13 company of Muslims.

14 A third witness reports that Rombhot and other Anti-Balaka leaders said, quote:

15 "Every Muslim that passes ... we will slaughter. They said that all Muslims to travel the road to
16 Mbaïki would be slaughtered. This meant to include all Muslims, armed or not, as armed and
17 unarmed Christians had been killed." Unquote.

18 Mr Yekatom's involvement in the crimes alleged goes beyond his knowing contributions to their
19 commission. Mr Yekatom was, at all relevant times, a leader and a commander. He was present on
20 the ground with those elements, and he was the head of a military-like hierarchy. He was in control.

21 Mr Yekatom presented himself as the leader of his group. He was recognised as the leader by his
22 subordinates, by the Anti-Balaka coordination, by the CAR authorities, and by the international
23 community.

24 A journalist states, quote:

25 "He told me he was a commander and he appeared to be in command of the camp. He seemed

1 respected by the other individuals at the camp. He also arranged for our travel to another
2 Anti-Balaka base by telling someone to take us there." Unquote.

3 An insider tells us, quote:
4 "We chose Yekatom as one of the ComZones to represent the Anti-Balaka. ... We chose him to go to
5 Brazzaville because we knew that his elements listened to him and followed his instruction."
6 Unquote.

7 Another insider told us, quote:
8 "Only Coeur de Lion, Habib Beina, or Aristide Beina could stand up to Rombhot, I don't remember any
9 of them ever doing so. I don't remember anyone ever disobeying him. I always obeyed him and
10 executed his orders. ... I would not have survived if I had disobeyed him." Unquote.

11 Mr Yekatom gave orders to his subordinates, issued authorisations to pass through checkpoints, set
12 missions, and arranged the appointment and replacement of subordinate leaders.
13 He was in charge of the discipline of the group. His, quote, "orders were [to be] obeyed without
14 question", unquote, and disobedience was severely punished.

15 An insider states, quote:
16 "Rombhot told us we had to burn houses. If you didn't do as he told you he would kill you. I
17 believed him because I saw him once kill an element who had a cell phone in his pocket. Rombhot
18 accused him of being a traitor. Rombhot slit his throat and buried him." Unquote.

19 As a chief, Mr Yekatom was acting through Yekatom's group, an organised and hierarchical apparatus
20 of power, to commit the crimes alleged.

21 Your Honours, I would now like to show two exhibits. The first is a screenshot of a video. You
22 should be able to see it on your screens. I would just like you to note the position of Mr Yekatom in
23 the foreground, wearing a black shirt. And I would also like you to notice the position of a second
24 man wearing a red T-shirt. He is sitting two spots down. And I would ask you to pay close
25 attention to what the man is holding in his hand - a smoke grenade.

1 Now I would like to show you a video.

2 This video was taken shortly before the image we just saw, it depicts the same hut with the gathering
3 of Mr Yekatom and his men sitting just inside. This video depicts the man in the red shirt explaining
4 the purpose of the item he was holding.

5 And for the record, this video is ERN CAR-OTP-2065-3188. This is again a French video. The ERN
6 of the transcript is CAR-OTP-2107-1547, and again this will be a sight translation. And this video may
7 be played in public.

8 (Viewing of the video excerpt)

9 THE INTERPRETER: [10:09:33](Interpretation of the video excerpt)

10 Journalist: "What is this? What is this weapon?"

11 Soldier: "Well, it's -- it's a smoke grenade. Yeah, it's like, you know, it's a smoke grenade. It's
12 anti-aggression. It's tear gas. It's anti-aggression. It's only for the Muslims who are, well, what can
13 I say? It's just quite simply to lob at the Muslims who are in their houses, for them to come out, to
14 drive them out, and for them to suffocate. And as soon as they come out we kill them. We also even
15 kill small children because we have suffered too much. And we're soldiers."

16 MR IVERSON: [10:10:39] So, your Honours, here you saw one of Yekatom's men explaining how the
17 Anti-Balaka used smoke grenades. Without any apparent fear of being overheard by his commander
18 Yekatom, he casually explains how they throw the grenade into Muslims houses to smoke them out.
19 When they do, he says, they can kill them, even the small children.

20 Despite his knowledge of their anti-Muslim animus, which he shared, Mr Yekatom encouraged such
21 members of his group and promoted their objectives. He placed these individuals in positions of
22 authority within his group despite, or rather, because of their hatred of Muslims. Mr Yekatom
23 provided these elements with the opportunity to commit the crimes charged, placing them in towns
24 and villages throughout the areas he controlled. He did not prevent or punish their crimes, but
25 tolerated, even championed, them within the ranks of his group.

1 He readily redeployed them to areas where they committed similar crimes.

2 Throughout his time as an Anti-Balaka leader, Mr Yekatom led operations and ordered attacks on
3 Muslim civilians. He ordered his Anti-Balaka elements to do such things as slit throats, cut off ears,
4 execute victims, and to bury people alive. He ordered his elements to pillage and destroy Muslims
5 homes and mosques, quote, "so they will go back to their country", unquote.

6 He requested and received updates regarding the situation on the ground, and was present when his
7 elements committed crimes.

8 The evidence shows that, as a military commander with command over his troops, Mr Yekatom knew
9 that the charged crimes were committed by his forces. Those crimes were discussed in his presence,
10 committed in his presence, and reported to him. But despite having the material ability to prevent
11 and punish those crimes, he instead encouraged their commission. He did not train his elements in
12 distinguishing civilian from military targets, he targeted civilians.

13 Your Honours, it is the submission of the Prosecution that there are substantial grounds to believe that
14 Mr Yekatom is responsible for the scheduled crimes through both action and omission.

15 Mr Yekatom intended the commission of these crimes, he planned, ordered and participated in their
16 commission.

17 Mr Yekatom knowingly and intentionally contributed to the operational common plan, fully aware
18 that its implementation would result in the commission of crimes. In so doing, he became a key
19 driver in the common plan which, as a core objective, aimed to attack Muslim civilians. He did this in
20 concert with the violent and hateful campaign of the Anti-Balaka.

21 Your Honours, those are my submissions. With your leave, I will now give the floor to my colleague
22 Mr Leddy.

23 PRESIDING JUDGE MINDUA: [10:14:28](Interpretation) Thank you very much, Prosecutor. The
24 Chamber would like to congratulate you for your work.

25 I would like now to turn to Ms Dimitri to underscore the fact that the English transcript real-time is

1 now working, and be aware that at the end of the day we will have a full transcript of the entire
2 session.

3 Now I would like to now give the floor to Mr Leddy for the continuation of Prosecution's submissions.

4 MR LEDDY: [10:15:07] Good morning, Mr President, your Honours. Today I will begin with an
5 overview of the charged crimes, and then describe the first three incidents charged.

6 The charged crimes were committed pursuant to an Anti-Balaka policy of targeting Muslim civilians in
7 western CAR, who, based on their religious, national or ethnic affiliation, were perceived as
8 collectively responsible for, and supportive of, the Séléka. The crimes were committed in
9 implementation of the strategic common plan and pursuant to the common purpose.

10 Substantial grounds exist to believe that Yekatom and Ngaïssona are criminally responsible for
11 Anti-Balaka crimes committed in western CAR from December 2013 through the end of 2014. Both
12 accused are charged with crimes in Bangui and Boeing, and along the PK9-Mbaïki axis, while only
13 Ngaïssona is charged with the crimes in the Boeing Muslim cemetery, Bossangoa, Yaloké, Gaga, Zawa,
14 Bossemptélé, Boda, Carnot, Berbérati, and Guen.

15 I will now describe the charged crimes in the first three incidents, starting in Bangui and Cattin, then
16 moving to the Boeing Muslim cemetery, and ending with the Yamwara school base.

17 As your Honours are aware, Bangui is the capital of CAR. As you can see from the slide here, it's
18 situated on the Oubangui River. This is on annex F3 of our Document Containing the Charges. It's
19 situated just across from Zongo in the Democratic Republic of Congo. In 2011, its population stood at
20 740,000. Boeing borders the west side of Bangui, as indicated on the map here by the blue circle.
21 Before the conflict, approximately 130,000 Muslims resided in the city's neighbourhoods and eight
22 *arrondissements*, including Cattin. The city's demographics changed, however, after the Anti-Balaka
23 attacked in early December 2013.

24 In the morning hours of 5 December 2013, several Anti-Balaka groups mounted an attack on Bangui
25 and Boeing. This attack coincided with other Anti-Balaka attacks on towns like Bossangoa and Boda,

1 which your Honours will hear about later, and which was part of a larger coordinated campaign by the
2 Anti-Balaka leadership across western CAR. Despite clashes with armed Séléka groups in some of
3 these locations on 5 December 2013, the Muslim civilian population in western CAR remained the
4 primary object of the broader Anti-Balaka attack.

5 At least seven crime base witnesses, three Anti-Balaka insiders, two journalists, and one overview
6 witness provide accounts of the Anti-Balaka's campaign to target civilians during the attack on Bangui
7 and Boeing.

8 These witnesses describe the Anti-Balaka's murder, forcible transfer, deportation, displacement, and
9 persecution of the Muslim civilian population, as well as the destruction of their property, and attacks
10 against at least one mosque. These crimes in Bangui and Boeing qualify as the underlying conduct for
11 the first crime charged, that of the war crime of an attack directed against a civilian population.

12 Several Anti-Balaka groups participated in this coordinated attack around Bangui. As your Honours
13 can see from the following slide, this picture is evidence of one such group on the outskirts of Bangui
14 one day before the attack. The photographer described encounter, and I quote the French here:

15 (Interpretation) "They themselves told us that they were Anti-Balaka. One of them told us that the
16 Anti-Balaka were going to attack Bangui."

17 (Speaks English) Around the time this photo was taken, Yekatom was leading another Anti-Balaka
18 group nearby that also participated in the 5 December attack.

19 Yekatom led at least 1,000 of his elements from Kalangoi, in the Democratic Republic of Congo,
20 through Bangui and Cattin, where they were joined by another 500 of his elements.

21 Yekatom himself directly participated in this attack, leading his elements and three deputies in a
22 coordinated attack on the city. To ensure this attack was coordinated, Yekatom liaised with other key
23 Anti-Balaka leaders.

24 Yekatom's intent to target Muslims was clear in the orders he gave to his elements, according to two
25 Anti-Balaka witnesses who participated in the attack. One of them recalled Yekatom, quote: "...

1 brought all the elements together and instructed us to kill Sélékas and Muslims, even Central African
2 Republic Sélékas." End quote.

3 This witness also described Yekatom's orders to, quote:

4 "... go to PK5 and find the Muslims and Séléka. He told us that we must destroy the Muslim houses
5 so they will go back to their country."

6 A second Anti-Balaka member described receiving orders from Yekatom; Freddy Ouandjio, whose
7 alias was *Coeur de Lion*, and Habib Beina, such that, quote:

8 "... the aim was to attack the Arabs because when the Séléka came, all the Muslims became Séléka. All
9 Muslims were to be regarded as the Séléka and therefore our enemies."

10 The witness further specified, quote:

11 "... we were told that they were all the same whether they were men, women, or children. Even if
12 they are children they had to be killed. We were told this by our chiefs many times. I heard this said
13 by Rambo, Coeur de Lion, and Habib at our gatherings. Our group was ordered to attack the
14 Muslims, which would include Séléka and civilians ..."

15 And, your Honours, this is precisely what they did.

16 The evidence shows that Christians were warned of this attack in advance, and were advised to place
17 palm branches in front of their houses, which is a Christian tradition in CAR during periods of
18 mourning, which signalled to the attacking Anti-Balaka which houses to spare.

19 The Muslims however were not spared. During the attack, the evidence shows that Yekatom's
20 elements killed at least six Muslim civilians or perceived Muslim supporters in the Boeing market, and
21 at least another four Muslims in Cattin, thereby committing counts 2 and 3, murder as a war crime and
22 a crime against humanity. Yekatom himself was present for some of the murders at the Boeing
23 market.

24 One of the two Anti-Balaka witnesses, who was present for the attack on the Boeing market describe
25 Yekatom and his deputies leading the attack and shooting AK-47 rifles there. This witness also

1 described how Yekatom ordered his elements to attack the Muslims and Séléka at the Boeing markets,
2 and specifically to shoot the Muslims there.

3 The second Anti-Balaka eyewitness described participating in the attack in detail, and I quote:

4 "As we entered the market we began to attack the Arabs who were outside their shops. They were
5 washing before their morning prayers and I did not see them with any guns. There were many in our
6 group and the Arabs were shot where they were standing. I saw six Arabs shot down and killed.
7 They did not die straightaway but they were still struggling on the ground, and so we stabbed them to
8 death ..."

9 Your Honours, a crime base eyewitness saw and identified the bodies of these Muslims merchants at
10 the Boeing market, while another crime base witness saw Yekatom at the market that morning, in
11 uniform, carrying a gun, and with his armed elements.

12 The evidence further shows that Yekatom's elements killed a Christian woman at the Boeing market
13 because she fed Muslim traders there food. They tied her up by her arms and legs to a tree and hung
14 her over a burning fire.

15 Elements of Yekatom's group killed at least another four Muslims in Cattin. There was no indication
16 that these victims were armed or otherwise engaged in combat. One witness described that while
17 retreating from Cattin on 5 December 2013, Anti-Balaka elements walked past his house and were
18 shouting that they would first kill Djotodia and come back to kill all the Muslims.

19 From 5 December onwards, the Muslim residents of Boeing and Cattin had no choice but to flee their
20 homes in order to save their lives. They fled to the predominantly Muslim neighbourhood of PK5, to
21 other parts of CAR, or to neighbouring countries. This forcible transfer, deportation, and
22 displacement of Muslims, constitutes counts 4 and 5 of the charged crimes against both accused.

23 The 5 December attack and its aftermath caused a number of internally displaced people in the 3rd
24 *arrondissement* to increase by 100,000 in the first month after the attack, before dropping to 20,000 in the
25 first few months in 2014, as people fled the region. News reports indicate that approximately

1 99 per cent of the city's Muslims were gone by March 2014.

2 One Muslim eyewitness described how on 5 December 2013, he and 11 other family members quickly

3 left their home in Cattin and fled for their lives to PK5, which was the only safe place because it was

4 majority Muslim. It quickly became the last Muslim enclave in Bangui.

5 As your Honours can see from the map at annex F2 to the Prosecution's DCC, the PK5 enclave was

6 located in the 3rd *arrondissement* of Bangui, as depicted in the shaded area here in the centre of the map

7 in front of you.

8 The evidence also shows that many of the remaining Muslims confined to the PK5 enclave were unable

9 to leave it without risking death. The Muslim population there was forced to endure a lack of

10 adequate food, shelter, and sanitation. One journalist who visited PK5 in December 2013 described it

11 as, quote, "a prison within the city". The journalist reported that the Anti-Balaka had cut off the roads

12 to and from the district, erecting barricades and conducting checkpoints, and that the Anti-Balaka

13 made it difficult for NGOs to distribute food. The Anti-Balaka warned the journalist would risk being

14 killed for befriending Muslims.

15 Yekatom also ordered the destruction of the Boeing mosque, one of the many mosques in Bangui that

16 were destroyed by the Anti-Balaka. Although witnesses put the attack on this mosque on slightly

17 different days, the evidence shows it was destroyed by 20 December at the latest.

18 One Anti-Balaka insider eyewitness recalled Yekatom's group following Yekatom's orders to destroy

19 the mosque. And I quote: "We used rocket [sic] and grenades to destroy the walls of the mosque.

20 We burned the roof using gasoline and matches. I saw people with canisters of gasoline bought in

21 Boeing. I watched the mosque burn. Rombhot was the most senior Anti-Balaka and ordered us to

22 destroy the mosque. ..."

23 A Muslim crime base eyewitness who had a shop in front of the mosque, described seeing the

24 Anti-Balaka destroy and desecrate it, quote:

25 "I saw the Anti-Balaka taking pages of the Holy Koran and urinate on them outside the mosque.

1 Others [sic] Anti-Balaka pillaged the mosque, removed the carpets, and destroyed everything in the
2 mosque. They took everything, they removed the roofs, doors, and even the wall of the mosque.
3 Today if you go there you can only see the foundations of the mosque."
4 He also heard these Anti-Balaka say they did not want to see the Muslims there anymore.
5 This conduct constitutes count 6 and 7, the war crimes of an attack against a building dedicated to
6 religion, and destruction of the adversary's property.
7 Your Honours, the crimes and acts I've just described were committed by Yekatom, his group, and
8 other Anti-Balaka elements, in a coordinated effort to cleanse Bangui, Cattin, and Boeing of their
9 Muslim populations. That effort demonstrates a common plan or purpose to violently target the
10 Muslim civilian population in these areas who were perceived as collectively responsible for and
11 supportive of the Séléka on basis of their religious, national or ethnic affiliation. The Anti-Balaka's
12 attack on these Muslim civilians deprived them of fundamental rights, including the right to life,
13 liberty, dignity, and religious freedom. It is this conduct which underlies count 8 against both
14 accused, the crime against humanity of persecution.
15 Yekatom's knowledge and intent for this incident is clear by virtue of his planning, ordering, leading
16 his elements in the attack, and being physically present for many of underlying crimes charged.
17 Anti-Balaka leadership coordinated several groups to attack areas around western CAR, including
18 Bangui, Boeing, Boda, and Bossangoa, on 5 December 2013. Yekatom was in contact with these
19 leaders immediately before, during, and after the attack. The participation of Yekatom's group was
20 planned in advance.
21 Ngaïssona, as an Anti-Balaka leader, was also fully aware of the attack on Bangui and its surroundings
22 during this key coordinated offensive.
23 Ngaïssona was aware of the crimes committed by Yekatom and his group. The attack and the crimes
24 committed were heavily reported in the media. Furthermore, Ngaïssona was a key member of the
25 group called, in French, *le Front pour le Retour à l'Ordre Constitutionnel en Centrafrique*, or FROCCA,

1 which vindicated and supported the 5 December attack, including one FROCCA member's radio
2 broadcast on the very day of the attack.

3 Despite this knowledge, Ngaissona did not condemn the commission of crimes, and did not act to end
4 them. Instead, he validated Yekatom's actions by accepting Yekatom's continued membership in the
5 group, recognising him as a key member of the Anti-Balaka, and by inviting him to represent the
6 Anti-Balaka at high-level meetings and negotiations, for example, in a 25 January 2014 meeting with
7 interim president Samba-Panza, and at the July 2014 Brazzaville summit.

8 Your Honours, this concludes my presentation for the first incident. I will now continue to the second
9 incident at the Boeing Muslim cemetery.

10 As your Honours can see from the map in front of you, which is annex F2 to the Prosecution's DCC, the
11 Boeing Muslim cemetery was located a few kilometres west of the airport in Bangui and the PK5
12 enclave.

13 As part of the coordinated attack on Bangui, between 5 and 10 December, an Anti-Balaka group took
14 control over the area surrounding the Boeing Muslim cemetery and blocked Muslims in PK5 from
15 accessing it. Ngaissona, and not Yekatom, is charged with incident.

16 From the December 2013 attack and throughout 2014 and 2015, Muslims in the PK5 enclave could not
17 access their cemetery out of fear that the Anti-Balaka would kill them.

18 In August 2014, when the Séléka announced an intention to open access to the cemetery, multiple
19 Anti-Balaka companies were sent to reinforce the blockade. This blockade lasted until February 2016,
20 when a nonaggression pact was signed.

21 As Muslims were blocked from using the cemetery, in many instances, bodies decomposed for lack of a
22 place to bury them. Some had to be given over to the Red Cross for burial without regard to religious
23 rights. Others had to be interred in inappropriate burial places, such as on the grounds of a Christian
24 church in Bangui, or in family compounds.

25 Your Honours, this conduct forms the basis of count 9 against Ngaissona, the war crime of an outrage

1 upon personal dignity. One Muslim eyewitness based in the PK5 enclave recalled over 60 bodies
2 arriving at the local mosque on 5 December 2013, followed by dozens more bodies over the following
3 days. He described how some had bullet wounds, some had machete wounds, some had been burned
4 or mutilated, and some were younger bodies, aged around 13 or 14. He described having to bury
5 some of these bodies in mass graves at an alternate location because the Anti-Balaka blocked access to
6 the cemetery. He even described getting shot at while returning from one of these burials.
7 His account is corroborated by photographic, video, and eyewitness evidence, including from one
8 witness who helped wash the bodies at the same mosque, and another journalist who visited PK5 on
9 20 February 2014. The journalist spoke to local leaders and took pictures of the bodies at the mosque,
10 including some in body bags.

11 I'll now show one of these pictures to your Honours.

12 The acts I have just described were committed as part of a coordinated effort to target the Muslim
13 population in the 3rd *arrondissement* on the same basis I have just described for those Muslims in other
14 parts of Bangui. Muslim civilians in the 3rd *arrondissement* and the PK5 enclave were deprived of
15 fundamental rights when the Anti-Balaka blocked their access to their cemetery and prevented them
16 from burying their dead in accordance with Islamic principles.

17 This conduct forms the basis for count 10, the crime against humanity of persecution.

18 Ngaïssona knew about the Anti-Balaka's blocking of access to the Muslim cemetery from its inception
19 and throughout its duration until 2016. Ngaïssona knew of the intended blockade, especially given
20 the significant national and international media coverage.

21 Ngaïssona would have been made aware of the blockade from at least three additional sources:

22 First and foremost, by Anti-Balaka commanders or ComZones, given their frequent reporting to him.

23 Second, by international forces who were notified as early as December 2013 that bodies were rotting
24 in the PK5 enclave.

25 And third, by the transitional government in CAR, specifically the council of ministers, which

1 discussed the issue in July 2014, when interim president Samba-Panza sought a resolution to the
2 matter.

3 Additional proof of Ngaïssona's intent to continue the blockade is shown by the fact that in August
4 2014 he publicly disciplined deputy national coordinator of the Anti-Balaka, Sébastien Wenezoui, for
5 holding meetings with Muslim representatives to negotiate their access to the cemetery, and
6 specifically for not respecting the hierarchy.

7 Furthermore, in May and June of 2015, Ngaïssona himself participated in the negotiations with
8 representatives of the Muslim community on the specific issue of cemetery access for PK5 residents.
9 These meetings did not achieve a specific resolution of the matter.

10 All of these factors together point to the conclusion that Ngaïssona knew of and intended to prevent
11 Muslims from accessing their cemetery in Boeing during the relevant period.

12 I will now turn to the third incident, the Yamwara school base, which is also located in Boeing.

13 As your Honours can see from this map located at annex F2 to the Prosecution's DCC, this base was
14 located just on the outskirts of Bangui.

15 Yekatom established the Yamwara school base after the 5 December 2013 attack.

16 As a former school, the base at Yamwara had several buildings Yekatom could use to train and provide
17 housing for his elements.

18 I'd like to show you a screenshot from a video - which is public - and the video evidence here shows
19 Yekatom at the Yamwara school on or about the 13 through 17 December 2013.

20 Yekatom and his elements used this school as a base until Djotodia's resignation on 10 January 2014,
21 when Yekatom and his elements moved onwards to PK9.

22 Your Honours, in accordance with the Prosecution's obligations under Article 68 to protect the safety
23 and wellbeing of victims, we are requesting the remainder of this incident be done in closed session.

24 PRESIDING JUDGE MINDUA: [10:40:19] (Interpretation) Registrar, can we go into private session,
25 please.

1 Private or closed session, Mr Prosecutor, which did you say?

2 MR LEDDY: I'm sorry, your Honours, private session.

3 (Private session at 10.40 a.m.)

4 THE COURT OFFICER: [10:40:49] We are in private session, Mr President.

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22 (Open session at 10.50 a.m.)

23 THE COURT OFFICER: [10:50:45] We are back in open session, Mr President.

24 PRESIDING JUDGE MINDUA: [10:50:49](Interpretation) Thank you very much, court officer.

25 Over to you, Mr Prosecutor, for what follows.

1 MR VANDERPUYE: [10:50:56] Thank you, Mr President.

2 I understand that Ms Berdennikova's presentation will take approximately 20 minutes, so I think these
3 10 minutes are probably -- unless the Chamber considers we may go 10 minutes past, and that would
4 be preferable. I think the presentation is best put forward as an integrated whole rather than to break
5 it up in the middle.

6 PRESIDING JUDGE MINDUA: [10:51:22](Interpretation) Very well, Mr Prosecutor. We shall rise
7 now for 30 minutes, and we will resume therefore at 11.20.

8 MR VANDERPUYE: Thank you, Mr President.

9 PRESIDING JUDGE MINDUA: (Interpretation) Court officer.

10 THE COURT USHER: [10:51:45] All rise.

11 (Recess taken at 10.51 a.m.)

12 (Upon resuming in open session at 11.23 a.m.)

13 THE COURT USHER: [11:23:12] All rise.

14 Please be seated.

15 PRESIDING JUDGE MINDUA: [11:23:37](Interpretation) We shall resume.

16 Let me hand over to the Office of the Prosecutor, but once again a reminder:

17 The Chamber has already set this schedule and I really would like to adhere to said schedule, which
18 means that when we say that we finish at such and such a time we should abide by that.

19 Now, we're going to be starting at 11.20, or a little more than that, 11.25, but we're going to be finishing
20 at 10 to 1 in the afternoon. We shall resume at half past 2. We really need to finish at 4 p.m. The
21 Office of the Prosecutor can perhaps hand over their submissions within the office, but that shouldn't
22 muddle up the time schedule as prescribed by the Chamber.

23 Thank you very much.

24 MS BERDENNIKOVA: [11:24:56] Good morning, Mr President, your Honours.

25 I will now continue the Prosecution's submissions of its case with a presentation covering three topics:

1 First, counts 24 to 28, along the PK9-Mbaïki axis.

2 Second, count 29, on the enlistment and use of children in hostilities.

3 And third, counts 18 to 23, related to the Boy-Rabe base incident.

4 Your Honours, the first presentation will take about 20 minutes.

5 Let's begin with counts 24 to 28. We will be moving away from Bangui and following Yekatom's

6 group into the Lobaye prefecture. As you can see on your screens, it is located in the south-western

7 part of CAR and borders the Republic of the Congo and the DRC. Its capital is Mbaïki.

8 In today's presentation we will be speaking about the area of Lobaye located between PK9, which is

9 about 9 kilometres away from Bangui city centre, and Mbaïki. This area covers the distance of

10 approximately 110 kilometres.

11 Now the reason we will be concentrating on this area is because, around 10 January 2014, Yekatom

12 ordered his Anti-Balaka elements to take over and gain control over it. Following this order,

13 Yekatom's group advanced from their base at the Yamwara school to the PK9 bridge and beyond, until

14 they reached Mbaïki approximately three weeks later, on or about 30 January 2014.

15 In their advance towards Mbaïki, Yekatom's Anti-Balaka group gained control over towns and villages

16 along the PK9-Mbaïki axis. Now these appear on the screens and include Sékia, Ndangala, Bimon,

17 Kapou, Bossongo and Pissa.

18 When speaking about this progression an insider witness explains, and I quote in French:

19 (Interpretation) "Rambhot, he, he wanted to take each village, in other words, that when we came to

20 Sékia, we had occupied Bimbo -- *le poste de Bimbo*. And after Bimbo was retaken Bossongo. After

21 Bossongo, it was Pissa. Pissa, because we take all the localities all the way through to Lobaye. So,

22 that's what it was. And Bimon as we took, et cetera, et cetera, and there it is."

23 (Speaks English) Your Honours, as Yekatom's group progressed towards Mbaïki, they established

24 checkpoints along their route: Armed Anti-Balaka elements regulated movements, confiscated cattle

25 and goods, and extorted money from those passing these checkpoints.

1 The villages along the PK9-Mbaïki axis were taken over by the Anti-Balaka without resistance from the
2 Séléka because they had withdrawn by the time Yekatom's group had arrived.

3 But it was not just the Séléka who left towns and villages along the axis. Muslim civilians, fearing for
4 their lives, fled the area en masse upon learning about Anti-Balaka's advancement.

5 Many Muslim civilians initially sought refuge in the provincial capital, Mbaïki. A crime base witness
6 states, I quote:

7 "As Yekatom progressed through Lobaye, all the Muslims fled towards Mbaïki. All were fleeing
8 Yekatom's Anti-Balaka."

9 A member of Yekatom's group confirms that these civilians' fears were not unfounded. He explains:

10 "When the Muslims heard about Anti-Balaka all the Muslims from Sékia, Pissa, Yamboro fled to
11 Mbaïki, because they feared that we would kill them."

12 He then adds:

13 "That was the general instruction, if we found any there we would have killed them as being Séléka
14 enemies. This was the general instruction given by our chiefs, Rambo and Coeur de Lion at our
15 gatherings. These chiefs told us that we should not allow any Muslims to stay as they had sided with
16 the Séléka."

17 Another insider witness confirms that the Anti-Balaka saw all Muslims as their enemy. The witness
18 explains, and I quote in French: (Interpretation)

19 "All the Muslims are enemies, because when we were in it we said to ourselves that there's no little
20 Muslim, there are no big Muslims. All the Muslims are the same. Be they armed or not, they can
21 be -- they can act as spies for the Séléka, and there it is. So, we do not accept them."

22 (Speaks English) The same witness explained that during a meeting in Sékia - which is one of the
23 villages along the PK9-Mbaïki axis - Coeur de Lion, Yekatom's deputy, explicitly instructed their
24 Anti-Balaka group to kill any Muslims passing along the Mbaïki route. The instruction was, I quote in
25 French: (Interpretation) "All Muslims passing through the Mbaïki road, we kill them.

1 (Speaks English) As a result of the mass influx of Muslims fleeing from neighbouring towns and
2 villages, Mbaïki's Muslim population swelled significantly by the end of January 2014. As stated by
3 my colleague Mr Iverson, it reached 10 to 15,000 at this time. This number is confirmed by a resident
4 of Mbaïki, who estimates that the number of Muslims in Mbaïki increased from approximately 2,000 to
5 15 or 16,000 by the beginning of February 2014. Another witness confirms that the number of Muslim
6 refugees in Mbaïki ran into the thousands.

7 Around 30 January 2014 Yekatom's Anti-Balaka elements entered Mbaïki.

8 When Yekatom's group arrived, a reconciliation meeting was held at the local Catholic church. The
9 attendees of this meeting included Yekatom, Habib Beina, and Coeur de Lion, representatives from the
10 Muslim and Christian communities, members of local authorities, and MISCA and Sangaris forces.

11 During this meeting, Yekatom gave a message ostensibly calling for peace between Christians and
12 Muslims. He repeated this message to a crowd of people outside, after leaving the cathedral.

13 Your Honours, this message has to be seen and interpreted in a wider context. Let us not forget that it
14 was given by the same person who, as you have already heard during this and previous presentations,
15 ordered his troops to attack all Muslims.

16 In addition, several Prosecution witnesses present during Yekatom's address, including an insider,
17 explained why his message was not sincere.

18 In the days following the arriving of Yekatom's group to Mbaïki, Muslim civilians were threatened and
19 harassed by the Anti-Balaka.

20 A Muslim resident of Mbaïki explains, I quote:

21 "The Anti-Balaka threatened the Muslims saying: 'You are stupid people, we are going to kill you if
22 you stay. We told you to leave our areas but you don't leave. If you continue to stay, we are going
23 to kill you'."

24 A Human Rights Watch report further describes:

25 "In Mbaïki on February 4, despite the deployment of French forces Human Rights Watch found

1 Anti-Balaka threatening elderly Muslim men in the main market, running their fingers across their
2 throats in front of the old men."

3 Your Honours, the threats went beyond verbal abuse, with Anti-Balaka elements taking active steps to
4 undermine even the small measures adopted to ensure the safety of the civilian population, such as by
5 attacking a security patrol.

6 The increasingly hostile environment towards Muslims that Yekatom's group perpetuated caused
7 Mbaïki's Muslim population to flee, en masse, from about 6 February 2014 onwards. With the
8 assistance of Chadian forces, thousands of the Muslims evacuated from Mbaïki to Chad or to other
9 parts of CAR.

10 Within two weeks, almost the entire Muslim population of Mbaïki had been removed, except for its
11 deputy mayor Djido Saleh and his family, who refused to leave their home town.

12 Your Honours, in February 2014, after thousands of Muslims fled, Amnesty International delegates
13 met Djido Saleh during their mission to the city. He told them that he and his family were born in
14 Central African Republic and had no reason to flee. He was wrong.

15 On 28 February 2014 Djido Saleh, one of the only remaining Muslims, was murdered, and his dead
16 body mutilated.

17 Evidence shows that Djido Saleh's home was attacked by a group of perpetrators, including members
18 of Yekatom's Anti-Balaka group. When he attempted to flee he was caught within metres of the
19 gendarmerie and brutally killed.

20 You will see a screenshot from a video showing Djido Saleh's murder.

21 After killing the victim and mutilating his body, one of the perpetrators states, and I quote in French:
22 (Interpretation) "I would have wanted the other Muslims to be here to see it with their own eyes."
23 (Speaks English) Your Honours, Yekatom knew about the involvement of his elements in this murder.
24 During a meeting held just two days after the event, he stated that he knew who was responsible for
25 the killing and had sanctioned them. No evidence in the Prosecution collection suggests that any

1 sanctions against his elements were in fact implemented by Yekatom.

2 In addition, one Prosecution witness states that Yekatom referred to this killing as, I quote, "an
3 accident".

4 Your Honours, the events I have just described can hardly begin to be characterised as such.

5 The crimes and acts I described during this presentation were committed by Yekatom and his
6 Anti-Balaka elements, in a coordinated effort to cleanse the towns and villages along the PK9-Mbaïki
7 axis of their Muslim population.

8 These acts deprived the victims of fundamental rights and constitute the crime against humanity of
9 persecution.

10 Turning now to Ngaïssona's knowledge, the suspect also knew and accepted that such crimes would
11 take place in the Lobaye prefecture.

12 Ngaïssona was aware of the situation in the Lobaye prefecture and even personally took part in at least
13 one mission to dismantle roadblocks along the Mbaïki axis pursuant to the Brazzaville agreement.

14 Key members of the National Coordination also visited the prefecture during its occupation by
15 Yekatom's group.

16 In addition, the situation and crimes committed by Yekatom's group in the Lobaye prefecture were
17 widely and contemporaneously reported in the media.

18 Your Honours, as stated by my colleague Mr Leddy, despite his knowledge of the crimes committed by
19 Yekatom and his group, Ngaïssona did not condemn their commission or act to end them. Instead, he
20 validated Yekatom's actions by accepting and endorsing his continued membership in the group.

21 I will now turn to the second part of my presentation, which deals with count 29, on the enlistment and
22 use of children in hostilities.

23 Yekatom and his subordinates enlisted children under the age of 15 into Yekatom's group from at least
24 December 2013 through August 2014. They used these children for a variety of tasks, including
25 manning checkpoints and taking active part in hostilities.

1 Children under the age of 15 were stationed at the Yamwara school base and at various checkpoints
2 controlled by Yekatom, including along the PK9-Mbaïki and Pissa-Mongoumba axis.

3 Now these appear on the map on your screens.

4 When speaking about children within the Anti-Balaka, one witness provides the following eyewitness
5 account, I quote:

6 "I often travelled between Bangui and Mbaïki and I would see very young boys from 10 years old at
7 the Sékia and Pissa Anti-Balaka barriers. ... The children wore a mix of military uniforms and civilian
8 clothes. Some of them wore *gris-gris* around their necks and arms. I saw the children, even the
9 younger ones, carrying traditional weapons like knives, bows and arrows."

10 Your Honours, two Prosecution insider witnesses explain that at least some of the children enlisted in
11 Yekatom's group were personally known by, or introduced to, Yekatom.

12 Child soldiers enlisted into Yekatom's group received military training.

13 When speaking about children within Yekatom's group one insider explains that, I quote, "children
14 were mixed with adults during the training." They were "taught fighting tactics, how to hide, when to
15 lie down and how to duck from bullets." They also received instructions on how to "assemble and
16 disassemble a gun", and were "beaten with sticks as part of the training to become strong."

17 The children were used to man checkpoints.

18 A member of Yekatom's group explains that children were sent to man the barricades together with
19 adults. When describing activities at these checkpoints he further elaborates, and I quote:

20 "We looked and if you were Central African we let you pass. If the person is a Muslim we stopped
21 them and we assumed he is either a traitor or stubborn. Generally when they capture and bring a
22 person back from a barricade they will give him to the children to stab him, cut off his ear and then it
23 was for an adult to kill him."

24 Children within Yekatom's group also actively participated in attacks.

25 When describing preparations for the 5 December 2013 attack on Boeing, one child explains, and I

1 quote:

2 "Coeur de Lion did not want children to take part in the attack but Rambo said that the children had to
3 be involved as the Arabs are killing our people."

4 The witness then goes on to describe the day of the attack and clarifies, I quote:

5 "My role was when they shot somebody for example in the leg and the person falls I was to stab and
6 beat him until he becomes weak through his injuries. The children were instructed by Coeur de Lion
7 and Rambo to stay at the rear and not the front. The chiefs who had guns stayed at the front. We
8 had machetes and knives. By this time we, the children, had all been given knives."

9 The witness then adds that the children also carried AK-47 ammunition.

10 Your Honours, I would now like to go into private session, because information covered in the next
11 portion has been redacted from the public version of the DCC.

12 PRESIDING JUDGE MINDUA: [11:43:20] For how long with a private session?

13 MS BERDENNIKOVA: [11:43:24] Your Honours, I'm afraid for the remainder of the presentation of
14 this count and for the entirety of the next counts.

15 PRESIDING JUDGE MINDUA: [11:43:32] I'm asking the question because of the public, to let them
16 know.

17 MS BERDENNIKOVA: [11:43:36] I would say maybe 15 minutes; 10, 15 minutes.

18 PRESIDING JUDGE MINDUA: [11:43:45] Okay. Thank you very much.

19 (Interpretation) Court officer, let's go into private session, please.

20 (Private session at 11.43 a.m.)

21 THE COURT OFFICER: [11:43:56] We are in private session, Mr President.

22 (Redacted)

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13 (Open session at 12.00 p.m.)

14 THE COURT OFFICER: [12:00:30] We are back in open session, Mr President.

15 PRESIDING JUDGE MINDUA: [12:00:36](Interpretation) Thank you very much, madam courtroom
16 officer.

17 Mrs Henderson, the floor to yours.

18 MS HENDERSON: [12:00:45] I will be presenting on the three following incidents at Bossangoa,
19 Yaloké and the surrounding villages, and Bossemptélé. The entirety of the audio-visual aids that I
20 will be showing in my presentation can be broadcast publicly. And I will be taking us up to just
21 before the break at 10 to 1.

22 I begin, your Honours, with the 5 December 2013 on the town of Bossangoa.

23 Bossangoa is the capital of the Ouham prefecture. As at 2003, its population was about 36,000,
24 including about 8,000 Muslims.

25 The town is located around 300 kilometres north of Bangui and 200 kilometres south of the Chadian

1 border. It is also the closest town to Gobere, where the Anti-Balaka self-defence groups first formed.
2 In the months leading up to the 5 December attack, these Anti-Balaka groups terrorised the Muslim
3 population in the surrounding area. In an initial attack on Bossangoa on 17 September 2013, the
4 Anti-Balaka killed several Muslim civilians, but they ultimately failed to take the town from the Séléka
5 at that point.

6 Yet, they were not perturbed. On 5 December, they returned stronger, hitting Bossangoa a matter of
7 hours after the early morning attack on Bangui. This timing, your Honours, was no coincidence.

8 This was a coordinated effort between the Anti-Balaka's Bossangoa leadership and its *de facto* National
9 Coordination.

10 Having overcome the Séléka in Bossangoa, the Anti-Balaka went on to attack the town's Muslim
11 civilian population. This attack is the subject of count 30, the war crime of attack directed against a
12 civilian population.

13 One witness describes how the Anti-Balaka attacked neighbourhoods of Bossangoa that contained no
14 Séléka positions.

15 And I quote in French: (Interpretation)

16 "The Séléka did not have any position in my neighbourhood or in the neighbouring neighbourhoods,
17 only at the exit point to the town. The aim or objective of the Anti-Balaka was visibly to kill Muslims,
18 not only the Séléka, otherwise they would not have entered the residential neighbourhoods."

19 (Speaks English) Another witness describes being shot at by a group of Anti-Balaka while she and
20 members of her family attempted to reach the local imam's house to seek refuge.

21 In her words, quote:

22 "I do not know why the Anti-Balaka fired at us, we were not involved with the Séléka and we were
23 unarmed. That day I was wearing a skirt and a shirt with a scarf on my head. My mother, my aunt
24 and my grandmothers were wearing a traditional Muslim attire called *lafaye* wrapped around their
25 bodies and heads."

1 Indeed, the Prosecution's evidence shows that the attackers viewed Muslim civilians as being no
2 different from the Séléka.

3 One attacker said this, again I quote:

4 "In Bossango Whoever was a Muslim was a Séléka while Christians were Anti-Balaka. Most men
5 who converted to Islam would support the Séléka. If someone stayed in a house, we assumed he had
6 a weapon to defend himself. We did not capture anyone."

7 Instead of capturing, your Honours, the Anti-Balaka killed. The Prosecution presents evidence of 18
8 killings and one attempted killing of Muslim civilians at the hands of the Anti-Balaka. The
9 Anti-Balaka shot at Muslims as they fled to a local school-turned-refuge, to be protected there by
10 international forces. One witness at the school describes the scene as follows, and again I quote:

11 "At some point, the Anti-Balaka came very close to the school, they started shooting in our direction,
12 killing one of the Congolese soldiers and one of the displaced Muslims ..." End quote.

13 The bodies of many of the victims were also brought to the school, to be prepared for burial, as this
14 photo shows.

15 These killings and attempted killings, your Honour, are the subject of counts 31 and 32.

16 During the attack the Anti-Balaka also pillaged, destroyed property and attacked protected objects.

17 In the words of one local witness, and I cite in the French: (Interpretation) "In the Muslims' houses,
18 the Anti-Balaka were looting everything, they even took away the iron roofs, the windows, the bricks,
19 anything that they could get their hands on."

20 (Speaks English) In the days after the attack, Muslim houses were systematically set on fire or
21 otherwise destroyed, especially in the predominantly Muslim neighbourhoods of Boro, Arabe and
22 Fulbe. Meanwhile, predominantly Christian neighbourhoods - which had previously been attacked
23 by the Séléka - remained untouched by the Anti-Balaka. By the end of January 2014, the Anti-Balaka
24 had destroyed an estimated 1,500 Muslim houses.

25 Your Honours, this photograph shows just one of them.

1 These acts of pillage and property destruction are the subject of counts 33 and 34.

2 In the week following the attack, the Anti-Balaka also dismantled and destroyed several mosques,

3 including the central mosque of Bossangoa. That is the subject of counts 35 and 36, the war crimes of

4 attacking a building dedicated to religion and of property destruction.

5 Bossangoa's Muslims fled to the nearby *École de la Liberté*, the School of Freedom. This was the school

6 that, as I mentioned, had been turned into an internally displaced person camp, protected by

7 international forces. The school already housed Muslims who had fled from earlier Anti-Balaka

8 violence in the surrounding villages.

9 We are now displaying an image from the camp.

10 In the days after the attack, the number of displaced Muslims rose into the thousands. By the end of

11 December 2013, the *École de la Liberté* sheltered over 7,000 displaced persons, mostly women and

12 children from the Muslim neighbourhood of Boro. Some of them had been taken by the Anti-Balaka

13 from their homes to the *École de la Liberté* site so that they could be removed from the town by

14 international forces, which they later were.

15 By April 2014, virtually the entire 8,000-strong Muslim population of Bossangoa had been evacuated,

16 mainly to Chad. When a UN Commission of Inquiry attended Bossangoa in October 2014, there was

17 no one left to talk to. According to one witness from that mission, and I quote:

18 "We were unsuccessful at investigating the incidents in Bossangoa because we were not able to find

19 Muslim witnesses who lived there at the time of the attack." End quote.

20 This removal of the Muslim population was no by-product of the attack, but the very reason for the

21 attack. According to a UN observer, referring to a conversation that he had with an Anti-Balaka

22 leader in April 2015, open quote:

23 "He said that the main objective of his group - the Anti-Balaka in Ouham province - is still to chase out

24 all the Muslims out of Ouham and also to chase out all the Séléka." Close quote.

25 The expulsion of Bossangoa's Muslim population gives rise to counts 37 and 38, that's forcible transfer

1 and deportation, and displacement.

2 But let us step back for a moment to the camp. While housed at the *École de la Liberté*, the Muslim
3 population of Bossangoa was unable to leave, due the real threat of being killed by the Anti-Balaka.
4 Even from within the camp there was insecurity. The Anti-Balaka would sometimes pass by the
5 school shouting threats towards the families inside.

6 As one local witness describes it, and I cite in French: (Interpretation)

7 "The situation for the Muslims of Bossangoa at that moment in time was like being in prison, we were
8 surrounded by the Anti-Balaka on all sides. They had set up their positions at a number of locations
9 in the town in order to make sure that we didn't dare exit the camp."

10 (Speaks English) These conditions give rise to count 39, severe deprivation of liberty.

11 The Prosecution also presents evidence that Anti-Balaka elements raped women in Bossangoa during
12 the course of the attack. This is the subject of counts 40 and 41, that's rape as both a war crime and a
13 crime against humanity.

14 And, your Honours, in accordance with Article 68 of the Statute, I would like to briefly go into private
15 session.

16 PRESIDING JUDGE MINDUA: [12:12:00](Interpretation) The same question to you: For how long?

17 MS HENDERSON: [12:12:05] No more than two minutes, your Honour. Most likely one minute.

18 PRESIDING JUDGE MINDUA: [12:12:10](Interpretation) Very well.

19 We shall now move into private session for a duration of five minutes.

20 (Private session at 12.12 p.m.)

21 THE COURT OFFICER: [12:12:21] We are in private session, Mr President.

22 (Redacted)

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9 (Open session at 12.13 p.m.)

10 THE COURT OFFICER: [12:13:39] We are back in open session, Mr President.

11 PRESIDING JUDGE MINDUA: [12:13:43](Interpretation) Thank you very much, madam courtroom
12 officer.

13 THE INTERPRETER: [12:13:50] Overlapping speakers. Please observe a pause.

14 MS HENDERSON: [12:13:57] Finally, the Prosecution charges as count 42 the crime against humanity
15 of persecution.

16 As your Honours have already heard, this count reflects the common thread running through all of the
17 Anti-Balaka's crimes in this case in Bossangoa. And that is their violent targeting of the Muslim
18 civilian population, whom they perceived as collectively responsible for, complicit with, and
19 supportive of, the Séléka. It was this targeting that brought the group's crimes within the common
20 purpose, and ultimately within the implementation of the strategic common plan.

21 The perpetrators of these crimes in Bossangoa were, among others, a group of local Anti-Balaka from
22 Bossangoa and the surrounding region. The group's leadership planned the attack from its base in
23 Gobere, all the while in constant contact with the Anti-Balaka's *de facto* National Coordination, and
24 while receiving money from Ngaissona.

25 According to one Gobere-based Anti-Balaka member, and I quote:

1 "In Gobere, we planned the attack on Bangui on 5 December ... We also planned coordinated attacks in
2 other regions, all of them to take place on 5 December. Amongst the attacks we planned for that day,
3 there were Damara and Bossangoa." Close quote.

4 But the local Bossangoa leadership could not do it on its own. *It was the de facto* National
5 Coordination - and one member in particular - who strategised the attack on Bossangoa. That person
6 sent money and ammunition to the local leadership to carry out the attack. He gave the local
7 leadership detailed instructions. The local leadership remained in close telephone contact with him
8 throughout the day of the attack, including at the beginning of the attack, as well as during it.

9 Moving now, your Honours, to Ngaïssona, the suspect, for his part, he knew about the situation in
10 Bossangoa from the initial attack on 5 December 2013 throughout the existence of the Muslim enclave
11 until at least April 2014. Ngaïssona knew and accepted that the implementation of the strategic
12 common plan would result in the violent targeting of the Muslim population and its perceived
13 supporters in western CAR, including in Bossangoa.

14 Furthermore, Ngaïssona was directly briefed by people present in Bossangoa about events. As
15 national coordinator from mid-January 2014, he exercised authority over the Bossangoa leadership.
16 He sent missions to Bossangoa to keep apprised of the situation there. He even visited himself. He
17 also received members of the Bossangoa leadership at meetings in Bangui. One such member was
18 even present at the mid-January meeting in which Ngaïssona was formally appointed national
19 coordinator. Remember that at this point, the *École de la Liberté* enclave housed over 7,000 displaced
20 Muslims.

21 Additionally, your Honours, the Anti-Balaka violence in Bossangoa was heavily covered by national
22 and international media since September 2013.

23 Despite knowing about these crimes, at no point did Ngaïssona condemn the criminal conduct of the
24 Bossangoa leadership. Instead, he endorsed their actions by recognising their formal position in the
25 Anti-Balaka leadership structure and allowing them to represent the Anti-Balaka in external

1 negotiations.

2 That concludes my presentation of the crimes in Bossangoa and we now move to the January 2014

3 attacks on Yaloké and two of its surrounding villages, Gaga and Zawa.

4 Yaloké is major gold trading centre in the Ombella-M'Poko prefecture.

5 Before the conflict, it had a population around 56,000, including over 20,000 Muslims. The town is

6 located some 250 kilometres north-west of Bangui.

7 Gaga, your Honours, is a gold mining village further 30 metres approximately north-west of Yaloké.

8 The village of Zawa is around about 15 kilometres west of Yaloké.

9 In mid-January, the Anti-Balaka began their approach on Yaloké. They progressed through Gaga,

10 then Zawa, killing Muslim civilians in both towns.

11 In Yaloké, the Muslim population braced itself for an Anti-Balaka attack. By this time, that population

12 consisted not only of the Muslim residents of the town, but Muslims who had fled to Yaloké from the

13 surrounding area, seeking refuge. The town's Christian inhabitants were also aware of the imminent

14 Anti-Balaka attack, and had begun progressively leaving the mixed neighbourhoods in Yaloké's centre,

15 moving to all-Christian neighbourhoods. At this point the Séléka had already left Yaloké, leaving the

16 Muslim population exposed, an easy target of retribution for Séléka crimes.

17 When the Anti-Balaka arrived in Yaloké, the killing did not begin immediately. Some witnesses say

18 that the Anti-Balaka first surrounded the town, fencing the Muslim population in. According to one

19 Muslim resident of Yaloké, and I quote:

20 "If we attempted to leave Yaloké or cross the bridges they would shoot us. The Anti-Balaka were

21 armed with rifles and machetes."

22 Other witnesses describe the Anti-Balaka's convergence en masse on the town. French Sangaris forces

23 stopped their advance, as this video shows. Your Honours will see on this video Anti-Balaka

24 elements in a mixture of fatigues and plain clothes, and the uniformed French troops. Your Honours

25 will hear gunfire, your Honours will see the Anti-Balaka retreating, for time being.

1 This video holds the ERN CAR-OTP-2106-0139. We're commencing from the 5-second point. There
2 are no words to be interpreted, your Honour. There's no transcript.

3 (Viewing of the video excerpt)

4 MS HENDERSON: [12:21:28] In the days leading up to the attack, the Anti-Balaka threatened the
5 Muslim residents. According to one witness, their message was this: Get prepared, we are coming
6 to kill you.

7 In an effort to calm tensions and to avert violence, the Sangaris forces organised reconciliation
8 meetings with representatives of the Muslim community and the Anti-Balaka. However, these
9 meetings were to no avail. When the Sangaris forces left Yaloké some one or two days later, the
10 Anti-Balaka launched the first of two major attacks against the Muslim civilian population. These two
11 attacks, along with other violent crimes that I will describe shortly, are the subject of count 43 of the
12 war crime of attack directed against the civilian population.

13 Over the course of the two main attacks in Yaloké and in the following days, the Anti-Balaka killed at
14 least eight Muslim civilians, among them community leaders. They also shot and injured several
15 Muslim civilians. These killings and other shootings constitute counts 44 and 45.

16 The Anti-Balaka's attacks forced the vast majority of Muslim civilians in Yaloké to seek refuge in safe
17 areas. Many found relative safety in the central mosque, where they were protected by a Sangaris
18 contingent.

19 But this containment of the Muslim population was not enough for the Anti-Balaka. After the two
20 main attacks, at a meeting convened by the Sangaris, Anti-Balaka representatives warned that the
21 Muslims had to go. Arrangements were made for international forces to evacuate the Muslim
22 population in several convoys, mainly to Cameroon and Chad. Around 2,000 Muslims were
23 evacuated in the first convoy around 2 February.

24 A witness who travelled in this first convoy describes the desperation, and I quote:

25 "We had not yet reached Gbassara when two children aged about two and three years died in the back

1 of the truck. I do not know exactly what they died from but I understood that there were too many
2 people loaded into these trucks and that is what caused their death."

3 Your Honours, another 1,600 people were evacuated around 4 February. The Anti-Balaka attacked
4 these convoys en route, in at least one instance shooting at the trucks in the rear of the convoy as they
5 departed.

6 Shortly after the first two convoys departed Yaloké, the Anti-Balaka systematically went from house to
7 house, breaking the doors and windows of houses belonging to Muslim civilians, pillaging and
8 burning any property left behind by the fleeing Muslims. They methodically destroyed numerous
9 Muslim houses and shops, especially in the Arabe neighbourhood. These acts give rise to counts 48
10 and 49 of property destruction and pillaging.

11 Your Honours, a small group of Muslims remained behind in Yaloké, holding out for another three
12 weeks. During that time, they were confined to the veranda of a local trader's shop, under the
13 protection of Sangaris forces. On around 22 February, they boarded the last convoy out of Yaloké.
14 According to one witness who left on the convoy, the Anti-Balaka, along with some Christian civilians,
15 gathered in the area while the Muslims prepared to leave. The witness said this:

16 "When the Anti-Balaka started gathering around us they were insulting us Muslims, stealing from us
17 and yelling at us to leave." End quote.

18 Footage of this evacuation, assisted by the Sangaris, was also captured by the international press.

19 Your Honours, we'll now show a video bearing the ERN CAR-OTP-2106-0138. It's a video in French.
20 We're playing it in its entirety, 01:33. For a sight translation, the transcript has been provided in
21 advance to the interpreters. I will just wait for the nod, to know we can start.

22 (Viewing of the video excerpt)

23 THE INTERPRETER: [12:26:25](Interpretation of the video excerpt)

24 "Of the 7,000 Muslims present a few months ago, there are only 71 left in Yaloké. Gathered around
25 the kiosks, their salvation is supposed to arrive via road, a freight convoy in direction of Cameroon is

1 due to evacuate them in the afternoon. Yaya, the witch doctor, only has a little bit of time to pack his
2 suitcases.

3 Is it difficult to leave?

4 It's difficult, yes.

5 How do you feel?

6 As everyone else, somebody who has to leave their home by force.

7 The first lorries are arriving under the protection of the French troops. For reasons of security, the
8 convoy has to leave before nightfall. They only a few minutes to ship everybody off. The French,
9 who have been present for over a month, are interposing between the two communities, because on the
10 other side of the road the Christian population is assisting. Some of them are jubilant.

11 We're going to take their houses, we're going to sleep inside them. We're going to go in there, we're
12 going to set up our kiosks and we'll sell inside. But we don't want any more Muslims in Central
13 Africa, in Yaloké, here.

14 Yaya is leaving heavy hearted. He never thought that this time would come.

15 I was born here, I grew up here. I never had any problem with the Christians. But really it does do
16 me a great deal of harm. It hurts me a great deal. I am obliged to leave because I'm a Muslim.

17 After the departure of the last lorry, the town of Yaloké no longer has a single Muslim inhabitant left."
18 Overlapping speakers.

19 MS HENDERSON: [12:28:08] My apologies to the interpreters.

20 The expulsion of Yaloké's Muslim population gives rise to counts 46 and 47, forcible transfer and
21 deportation, and displacement.

22 We now move forward, your Honours, to April 2014, and the Anti-Balaka's creation of a Peul enclave
23 in Yaloké. The Peul are nomadic cattle herding people, also Muslims. A large group of Peul were
24 passing through the bush near Yaloké, fleeing the violence of other Anti-Balaka groups in the Lobaye
25 prefecture. The local Yaloké Anti-Balaka attacked the group, killing several men. The remaining

1 Peul - mostly the elderly, women and children - were taken by the Anti-Balaka to an enclave in the
2 Sous-Manguier neighbourhood of Yaloké.
3 The Peul remained trapped in the enclave for months. Their protection was ensured only by the
4 presence of international forces. Still, the Anti-Balaka systematically taunted them, threatening to kill
5 anyone attempting to leave the site.

6 The Yaloké enclave was known as one of the worst in western CAR.

7 Displaced Peul were subject to dire conditions, with limited shelter and access to food, sanitation,
8 healthcare, and other primary resources. The conditions were so severe that over 40 people died of
9 malnutrition, as well as pulmonary and other infections, in the period of a few months. By targeting
10 the most vulnerable members of the community, including children and the elderly, corralling them
11 into an enclave, and leaving them to starve and die of preventable diseases, the Anti-Balaka
12 purposefully created conditions of life that were bound to destroy this group.

13 Your Honours, these photographs that we're showing from December 2014 illustrate the dire
14 conditions.

15 Accordingly, the Anti-Balaka's creation and perpetuation of the Peul enclave gives rise to counts 50
16 through 53, severe deprivation of physical liberty, inhuman acts, degrading treatment and
17 extermination.

18 Your Honours, in the time between the expulsion of Yaloké's Muslim population and the creation of
19 the Peul enclave, Anti-Balaka elements committed the crime of rape in the area surrounding Yaloké.

20 Once more, this is charged as both a crime against humanity and war crime, that's counts 54 and 55.

21 Once again, I would ask to go into a brief private session of approximately one minute.

22 PRESIDING JUDGE MINDUA: [12:31:16](Interpretation) Court officer, private session, please, for
23 one minute.

24 (Private session at 12.31 p.m.)

25 THE COURT OFFICER: [12:31:32] We are in private session, Mr President.

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14 (Open session at 12.32 p.m.)

15 THE COURT OFFICER: [12:32:57] We are back in open session, Mr President.

16 PRESIDING JUDGE MINDUA: [12:33:07](Interpretation) Thank you. Madam Prosecutor, continue
17 please.

18 MS HENDERSON: [12:33:14] Thank you, Mr President.

19 The remainder of my presentation will be in open session.

20 Finally, the Prosecution charges as count 56 the crime against humanity of persecution, based on the
21 common thread that I have already described, the Anti-Balaka's targeting of the Muslim civilian
22 population.

23 The perpetrators of the attack in Yaloké and of the underlying crimes were a group of Anti-Balaka
24 under local leadership, who were connected the National Coordination, including from the very
25 inception of the Anti-Balaka. The very month after the attack - in February 2014 - the National

1 Coordination recognised one of the local leaders of the attack as a ComZone, first of an area in Bangui.
2 The National Coordination would also officially recognise this local leader, as well as another local
3 leader of the attack, as ComZones for Yaloké. One of them even reported to Ngaïssona. Another
4 key figure of the National Coordination followed the activities of the Anti-Balaka attack in Yaloké, and
5 was informed contemporaneously when the town fell to the Anti-Balaka.
6 Moving to Ngaïssona's knowledge, your Honours. Ngaïssona himself knew about the Anti-Balaka
7 crimes in Gaga, Zawa, and Yaloké, from the initial attack throughout the duration of the Yaloké
8 enclave, which remained in the place until at least mid-2015. Again, he knew and accepted that the
9 implementation of the strategic common plan would result in the violence that ensued, in this case in
10 Yaloké, Gaga, and Zawa.
11 Specifically, call data records show that the Yaloké leadership was in contact with Ngaïssona himself
12 around the time of the first attack on Yaloké. The same local leadership was also in contact with other
13 members of the National Coordination and key Anti-Balaka leaders before, during and after the attacks
14 on Gaga, Zawa, and Yaloké. This contact continued in 2014, throughout the existence of the Muslim
15 enclave, and not just by phone. Members of the National Coordination also visited Yaloké in at least
16 March of that year. Likewise, the Yaloké leadership attended meetings organised by the National
17 Coordination, including one such meeting organised by Ngaïssona in June 2014.
18 Additionally and once more, the situation in Yaloké was extensively covered by national and
19 international media, in particular the perpetuation of the enclave and the dire conditions facing the
20 Muslim population trapped within it.
21 Once more, despite knowing about these crimes, Ngaïssona at no point condemned the criminal
22 conduct of the Yaloké leadership. At no point did he act to end the continued subjugation of the
23 Muslim community in Yaloké, nor to put an end to the Peul enclave. Instead, he endorsed the actions
24 of the Yaloké leaders by recognising their formal position in the Anti-Balaka leadership structure.
25 Your Honours, I now move to my final incident of my presentation on Bossempaté, and in particular

1 the January 2014 attack there.

2 The town of Bossemptélé is located in the Ouham-Pende prefecture just north-west of Yaloké. It is
3 about 370 kilometres north-west of Bangui.

4 Before the attack, the population of Bossemptélé was between 6 and 8,000 people. About a third of
5 these were Muslims.

6 By the beginning of January 2014, rumours were already circulating of an Anti-Balaka attack on
7 Bossemptélé. At that point, the town remained in Séléka hands, but a large part of the Muslim
8 civilian population had already fled. Only about 1,000 Muslims remained. For weeks, some local
9 representative of Bossemptélé travelled to areas surrounding the town to meet with local Anti-Balaka
10 leaders to try to dissuade them from attacking Bossemptélé.

11 In one such interaction, captured on video, an Anti-Balaka leader was asked what his decision was
12 concerning Bossemptélé. His response shows that, for him, there was no distinction between Muslims
13 and the Séléka.

14 The video that we're about to play has the ERN CAR-OTP-2088-0977. We're playing simply 10
15 seconds, from 06:00 to 06:10 seconds. It's a video in original language Sango. The French translation,
16 for the record, is to be found at CAR-OTP-2089-0323, lines 97 to 98.

17 Again, I will wait for the nod that the sight translation -- the sight interpretation is ready to proceed.

18 THE COURT OFFICER: [12:39:16] Counsel, the interpreters are ready.

19 MS HENDERSON: [12:39:18] Thank you.

20 (Viewing of the video excerpt)

21 THE INTERPRETER: [12:39:23](No interpretation)

22 MS HENDERSON: [12:39:40] His words, your Honour: They are all Séléka.

23 For the Anti-Balaka, there was no distinction between Muslims and the Séléka. And when they
24 attacked Bossemptélé, they made no distinction.

25 Indeed, at that time, there was no distinction to be made. Not because all Muslims were Séléka, but

1 because there were no Muslims left at the -- I correct the record, your Honour, because there were no
2 Séléka left at the time of the attack. The last of the Séléka left Bossemptélé on 17 January.
3 The next day, 18 January, hundreds of Anti-Balaka elements entered the town from three directions,
4 effectively blocking all exits. As one witness describes, and I quote:
5 "When the Anti-Balaka came to Bossemptélé they surrounded the town and blocked all the entrances.
6 A group of Anti-Balaka came to each entrance." End quote.
7 Another witness describes the arrival of the Anti-Balaka, and I quote in French: (Interpretation)
8 "I saw a group of youngsters arriving on foot and on motorbike ... some wearing wigs, amulets and
9 with coal smeared on their face. They had bows, machetes and hunting weapons."
10 (Speaks English) The Anti-Balaka attacked the town's Muslim population, particularly in the Arabe
11 and Bala neighbourhoods, committing numerous violent crimes and acts that I will outline shortly.
12 While some of the townspeople were armed, most - including the victims of the charged crimes - were
13 not. The attack, and the related crimes, constitutes count 57, the war crime of attack against the
14 civilian population.
15 On the day of the attack and over the following days, the Anti-Balaka killed at least 22 Muslim civilians.
16 They mounted a manhunt around Bossemptélé, killing Muslims in the bush and leaving their bodies to
17 decompose in the heat, or calling up religious leaders to come and collect the bodies for burial.
18 Some Muslims were burned alive in their homes. Among the dead were women and at least one
19 handicapped person. One witness describes the dead body of a handicapped Muslim woman lying at
20 the side of the road for a week before it was collected and buried.
21 The age of the victims also presented no obstacle to the Anti-Balaka. I'll quote from one witness who
22 tried to prevent the killings. I'll quote in French: (Interpretation)
23 "I saved a young Peul Muslim of 12 years old and little children of between 1 and 2 years old by taking
24 them to the Catholic mission compound. The Anti-Balaka wanted to kill the 12-year-old child. They
25 said that as a boy, he would grow up and potentially become their future enemy, that's why he had to

1 be killed now."

2 (Speaks English) The Anti-Balaka's killings in Bossemptélé give rise to counts 58 and 59, your Honours.

3 During the attack, the Anti-Balaka also systematically pillaged Muslim shops in the main market.

4 They also systematically burnt down and destroyed Muslim houses, especially in the Muslim

5 neighbourhoods Arabe and Bala.

6 We are now displaying images of the destruction in the Muslim neighbourhoods.

7 And also here, your Honours, in the main market.

8 These acts are charged as counts 60 and 61, destruction of property and pillaging.

9 The Anti-Balaka further destroyed at least two mosques, including the central mosque and the Chadian

10 mosque in the Arabe and Bala neighbourhoods. They set the mosques on fire, removed the roofs and

11 doors, and destroyed the brick walls. This is charged as count 62.

12 Muslims fled from Bossemptélé to neighbouring villages or to Cameroon. Over 1,000 displaced

13 Muslims, including from neighbouring villages, sought refuge at a Catholic mission within the town.

14 For their protection, they were hidden in the poultry pen, the classrooms, the surgery hall, and the

15 hospital rooms of the medical facility on the premises. By the end of January 2014, the mission

16 sheltered some 1,500 Muslim civilians.

17 The Catholic mission was the only place of relative safety. According to one witness, and I cite in

18 French: (Interpretation) "The Muslims who'd stayed in Bossemptélé only had one chance, to get

19 inside the mission compound."

20 (Speaks English) The witness goes on to say that, following the attack of 18 January 2014, again I cite in

21 French: (Interpretation) "Even a Muslim with Herculean powers couldn't get out of the compound

22 because he would be killed."

23 (Speaks English) And even within the Christian mission the Muslims were not safe. As one witness

24 describes, and again I cite in French: (Interpretation)

25 "The refugees weren't safe in the compound, which was closed off simply by a fence. The Anti-Balaka

1 had clambered over the fence and from time to time they verbally threatened the refugees with death.
2 The Muslims reported the words uttered by the Anti-Balaka to me, particularly that they wanted to kill
3 the refugees."
4 (Speaks English) From February 2014 onwards, the Catholic mission staff managed to negotiate the
5 evacuation of some Muslim civilians to Cameroon, starting with the women and children. Later on,
6 and after the Anti-Balaka's local Bossemptélé leadership received instructions from Bangui not to kill
7 Muslims anymore, they permitted some Muslim men to leave as well.
8 By July 2014 all Muslim refugees had been evacuated, except those with disabilities, those too
9 physically ill or weak to climb onto the trucks, and those whose families could not be identified.
10 These last Muslims were still present in the enclave in January 2015.
11 The expulsion of Bossemptélé's Muslim population was the Anti-Balaka's objective. It is charged as
12 counts 63 and 64 of forcible transfer or deportation, and displacement.
13 Your Honours, not all Muslims who were captured were killed. After the local Anti-Balaka received
14 the order from Bangui not to kill Muslims anymore, they began capturing them instead, and
15 demanding a ransom for their liberty. This qualifies as severe deprivation of physical liberty and is
16 charged as count 65.
17 Finally, your Honours, the Prosecution charges as count 66 the crime against humanity of persecution.
18 And this corresponds once more to the common thread running through the crimes: the Anti-Balaka's
19 violent targeting of the Muslim civilian population.
20 The perpetrators of the attack were a group of Anti-Balaka under local leadership. The group's
21 leaders would become the Anti-Balaka leaders in Bossemptélé, claiming authority over the town.
22 These local leaders publicly acknowledged receiving instructions from and being subordinate to the
23 National Coordination.
24 As to Ngaïssona's knowledge, Ngaïssona knew about the situation in Bossemptélé from the initial
25 attacks throughout the duration of the enclave, which remained in place until July 2014. Ngaïssona

1 knew and accepted that the implementation of the strategic common plan would result in the violence
2 that ensued, in this case in Bossemptélé.
3 Specifically, the attack on Bossemptélé was coordinated by the *de facto* National Coordination. Once
4 the National Coordination was formalised, it recognised the leaders of the attack within the formal
5 Anti-Balaka structure. Merely two weeks after the initial attack, one of the Bossemptélé leaders
6 attended a National Coordination meeting convened by Ngaïssona. They would later attend others.
7 Despite knowing about the crimes, at no point did Ngaïssona condemn the criminal conduct of the
8 Bossemptélé leadership. At no point did he act to end the continued subjugation of the Muslim
9 community in Bossemptélé, nor to put an end to the enclave. Instead, he endorsed the actions of the
10 Bossemptélé leaders by recognising their formal position in the Anti-Balaka leadership structure.
11 Your Honours, that concludes my presentation. I think I have brought us right up to the lunch break.
12 My colleague Mr Leddy will be continuing.

13 PRESIDING JUDGE MINDUA: [12:51:00](Interpretation) That's fabulous. My thanks. Thank you
14 very much for your submissions, Ms Henderson. And I pay tribute also to your accuracy and your
15 concision.

16 So this allows us so keep to time. We're going to rise now for lunch and we will resume at 2.30 p.m.
17 Court officer.

18 THE COURT USHER: [12:51:35] All rise.

19 (Recess taken at 12.51 p.m.)