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PRE-TRIAL CHAMBER II

**Before: Judge Antoine Kesia-Mbe Mindua, Presiding Judge
Judge Tomoko Akane
Judge Rosario Salvatore Aitala**

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

Public

Public Redacted Version of "Warrant of Arrest for Patrice-Edouard
Ngaïssona"

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

The Office of the Prosecutor

Fatou Bensouda, Prosecutor

James Stewart, Deputy Prosecutor

Counsel for the Defence

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparations**

**The Office of Public Counsel for
Victims**

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

States Representatives

Amicus Curiae

REGISTRY

Registrar

Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

PRE-TRIAL CHAMBER II (the “Chamber”) of the International Criminal Court (the “Court” or “ICC”) issues this warrant of arrest pursuant to article 58(1) of the Rome Statute (the “Statute”) for

Patrice-Edouard NGAÏSSONA

a national of the Central African Republic (“CAR”), born on 30 June 1967 in Begoua, the CAR and reported to reside in the Boy-Rabe neighbourhood of Bangui, the CAR. His last known passport number is “D00001388”.¹

I. Procedural History

1. On 30 May 2014, the Government of the CAR referred the situation in the CAR since 1 August 2012 to the Court.²

2. On 30 October 2018, the Prosecutor submitted under seal, *ex parte*, the application for the issuance of a warrant of arrest (the “Application”) for Patrice-Edouard Ngaïssona (“Ngaïssona”) for the following crimes within the Court’s jurisdiction committed in western CAR between December 2013 and December 2014 (the “Relevant Period”) by militias, collectively known as the Anti-Balaka:³

- (i) murder (articles 7(1)(a) and 8(2)(c)(i) of the Statute);
- (ii) extermination (article 7(1)(b) of the Statute);
- (iii) deportation or forcible transfer (article 7(1)(d) of the Statute) and displacement of civilian population (article 8(2)(e)(viii) of the Statute);
- (iv) imprisonment or other severe deprivation of physical liberty (article 7(1)(e) of the Statute);
- (v) torture (articles 7(1)(f) and 8(2)(c)(i) of the Statute) and cruel treatment (article 8(2)(c)(i) of the Statute);
- (vi) persecution (article 7(1)(h) of the Statute);
- (vii) enforced disappearance of persons (article 7(1)(i) of the Statute);
- (viii) mutilation (articles 8(2)(c)(i) and 8(2)(e)(xi) of the Statute);
- (ix) intentionally directing attacks against the civilian population (article 8(2)(e)(i) of the Statute);
- (x) intentionally directing attacks against buildings dedicated to religion (article 8(2)(e)(iv) of the Statute);
- (xi) pillaging (article 8(2)(e)(v) of the Statute);

¹ CAR-OTP-2077-0141; CAR-OTP-2017-0198.

² The letter is annexed to the decision assigning the situation to the Chamber; *see* Presidency, Decision Assigning the Situation in the Central African Republic II to Pre-Trial Chamber II, 18 June 2014, ICC-01/14-1-Anx1.

³ ICC-01/14-18-US-Exp, together with 11 under seal, *ex parte* annexes.

- (xii) enlistment of children under the age of 15 years (article 8(2)(e)(vii) of the Statute); and
- (xiii) destruction of the adversary's property (article 8(2)(e)(xii) of the Statute).⁴

3. On 7 December 2018, the Prosecutor submitted a request to the Chamber to expeditiously consider the Application for the warrant of arrest against Ngaïssona.⁵

II. Jurisdiction and Admissibility

4. The Chamber finds that, pursuant to article 19(1), first sentence, of the Statute, on the basis of the materials submitted and without prejudice to future determinations on the matter, the case against Ngaïssona falls within the jurisdiction of the Court.⁶ As detailed below, the Chamber is satisfied that most of the incidents described in the Application amount to crimes against humanity and war crimes that have taken place after 1 August 2012 on the territory of the CAR (article 12(2)(a) of the Statute) and were associated with the conflict underlying the referral of the CAR Government.

5. The Chamber declines, at this stage, to use its discretionary *proprio motu* power pursuant to article 19(1), second sentence, of the Statute⁷ to determine the admissibility of the case against Ngaïssona as there is no ostensible cause or self-evident factor which impels it to do so.

III. Requirements of Article 58(1) of the Statute

1. *Whether Ngaïssona has committed a crime under the jurisdiction of the Court (Article 58(1)(a) of the Statute)*

6. **The Conflict and Armed Groups Involved.** Dissatisfied with the government of the then President François Bozizé, an armed movement by the name of “Seleka”,⁸

⁴ ICC-01/14-18-US-Exp, paras 34 and 229.

⁵ ICC-01/14-31-US-Exp.

⁶ Appeals Chamber, *The Prosecutor v Thomas Lubanga Dyilo*, Judgment on the Appeal of Mr. Thomas Lubanga Dyilo against the Decision on the Defence Challenge to the Jurisdiction of the Court pursuant to article 19(2)(a) of the Statute of 3 October 2006, 14 December 2006, ICC-01/04-01/06-772, paras 21-22.

⁷ Appeals Chamber, *Situation in the Democratic Republic of the Congo*, Judgment on the Prosecutor's appeal against the decision of Pre-Trial Chamber I entitled “Decision on the Prosecutor's Application for Warrants of Arrest, Article 58”, ICC-01/04-169, 13 July 2006, paras 1-2, 52.

⁸ “Seleka” means “coalition” or “alliance” in the Sango language; see CAR-OTP-2001-2890 at 2897.

emerged around August 2012 in north-eastern CAR.⁹ Led by Michel Djotodia, the Seleka consisted of a coalition of several previously uncoordinated political factions and armed groups, predominantly composed of Muslims, which were formed years before to resist the government forces when Bozizé seized power in 2003. In the course of time also Sudanese and Chadian nationals joined the fighters.¹⁰ From late 2012 to early 2013, the Seleka advanced southwards towards the capital, Bangui, attacking police stations, occupying military bases, capturing various towns and regional capitals, and targeting those suspected to support François Bozizé.¹¹ Notwithstanding a cease-fire agreement signed on 11 January 2013 in Libreville, Gabonese Republic,¹² the Seleka captured Bangui on 24 March 2013 with the use of heavy weaponry, including mounted machine guns, mortars and rocket-propelled grenades.¹³ François Bozizé was forced into exile in the Republic of Cameroon (“Cameroon”) and Michel Djotodia proclaimed himself President of the CAR.¹⁴ Over the ensuing months, the Seleka forces,¹⁵ swelling approximately from 5,000 to 15,000-20,000 members,¹⁶ expanded their territorial control, suppressing resistance in the western regions associated with François Bozizé and his ethnic group Gbaya, and subjecting the civilian population, mainly non-Muslim, to attacks and atrocities, including summary executions, rape and sexual violence, torture, arbitrary arrests and detention, looting and property destruction (burning down houses).¹⁷

⁹ CAR-OTP-2001-2769 at 2831; CAR-OTP-2001-1976 at 1989; CAR-OTP-2001-7017 at 7067, paras 167-168; CAR-OTP-2034-0104 at 0110, para. 26.

¹⁰ CAR-OTP-2001-2769 at 2777, 2832-2835; CAR-OTP-2001-1976 at 1989-1990; CAR-OTP-2001-5739 at 5751-5753; CAR-OTP-2001-7017 at 7034, para. 44, at 7067, paras 167-168; CAR-OTP-2034-0104 at 0113, para. 51.

¹¹ CAR-OTP-2001-5739 at 5759; CAR-OTP-2034-0104 at 0113, paras 51-52; CAR-OTP-2084-0191 at 0196, para. 22; CAR-OTP-2017-0036 at 0042-0043, paras 33-35; CAR-OTP-2017-0835 at 0837-0838, para. 13; CAR-OTP-2001-0172 at 0180-0182.

¹² CAR-OTP-2001-0742; CAR-OTP-2001-7017 at 7067.

¹³ CAR-OTP-2001-5739 at 5759; CAR-OTP-2034-0270 at 0271-0272, paras 8-12; CAR-OTP-2017-0835 at 0838, paras 14-15; CAR-OTP-2018-0530 at 0534-0535, paras 26-29; CAR-OTP-2001-2890 at 2898-2899; CAR-OTP-2001-0172 at 0176, para. 9.

¹⁴ CAR-OTP-2017-0835 at 0838, para. 14; CAR-OTP-2069-0398 at 0402, para. 24; CAR-OTP-2034-0270 at 0271-0272, paras 12-13; CAR-OTP-2001-2890 at 2899.

¹⁵ By 10 July 2014, the Seleka split in various ex-Seleka groups; CAR-OTP-2027-1631 at 1645; CAR-OTP-2091-0480; CAR-OTP-2001-5055.

¹⁶ CAR-OTP-2019-3348 at 3380, para. 251, at 3405, para. 482; CAR-OTP-2001-1102 at 1103, para. 5.

¹⁷ CAR-OTP-2001-7017 at 7068-7085; CAR-OTP-2001-2769 at 2782; CAR-OTP-2001-1102 at 1103, para. 5; CAR-OTP-2001-0172 at 0183-0187; CAR-OTP-2034-0226 at 0230-0262.

7. In response to the 24 March 2013 *coup*, [REDACTED].¹⁸ The self-defence groups were gathered at Gobere, north of Bossangoa, in western CAR and organised into a military-like structure.¹⁹ The movement came to be known as “Anti-Balaka”.²⁰ Their objectives were to (i) remove Michel Djotodia from power, defend against and oust the Seleka from the CAR;²¹ and (ii) target the Muslim population in western CAR in retribution for the crimes and the abuses committed by the Seleka.²² Based on their religious or ethnic affiliation, Muslims were perceived as collectively responsible for, complicit with or supportive of the Seleka.²³ From early 2013 onwards, anti-Muslim sentiments and inflammatory rhetoric were openly expressed, also through the means of television and radio, inciting hatred and violence against Muslim civilian communities and other perceived supporters of the Seleka.²⁴

8. By September 2013, Anti-Balaka groups were engaged in hostilities against the Seleka in western CAR, starting in Bossangoa, spreading east to Bouca and then south to Bossemptélé, Bossembélé and Boali.²⁵ Even though the Seleka movement was officially disbanded by Michel Djotodia by presidential decree on 12 September 2013, it continued to exist and to engage in hostilities with the Anti-Balaka.²⁶ Hostilities culminated in an attack on Bangui on 5 December 2013 (the “5 December 2013 Bangui Attack”).²⁷ Various Anti-Balaka groups, comprising about 1,000 armed men, joined efforts and attacked Bangui from different directions, using heavy weapons,

¹⁸ CAR-OTP-2074-2021 at 2052-2059; CAR-OTP-2001-5739 at 5782; CAR-OTP-2001-7017 at 7086-7087, paras 281-285; CAR-OTP-2061-1534 at 1540, paras 32-36, at 1546-1547, paras 84-87; CAR-OTP-2027-2290 at 2292-2295, paras 15-35; CAR-OTP-2001-0835 at 0875, para. 2.

¹⁹ CAR-OTP-2031-0241 at 2846-0248, paras 28-39; CAR-OTP-2046-0603 at 0608-0609, paras 31-34; CAR-OTP-2072-1849 at 1850-1860; CAR-OTP-2041-0802; CAR-OTP-2041-0783.

²⁰ “Anti-Balaka” stands for “anti-machete” in the Sango language or “anti-bal-AK47”, meaning against the bullets of an AK-47; *see* CAR-OTP-2001-2769 at 2825; CAR-OTP-2031-0241 at 0244, para. 22.

²¹ CAR-OTP-2061-1534 at 1540, para. 35, at 1546-1547, paras 84-87; CAR-OTP-2046-0603 at 0608, para. 31; CAR-OTP-2062-0039 at 0043, para. 28; CAR-OTP-2074-2021 at 2058-2059; CAR-OTP-2001-7017 at 7086, para. 282; CAR-OTP-2080-1678 at 1699-1799, lines 699-747.

²² CAR-OTP-2088-1179 at 1181, 1194; CAR-OTP-2089-0056; *see also* CAR-OTP-2080-1678 at 1707, lines 985-1012.

²³ CAR-OTP-2031-0241 at 0252, para. 64; CAR-OTP-2081-0496 at 0536-0537; CAR-OTP-2001-0409 at 0410, para. 6.

²⁴ CAR-OTP-2001-7017 at 7065; CAR-OTP-2001-0409 at 0410, para. 8; CAR-OTP-2061-1534 at 1573; CAR-OTP-2089-0056 at 0057; CAR-OTP-2088-2034 [00:00:00 to 00:02:11]; CAR-OTP-0249-1679 [00:03:50 to 00:04:53]; CAR-OTP-2065-5468 [00:02:08 to 00:03:36]; CAR-OTP-2066-5312 [00:00:45 to 00:00:54]; CAR-OTP-2001-2769 at 2791.

²⁵ CAR-OTP-2046-0603 at 0608-0609, paras 34-35; CAR-OTP-2001-0835 at 0875, para. 1; CAR-OTP-2001-7017 at 7035, para. 46; CAR-OTP-2031-0241 at 0250.

²⁶ CAR-OTP-2001-0391 at 0394, para. 7; CAR-OTP-2001-2123 at 2125.

²⁷ CAR-OTP-2001-0409 at 0409, para. 3; CAR-OTP-2001-0391 at 0394, para. 12.

assault rifles and machetes.²⁸ On the same day, Anti-Balaka elements attacked Bossangoa.²⁹ The 5 December 2013 Bangui Attack was not immediately successful³⁰ and sparked a cycle of violent reprisals by the Seleka and Anti-Balaka in various neighbourhoods in Bangui and throughout western CAR against civilians perceived as supporting the other side.³¹ An estimated 1,000 persons were killed in Bangui alone on the day following the 5 December 2013 Bangui Attack.³² Eventually, on 10 January 2014, Michel Djotodia resigned and the Seleka forces retreated to the north and east of the CAR.³³ A transitional government under interim President Catherine Samba-Panza took office.³⁴

9. With a view to engaging with the transitional government, the existing *de facto* Anti-Balaka structure was formalised as of January 2014.³⁵ [REDACTED].³⁶ ID Cards were issued by the National Coordination to some Anti-Balaka members (sometimes signed by Ngaïssona) in order to distinguish them from so-called “fake” members.³⁷ Commanders of Anti-Balaka groups were formally appointed as Zone-Commanders (“ComZones”), including through appointment orders.³⁸ The ComZones controlled specific areas and commanded, disciplined and, as the case may be, punished their respective groups.³⁹ By February 2014, the Anti-Balaka comprised at least 50,000 elements, of which around 40,000 deployed in the western provinces, led

²⁸ CAR-OTP-2001-2769 at 2799; CAR-OTP-2001-0409 at 0409, para. 3; CAR-OTP-2001-2769 at 2776; CAR-OTP-2061-1534 at 1562, paras 180-181, at 1564, paras 189-191; CAR-OTP-2027-1631 at 1648; CAR-OTP-2027-2290 at 2297.

²⁹ CAR-OTP-2031-0241 at 0251-0252; CAR-OTP-2001-5739 at 5788.

³⁰ CAR-OTP-2001-2769 at 2802; CAR-OTP-2001-5739 at 5788.

³¹ CAR-OTP-2001-2769 at 2800-2801; CAR-OTP-2001-0409 at 0409-0410, paras 3 and 7; CAR-OTP-2001-0329 at 0329, paras 2-3; CAR-OTP-2001-0310 at 0310-0312.

³² CAR-OTP-2001-0310 at 0310; CAR-OTP-2001-2769 at 2800.

³³ CAR-OTP-2001-4199; CAR-OTP-2001-0409 at 0410-0411, paras 8-9; CAR-OTP-2001-5739 at 5789.

³⁴ CAR-OTP-2025-0372 at 0374; CAR-OTP-2001-0835 at 0866, para. 17.

³⁵ CAR-OTP-2001-3372.

³⁶ CAR-OTP-2001-5739 at 5785; CAR-OTP-2027-2290 at 2299, paras 54-55; CAR-OTP-2025-0380 at 0382, 0384, 0385.

³⁷ The ID Cards contained an identification number, picture, name, function in the Anti-Balaka and location. The ID Cards were also issued with a view to allowing Anti-Balaka members to participate in the disarmament, demobilization and reintegration process. [REDACTED]; CAR-OTP-2027-2290 at 2302, paras 72-74; CAR-OTP-2072-1913 at 1922-1923; CAR-OTP-2030-0230; CAR-OTP-2025-0324 at 0341-0342, paras 113-117.

³⁸ CAR-OTP-2072-1739 at 1760, lines 721-726, at 1764-1766; CAR-OTP-2025-0372 at 0376-0377; CAR-OTP-2072-1881 at 1907.

³⁹ CAR-OTP-2025-0372 at 0376-0377; CAR-OTP-2030-0232; CAR-OTP-2072-1739 at 1760-1762, lines 724-789; CAR-OTP-2058-0200 at 0205-0206, paras 27-32; CAR-OTP-2050-0654 at 0664, para. 66; CAR-OTP-2031-0241 at 0247, paras 33-35.

by over 80 ComZones, and 10,000 in eight neighbourhoods and municipalities around Bangui, led by approximately 22 ComZones.⁴⁰ [REDACTED].⁴¹ [REDACTED].⁴²

10. When Seleka forces withdrew from Bangui and western CAR upon Michel Djotodia's resignation, the Muslim population was left unprotected and exposed to escalating retributive sectarian violence by Anti-Balaka groups. The campaign involved the targeting of the Muslim civilian population and those perceived to have supported the Seleka, throughout Bangui – including Boeing and Bimbo – and across western CAR provinces, including Ouham (Bossangoa), Mambere-Kadei (Berberati, Carnot, Guen, Yaloké), Lobaye (Boda), Ouham-Pende and Ombella-M'Poko (Bossemptélé, Gaga, Boali), and involved crimes, such as attacks against the civilian population, displacement, forcible transfer or deportation, summary executions, killings, mutilations, torture and cruel treatment, imprisonment or other forms of severe deprivation of liberty, sexual offences, destruction of Muslim property and religious buildings (mosques),⁴³ routine pillaging of Muslim houses and shops, and persecution.⁴⁴

11. By February 2014, nearly all Muslim neighbourhoods in Bangui, with the exception of the PK 5 enclave to which the Anti-Balaka laid siege, had been cleared of their inhabitants. By March 2014, Bangui's original Muslim resident population of around 130,000 had been drastically reduced to only around 900 and most of western CAR's Muslim population had sought refuge in the neighbouring Republic of Chad ("Chad") and Cameroon or the north-eastern part of CAR.⁴⁵ By August 2014, some

⁴⁰ CAR-OTP-2025-0372 at 0375-0377; CAR-OTP-2030-0232; CAR-OTP-2030-0445; CAR-OTP-2046-0603 at 0619, para. 97; CAR-OTP-2025-0324 at 0338, para. 96.

⁴¹ CAR-OTP-2025-0324 at 0338, para. 93; CAR-OTP-2072-1739 at 1756-1757; CAR-OTP-2072-1913 at 1919-1922, lines 192-306; CAR-OTP-2031-0241 at 0258, para. 99; CAR-OTP-2048-0171 at 0183, paras 70-74; CAR-OTP-2046-0603 at 0618, para. 89; CAR-OTP-2025-0356.

⁴² CAR-OTP-2025-0324 at 0338, para. 95; CAR-OTP-2046-0603 at 0617, para. 85; CAR-OTP-2059-1586 at 1599-1601; CAR-OTP-2059-1602 at 1605, lines 79-111.

⁴³ By June 2014, only 4 out of 23 mosques stood in Bangui. Mosques were also destroyed in the CAR western prefectures Ouham, Ombella M'Poko, Mambere-Kadei and Ouaka; CAR-OTP-2001-2769 at 2813; CAR-OTP-2067-1476 at 1492; CAR-OTP-2055-1987 at 2142, 2177.

⁴⁴ CAR-OTP-2001-2769 at 2789-2793, 2811 and 2813; CAR-OTP-2001-7017 at 7088-7108; CAR-OTP-2001-2043 at 2055-2056; CAR-OTP-2080-0884 at 0896, paras 66-68; CAR-OTP-2055-1987 at 2136-2142; *see also infra*.

⁴⁵ CAR-OTP-2001-0409 at 0411, para. 11; CAR-OTP-2001-4429 at 4429; CAR-OTP-2083-0437 at 0474; CAR-OTP-2083-0429; CAR-OTP-2010-0028 at 0029.

70,000 Muslim refugees had been received in Chad and over 120,000 in Cameroon.⁴⁶ Some 20,000 displaced Muslims were confined in 9 major enclaves in western and central CAR.⁴⁷

12. The hostilities between the two sides did not subside during the Relevant Period and continue to this day, despite several efforts to bring about the cessation of hostilities. On 23 July 2014, senior Seleka commanders and the Anti-Balaka leadership signed the 2014 peace agreement at Brazzaville, Republic of the Congo (“Brazzaville Summit”) which was breached shortly thereafter.⁴⁸ Between December 2014 and April 2015, further peace discussions between the armed groups involved in the conflict were held in Nairobi, Republic of Kenya.⁴⁹

13. In the light of the foregoing, the Chamber finds reasonable grounds to believe⁵⁰ that an armed conflict not of an international character was ongoing on the territory of the CAR since at least September 2013 until at least December 2014 between the Seleka and the Anti-Balaka.⁵¹ The Chamber finds that there are reasonable grounds to believe that the Seleka and the Anti-Balaka qualify as armed groups within the meaning of article 8(2)(f) of the Statute, since, as the case may be, (i) they exhibit a sufficient degree of organisation, with commanders controlling militants within their respective bases, (ii) orders were circulated down the chain of command and were obeyed by subordinates, and (iii) they possessed military equipment, including firearms and heavy weapons, and had the ability to plan military operations and put them into effect. Further, the evidence shows that the violence among the above-mentioned armed groups rose well above the level of isolated and sporadic acts of violence and that it was protracted, with the parties to the conflict employing attacks over a long period of time and at least in 5 western CAR Prefectures. Notably,

⁴⁶ Some were transported in humanitarian convoys accompanied by United Nations agencies, the *Mission internationale de soutien à la Centrafrique sous conduit africaine* (“MISCA”), Sangaris, Chadian or other forces, CAR-OTP-2001-7145 at 7167; CAR-OTP-2008-0044; CAR-OTP-2083-0429 at 0429.

⁴⁷ CAR-OTP-2083-0433 at 0434; CAR-OTP-2001-1057 at 1057, para. 3.

⁴⁸ CAR-OTP-2001-1057 at 1063; CAR-OTP-2001-3405; CAR-OTP-2074-2401 at 2402-2403.

⁴⁹ CAR-OTP-2008-0606; CAR-OTP-2006-1453.

⁵⁰ See Pre-Trial Chamber III, *The Prosecutor v Jean-Pierre Bemba Gombo*, Decision on the Prosecutor’s Application for a Warrant of Arrest against Jean-Pierre Bemba Gombo, 10 June 2008, ICC-01/05-01/08-14-tENG, para. 24.

⁵¹ See Trial Chamber I, *Prosecutor v Thomas Lubanga Dyilo*, Judgment pursuant to Article 74 of the Statute, 14 March 2012, ICC-01/04-01/06-2842, paras 531-542; Trial Chamber II, *Prosecutor v Germain Katanga*, Judgment pursuant to article 74 of the Statute (“Katanga Judgment”), 7 March 2014, ICC-01/04-01/07-3436-tENG, paras 1172-1187.

the conflict has also attracted the attention of the United Nations Security Council in 2013-2014, triggered foreign military interventions,⁵² and was marked by ceasefire agreements between the Seleka and its opponents, including the Anti-Balaka, which were not respected.

14. Moreover, the Chamber also finds reasonable grounds to believe that, from at least September 2013 until at least December 2014, an attack was conducted by the Anti-Balaka, against the Muslim civilian population and those perceived as collectively responsible for, complicit with or supportive of the Seleka, pursuant to or in furtherance of an organisational policy to target primarily the Muslim population in Bangui and at least 5 western CAR Prefectures in retribution for Seleka crimes (article 7(2)(a) of the Statute).⁵³ The Anti-Balaka attack across western CAR targeted a large number of victims of the Muslim communities following a consistent pattern of violence, including forcible displacement, killings, torture, forms of deprivation of physical liberty, enforced disappearance, looting of Muslim homes and businesses and destruction of mosques and Muslim homes and was therefore both widespread and systematic⁵⁴ (article 7(1) of the Statute).

15. The Chamber is satisfied that the supporting evidence, which includes ICC and non-ICC statements, public reports emanating from the United Nations (“UN”) and its agencies, public reports of non-governmental organisations (“NGO”) and news reports, is sufficient to establish reasonable grounds to believe that a non-international armed conflict took place and a widespread and systematic attack against the civilian population occurred.

16. **The Crimes.** At this stage, the evidence presented by the Prosecutor does not allow the Chamber to conclude that there are reasonable grounds to believe that Ngaïssona bears criminal responsibility for the crimes allegedly committed in one of the locations referred to in the Application, [REDACTED].⁵⁵ The Prosecutor has neither argued nor presented evidence that a connection existed between the Anti-Balaka leadership, including Ngaïssona, and those who committed or otherwise

⁵² S/RES/2088 (2013) (CAR-OTP-2001-0294); SC/RES/2121 (2013) (CAR-OTP-2001-0256); S/RES/2127 (2013) (CAR-OTP-2001-0275); S/RES/2134 (2013) (CAR-OTP-2051-0665); S/RES/2149 (2013) (CAR-OTP-2001-1043); S/RES/2181 (2013) (CAR-OTP-2091-0488).

⁵³ See Katanga Judgment, paras 1094-1122.

⁵⁴ See Katanga Judgment, para. 1123.

⁵⁵ ICC-01/14-18-US-Exp, paras 294-321.

participated in the commission of the alleged crimes in [REDACTED].⁵⁶ Conversely, the Chamber finds that there are reasonable grounds to believe that Ngaïssona – who was the most senior leader and the National General Coordinator of the Anti-Balaka as of January 2014⁵⁷ and, by virtue of his position, had authority over and was kept informed of operations conducted in furtherance of the organisation’s policy, the establishment of which he had contributed to⁵⁸ – is liable for having committed jointly with others and/or through others or having aided, abetted or otherwise assisted in the commission or attempted commission of the following crimes.

The Bangui Area

Alfred Yekatom (“Yekatom”) led an Anti-Balaka group, which consisted of around 3,000 men, including about 200 former FACA members.⁵⁹

- a. Yekatom led members of his group in Bangui and adjacent neighbourhoods in their participation in the 5 December 2013 Bangui Attack.⁶⁰ Using firearms, grenades and machetes, the group first attacked Muslims in Boeing, including traders at the Boeing market, killing between 6 and 13 civilians.⁶¹ Thereafter, the group moved to the Cattin crossroads where they attacked Seleka forces and civilians, killing at least four Muslims, regardless of whether they were Seleka fighters or civilians and burning at least one victim’s body.⁶² Members of this group threatened to kill Michel Djotodia and all Muslims when retreating from Cattin.⁶³ Due to these attacks, Muslim residents of

⁵⁶ ICC-01/14-18-US-Exp, *compare e.g.* paras 142-149, 155-163, 166-169, 174-180, 189-192, 198-228, 254 and 257 with paras 294-321.

⁵⁷ CAR-OTP-2001-3372; CAR-OTP-2001-5739 at 5785; CAR-OTP-2027-2290 at 2299, paras 54-55; CAR-OTP-2025-0380 at 0382.

⁵⁸ *See infra* paras 17-19.

⁵⁹ CAR-OTP-2048-0171 at 0185, para. 80; CAR-OTP-2041-0741 at 0749, para. 58, at 0750, para. 60; CAR-OTP-2055-2610 from [00:07:52] to [00:08:13].

⁶⁰ CAR-OTP-2041-0741 at 0750-0751, paras 66-71.

⁶¹ CAR-OTP-2041-0741 at 0751-0752, paras 69-73; CAR-OTP-2047-0257 at 0263, para. 46; CAR-OTP-2048-0757 at 0762, para. 27.

⁶² CAR-OTP-2041-0741 at 0752, para. 77; CAR-OTP-2048-0112 at 0112; CAR-OTP-2048-0757 at 0762-0763, paras 30-31; CAR-OTP-2045-0501 at 0501.

⁶³ CAR-OTP-2048-0757 at 0762, para. 30.

Cattin and Boeing were forced to flee to other parts of the CAR or neighbouring countries.⁶⁴

In the light of the foregoing, the Chamber finds reasonable grounds to believe that the acts described above amount to crimes against humanity, committed as part of a widespread and systematic attack against the civilian population, namely murder (article 7(1)(a) of the Statute), deportation or forcible transfer of population (article 7(1)(d) of the Statute)⁶⁵ and persecution (article 7(1)(h) of the Statute);⁶⁶ and war crimes, committed in the context of and associated with an armed conflict not of an international character, namely murder (article 8(2)(c)(i) of the Statute), intentionally directing an attack against the civilian population (article 8(2)(e)(i) of the Statute)⁶⁷ and displacement of the civilian population (article 8(2)(e)(viii) of the Statute.

The Chamber is satisfied that the supporting evidence, which includes, *inter alia*, ICC and non-ICC witness statements, is sufficient to establish reasonable grounds to believe that the above-mentioned crimes were committed.

- b. After the 5 December 2013 Bangui Attack, Yekatom ordered the destruction of Muslim homes in Boeing and the Boeing mosque by 20 December 2013 at the latest.⁶⁸ His subordinates, including Freddy Ouandjio, Habib Beina, FACA *caporal* Junior Kempes, his brother Junior Saragba and Namkoisse, participated in these crimes.⁶⁹

⁶⁴ CAR-OTP-2041-0741 at 0752, para. 74; CAR-OTP-2048-0757 at 0764, para. 39, at 0765, para. 49; CAR-OTP-2072-0578 at 0584, lines 212-218; CAR-OTP-2048-0112 at 0112.

⁶⁵ See Pre-Trial Chamber I, *Request under Regulation 46(3) of the Regulations of the Court*, Decision on the “Prosecution’s Request for a Ruling on Jurisdiction under Article 19(3) of the Statute”, 6 September 2018, ICC-RoC46(3)-01/18-37, paras 52-61.

⁶⁶ See Pre-Trial Chamber III, *Situation in the Republic of Burundi*, Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation into the Situation in the Republic of Burundi (“Burundi Decision”), 9 November 2017, ICC-01/17-9-Red, paras 130-133.

⁶⁷ See Pre-Trial Chamber II, *Prosecutor v Bosco Ntaganda*, Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor Against Bosco Ntaganda, 9 June 2014, ICC-01/04-02/06-309, paras 45-47; Katanga Judgment, paras 800-803.

⁶⁸ CAR-OTP-2047-0257 at 0267, para. 73; CAR-OTP-2041-0741 at 0749, paras 53-54.

⁶⁹ CAR-OTP-2041-0741 at 0749, para. 53, at 0750, para. 63.

In the light of the foregoing, the Chamber finds reasonable grounds to believe that the acts described above amount to crimes against humanity, committed as part of a widespread and systematic attack against the civilian population, namely persecution (article 7(1)(h) of the Statute); and war crimes, committed in the context of and associated with an armed conflict not of an international character, namely intentionally directing an attack against buildings dedicated to religion (article 8(2)(e)(iv) of the Statute)⁷⁰ and destroying or seizing the property of an adversary (article 8(2)(e)(xii) of the Statute).⁷¹

The Chamber is satisfied that the supporting evidence, mainly ICC witness statements, is sufficient to establish reasonable grounds to believe that the above-mentioned crimes were committed.

- c. By 20 December 2013, Yekatom had established a base at Yamwara School in Boeing.⁷² From this base, he and members of his group took over various neighbourhoods in and around southwest Bangui and committed crimes. [REDACTED].⁷³ [REDACTED].⁷⁴ [REDACTED].⁷⁵ [REDACTED].⁷⁶ [REDACTED].⁷⁷ [REDACTED].⁷⁸ [REDACTED].⁷⁹ [REDACTED].⁸⁰

In the light of the foregoing, the Chamber finds reasonable grounds to believe that the acts described above amount to crimes against humanity, committed as part of a widespread and systematic attack against the civilian population, namely imprisonment or other severe deprivation of physical liberty (article 7(1)(e) of the Statute),⁸¹ torture

⁷⁰ Trial Chamber VIII, *Prosecutor v Ahmad Al Faqi Al Mahdi*, Judgment and Sentence, 27 September 2016, ICC-01/12-01/15-171, paras 13-17.

⁷¹ See Katanga Judgment, paras 887-897.

⁷² CAR-OTP-2048-0171 at 0176, para. 36; CAR-OTP-2041-0741 at 0753, para. 85; CAR-OTP-2058-0200 at 0203, para. 19.

⁷³ CAR-OTP-2053-0086 at 0089-0090, paras 18-26.

⁷⁴ CAR-OTP-2053-0086 at 0090, paras 27-31.

⁷⁵ CAR-OTP-2054-1136 at 1143, paras 37-38.

⁷⁶ CAR-OTP-2054-1136 at 1143, paras 37-38; CAR-OTP-2053-0086 at 0091, paras 35-36.

⁷⁷ CAR-OTP-2054-1136 at 1143-1144, paras 39-43; CAR-OTP-2053-0086 at 0091, para. 38.

⁷⁸ CAR-OTP-2054-1136 at 1147, paras 60-61; CAR-OTP-2053-0086 at 0091, paras 48-51.

⁷⁹ CAR-OTP-2054-1136 at 1143, para. 38; CAR-OTP-2053-0086 at 0091, para. 37.

⁸⁰ CAR-OTP-2053-0086 at 0092, para. 47.

⁸¹ See Burundi Decision, para. 68.

(article 7(1)(f) of the Statute), persecution (article 7(1)(h) of the Statute), enforced disappearance (article 7(1)(i) of the Statute)⁸² and other inhumane acts (article 7(1)(k) of the Statute); and war crimes, committed in the context of and associated with an armed conflict not of an international character, namely torture (article 8(2)(c)(i) of the Statute), cruel treatment (article 8(2)(c)(i) of the Statute) and mutilation (articles 8(2)(c)(i) and/or 8(2)(e)(xi) of the Statute).

The Chamber is satisfied that the supporting evidence, mainly ICC witness statements, is sufficient to establish reasonable grounds to believe that the above-mentioned crimes were committed.

- d. At the beginning of January 2014, Yekatom led his subordinates into Bimbo, where he established a new base for his group situated on the Mbaiki side of the PK9 Bridge.⁸³ He also set up a checkpoint at this bridge for the purposes of, *inter alia*, exacting illegal “tolls”.⁸⁴

In the light of the foregoing, the Chamber finds that the evidence presented by the Prosecutor at this stage of the proceedings does not clearly establish reasonable grounds to believe that the acts described above amount to crimes against humanity, committed as part of a widespread and systematic attack against the civilian population, namely persecution (article 7(1)(h) of the Statute); and war crimes, committed in the context of and associated with an armed conflict not of an international character, namely pillaging (article 8(2)(e)(v) of the Statute).

Bossangoa

[REDACTED].⁸⁵

- a. On 5 December 2013, [REDACTED] Anti-Balaka group attacked the town of Bossangoa, in the Ouham Prefecture of western CAR. The

⁸² See Burundi Decision, paras 117-121.

⁸³ CAR-OTP-2048-0171 at 0181-0182, para. 61; CAR-OTP-2048-0171 at 0186, para. 89; CAR-OTP-2059-1546 at 1557, line 381; CAR-OTP-2055-2610 from [00:01:14] to [00:03:04].

⁸⁴ CAR-OTP-2048-0171 at 0183-0184, para. 74, at 0186, para. 89; CAR-OTP-2050-0654 at 0665, para. 79; CAR-OTP-2001-6251 at 6294.

⁸⁵ CAR-OTP-2031-0241 at 0251, paras 59-61; CAR-OTP-2088-2146 at 2162-2163, para. 88.

attack began with an assault on the Seleka stationed in the town, but as it progressed, the Anti-Balaka group made no distinction between Seleka forces and Muslims: “whoever was a Muslim was a Seleka”.⁸⁶ By the end of the day, they had killed at least 18 Muslim civilians, including at least 3 women.⁸⁷ Several others were injured.⁸⁸ As of 6 December 2013, the Anti-Balaka group began looting and destroying Muslim houses and shops, taking away iron sheets, windows and bricks and setting the straw houses on fire.⁸⁹ The mosques in Bossangoa were also destroyed in the same manner, with only the walls standing afterwards.⁹⁰

In the light of the foregoing, the Chamber finds reasonable grounds to believe that the acts described above amount to crimes against humanity, committed as part of a widespread and systematic attack against the civilian population, namely murder and attempted murder (articles 7(1)(a) and 25(3)(f) of the Statute) and persecution (article 7(1)(h) of the Statute); and war crimes, committed in the context of and associated with an armed conflict not of an international character, namely murder and attempted murder (articles 8(2)(c)(i) and 25(3)(f) of the Statute), intentionally directing an attack against the civilian population (article 8(2)(e)(i) of the Statute), intentionally directing an attack against buildings dedicated to religion (article 8(2)(e)(iv) of the Statute), pillaging (article 8(2)(e)(v) of the Statute) and destroying or seizing the property of an adversary (article 8(2)(e)(xii) of the Statute).

The Chamber is satisfied that the supporting evidence, which includes ICC witness statements, video material and public NGO reports, is sufficient to establish reasonable grounds to believe that the above-mentioned crimes were committed.

⁸⁶ CAR-OTP-2031-0241 at 0251-0252, paras 60-64; CAR-OTP-2088-2173 at 2188, para. 77.

⁸⁷ CAR-OTP-2088-2146 at 2155-2156, paras 45-56; CAR-OTP-2088-2173 at 2189-2190, paras 81-90; *see also* CAR-OTP-2081-0769 at 0788-0790.

⁸⁸ CAR-OTP-2088-2146 at 2155, para. 46; CAR-OTP-2088-2173 at 2190, paras 91-92.

⁸⁹ CAR-OTP-2088-2146 at 2158, para. 64; CAR-OTP-2088-2173 at 2190, para. 95; at 2195, para. 123; *see* CAR-OTP-2088-2204; CAR-OTP-2081-0769 at 0789; CAR-OTP-2001-2308 at 2332.

⁹⁰ CAR-OTP-2088-2146 at 2158, para. 67; CAR-OTP-2088-2173 at 2191, para. 99; at 2195, para. 123; *see* CAR-OTP-2088-2204.

- b. Due to the above-mentioned attack, the Muslims in Bossangoa were forced to flee and sought refuge at the *École de la Liberté* – a makeshift refugee camp which was protected by troops of the Multinational Force for Central Africa and Seleka fighters.⁹¹ [REDACTED] Anti-Balaka members themselves further removed Muslim women and children from their homes and brought them to the *Liberté* neighbourhood.⁹² Muslim families remained confined to the camp for months for fear of being killed by the Anti-Balaka group, with limited access to food, water and basic medical care.⁹³ By April 2014, all those who had sought refuge at the camp at *École de la Liberté* were evacuated, most of them to Chad.⁹⁴ It is alleged that with their departure, no Muslims remained in Bossangoa.⁹⁵

In the light of the foregoing, the Chamber finds reasonable grounds to believe that the acts described above amount to crimes against humanity, committed as part of a widespread and systematic attack against the civilian population, namely deportation or forcible transfer of population (article 7(1)(d) of the Statute), imprisonment or other severe deprivation of physical liberty (article 7(1)(e) of the Statute), persecution (article 7(1)(h) of the Statute) and other inhumane acts insofar as Muslims in the enclave resided in deplorable circumstances (article 7(1)(k) of the Statute); and war crimes, committed in the context of and associated with an armed conflict not of an international character, namely displacement of the civilian population (article 8(2)(e)(viii) of the Statute).

The Chamber is satisfied that the supporting evidence, which includes ICC and non-ICC witness statements, public UN documents and public

⁹¹ CAR-OTP-2088-2146 at 2155, para. 44, at 2158, paras 64 and 68; CAR-OTP-2088-2173 at 2188, paras 77-78; CAR-OTP-2001-2308 at 2390.

⁹² CAR-OTP-2031-0241 at 0252, para. 63.

⁹³ CAR-OTP-2088-2146 at 2158-2159, paras 68-73; CAR-OTP-2088-2173 at 2193, paras 111-112; CAR-OTP-2079-1159; CAR-OTP-2079-1170; CAR-OTP-2055-1987 at 2151.

⁹⁴ CAR-OTP-2088-2146 at 2160, paras 76-80; CAR-OTP-2088-2173 at 2194, paras 115-116; CAR-OTP-2011-0133.

⁹⁵ CAR-OTP-2088-2146 at 2160, para. 80; CAR-OTP-2088-2173 at 2194, paras 115-116.

NGO reports, is sufficient to establish reasonable grounds to believe that the above-mentioned crimes were committed.

Lobaye Prefecture

Following the 5 December 2013 Bangui Attack, Yekatom ordered his group to move towards Mbaiki on or about 10 January 2014.⁹⁶

- a. On 11 January 2014, Yekatom's subordinates advanced towards Mbaiki, taking control, without any resistance, over, *inter alia*, the following villages: Sekia, Ndangala, Bimon, Kapou, Bossongo and Pissa.⁹⁷ Yekatom's group established checkpoints in, *inter alia*, Sekia, Bimon, Bossongo and Pissa where they exacted illegal "tolls".⁹⁸

In the light of the foregoing, the Chamber finds that the evidence presented by the Prosecutor at this stage of the proceedings does not clearly establish reasonable grounds to believe that the acts described above amount to crimes against humanity, committed as part of a widespread and systematic attack against the civilian population, namely persecution (article 7(1)(h) of the Statute); and war crimes, committed in the context of and associated with an armed conflict not of an international character, namely pillaging (article 8(2)(e)(v) of the Statute).

- b. On or about 30 January 2014, Yekatom and his subordinates entered Mbaiki.⁹⁹ By that time, the Seleka had left Mbaiki and the number of Muslims had increased due to their flight from Anti-Balaka attacks in other towns and villages in Lobaye Prefecture.¹⁰⁰ Members of the group threatened Muslims, telling them to leave and gesturing by

⁹⁶ CAR-OTP-2058-0200 at 0207-0208, para. 42.

⁹⁷ CAR-OTP-2048-0171 at 0184-0185, para. 79; CAR-OTP-2050-0654 at 0659-0660, paras 37-39; CAR-OTP-2053-0567 at 0567; CAR-OTP-2045-0525 at 0525; CAR-OTP-2072-1068 at 1077-1079, lines 298-357; CAR-OTP-2058-0200 at 0207-0208, para. 42.

⁹⁸ CAR-OTP-2072-0914 at 0929, lines 534-535, at 0932, lines 612-620; CAR-OTP-2072-1068 at 1077-1088, lines 288-357; CAR-OTP-2050-0654 at 0660-0661, para. 44; CAR-OTP-2064-0822 at 0830, para. 4; CAR-OTP-2001-0835 at 0876, 0884; CAR-OTP-2001-5739 at 5798.

⁹⁹ CAR-OTP-2058-0200 at 0207-0208, paras 41-43; CAR-OTP-2053-0576 at 0576.

¹⁰⁰ CAR-OTP-2059-0361 at 0374, para. 69; CAR-OTP-2063-0369 at 0375, para. 33; CAR-OTP-2053-0576 at 0576.

running their fingers across their throats.¹⁰¹ Fearing imminent harm, starting from at least 6 February 2014, virtually the entire Mbaiki Muslim civilian population was forced to flee to Chad, escorted by Chadian forces, or to other parts of the CAR.¹⁰² Members of the group also destroyed Muslim houses and mosques in Mbaiki.¹⁰³

In the light of the foregoing, the Chamber finds reasonable grounds to believe that the acts described above amount to crimes against humanity, committed as part of a widespread and systematic attack against the civilian population, namely deportation or forcible transfer of population (article 7(1)(d) of the Statute) and persecution (article 7(1)(h) of the Statute); and war crimes, committed in the context of and associated with an armed conflict not of an international character, namely intentionally directing an attack against buildings dedicated to religion (article 8(2)(e)(iv) of the Statute), displacement of the civilian population (article 8(2)(e)(viii) of the Statute) and destroying or seizing the property of an adversary (article 8(2)(e)(xii) of the Statute).

The Chamber is satisfied that the supporting evidence, which includes ICC and non-ICC statements, public UN documents and public NGO reports, is sufficient to establish reasonable grounds to believe that the above-mentioned crimes were committed.

- c. At least from December 2013, children were enlisted in Yekatom's group and, until at least August 2014, boys under the age of 15 were stationed at the Yamwara School and other bases and checkpoints

¹⁰¹ CAR-OTP-2063-0369 at 0375, para. 32; CAR-OTP-2072-1039 at 1057-1060, lines 613-743; CAR-OTP-2055-1987 at 2159; CAR-OTP-2001-2308 at 2343-2344.

¹⁰² CAR-OTP-2048-0171 at 0187, para. 95; CAR-OTP-2050-0654 at 0661, para. 48; CAR-OTP-2059-0361 at 0374-0376, paras 69-76; CAR-OTP-2063-0369 at 0375, para. 33; CAR-OTP-2072-1039 at 1057-1060, lines 613-743; CAR-OTP-2045-0565 at 0566; CAR-OTP-2055-1987 at 2159.

¹⁰³ CAR-OTP-2059-0361 at 0376-0377, para. 80; CAR-OTP-2017-0115 at 0130; CAR-OTP-2001-2308 at 2316.

controlled by Yekatom, including in Sekia and Pissa.¹⁰⁴
[REDACTED].¹⁰⁵

In the light of the foregoing, the Chamber finds reasonable grounds to believe that the acts described above amount to war crimes, committed in the context of and associated with an armed conflict not of an international character, namely enlistment of children under the age of 15 years and using them to participate actively in hostilities (article 8(2)(e)(vii) of the Statute).¹⁰⁶

The Chamber is satisfied that the supporting evidence, which includes ICC witness statements and public NGO reports, is sufficient to establish reasonable grounds to believe that the above-mentioned crimes were committed.

Yaloké

[REDACTED].¹⁰⁷

- a. Starting on or about 16-17 January 2014, as Seleka forces began to withdraw following Michel Djotodia's resignation, [REDACTED] Anti-Balaka group carried out several attacks on the town of Yaloké, in Ombella-M'Poko Prefecture of western CAR.¹⁰⁸ While at the outset the Anti-Balaka group engaged in fighting with the Seleka,¹⁰⁹ they went on to target and kill civilians.¹¹⁰ They further destroyed mosques

¹⁰⁴ CAR-OTP-2075-1743 at 1745, paras 10, 15; CAR-OTP-2075-1751 at 1759-1760, paras 33-35.

¹⁰⁵ CAR-OTP-2075-1743 at 1746-1747, paras 20-23; CAR-OTP-2075-1751 at 1760-1761, paras 38-41; CAR-OTP-2068-0558 at 0559-0560; CAR-OTP-2071-0279.

¹⁰⁶ Trial Chamber I, *Prosecutor v Thomas Lubanga Dyilo*, Judgment pursuant to Article 74 of the Statute, 14 March 2012, ICC-01/04-01/06-2842, paras 607-618; Appeals Chamber, *Prosecutor v Thomas Lubanga Dyilo*, Judgment on the appeal of Mr Thomas Lubanga Dyilo against his conviction, 1 December 2014, ICC-01/04-01/06-3121-Red, paras 332-340.

¹⁰⁷ CAR-OTP-2088-1179 at 1193; CAR-OTP-2072-1881 at 1905-1907.

¹⁰⁸ CAR-OTP-2088-1423 at 1427 (describing two attacks by the Anti-Balaka which took place a few days after the resignation of Michel Djotodia); CAR-OTP-2088-1179 at 1193 (mentioning one attack on 16 January 2014 and (at least) another two in February 2014); CAR-OTP-2001-7017 at 7096, paras 346-348 (describing two attacks that took place in February 2014; *see also* fn. 159 mentioning an attack on 16 January 2014); CAR-OTP-2081-0769 at 0794 and 0813 (describing an attack which allegedly took place on 5 February 2014); CAR-OTP-2055-1987 at 2157 (stating that the Anti-Balaka attacked Yaloké at least twice in January and February 2014).

¹⁰⁹ CAR-OTP-2088-0782 at 0802, para. 115.

¹¹⁰ CAR-OTP-2088-1423 at 1427; CAR-OTP-2001-7017 at 7096, paras 346-347 (providing a similar account, but placing the events on different dates).

and houses – including by burning them down – and looted homes and a predominantly Muslim marketplace.¹¹¹ As of early February 2014, only one mosque remained in Yaloké.¹¹²

In the light of the foregoing, the Chamber finds reasonable grounds to believe that the acts described above amount to crimes against humanity, committed as part of a widespread and systematic attack against the civilian population, namely murder (article 7(1)(a) of the Statute) and persecution (article 7(1)(h) of the Statute); and war crimes, committed in the context of and associated with an armed conflict not of an international character, namely murder (article 8(2)(c)(i) of the Statute), intentionally directing an attack against the civilian population (article 8(2)(e)(i) of the Statute), intentionally directing an attack against buildings dedicated to religion (article 8(2)(e)(iv) of the Statute), pillaging (article 8(2)(e)(v) of the Statute) and destroying or seizing the property of an adversary (article 8(2)(e)(xii) of the Statute).

The Chamber is satisfied that the supporting evidence, which includes ICC and non-ICC witness statements, photographs and public UN reports, is sufficient to establish reasonable grounds to believe that the above-mentioned crimes were committed.

- b. [REDACTED] Anti-Balaka group also expelled Muslims from the town of Yaloké. Prior to one of the attacks, which took place on or about 5 February 2014, Muslims in Yaloké received an ultimatum from the Anti-Balaka group to leave within 24 hours.¹¹³ Due to the threat, they were forced to flee *en masse*,¹¹⁴ seeking refuge either in other locations in CAR or in Cameroon.¹¹⁵ As of mid-February 2014,

¹¹¹ CAR-OTP-2001-7017 at 7096, para. 347; CAR-OTP-2081-0769 at 0813-0814; CAR-OTP-2085-7665; CAR-OTP-2085-7685; CAR-OTP-2085-7755; CAR-OTP-2085-8415.

¹¹² CAR-OTP-2007-0925 at 1004.

¹¹³ CAR-OTP-2081-0769 at 0817, para. 61.

¹¹⁴ CAR-OTP-2081-0769 at 0817, para. 61.

¹¹⁵ CAR-OTP-2024-0288 at 0294; CAR-OTP-2069-0150; CAR-OTP-2069-0152.

only several hundred Muslims remained in Yaloké, which previously housed a Muslim population estimated to be in the thousands.¹¹⁶

In the light of the foregoing, the Chamber finds reasonable grounds to believe that the acts described above amount to crimes against humanity, committed as part of a widespread and systematic attack against the civilian population, namely deportation or forcible transfer of population (article 7(1)(d) of the Statute) and persecution (article 7(1)(h) of the Statute); and war crimes, committed in the context of and associated with an armed conflict not of an international character, namely displacement of the civilian population (article 8(2)(e)(viii) of the Statute).

The Chamber is satisfied that the supporting evidence, which includes ICC witness statements, public UN reports and news reports, is sufficient to establish reasonable grounds to believe that the above-mentioned crimes were committed.

- c. From the beginning of 2014 to at least mid-2015, Muslims – including around 500-600 Peuhls – remained confined in an enclave in Yaloké, at least in part for fear of being killed by [REDACTED] Anti-Balaka group.¹¹⁷ They were subjected to life threatening living conditions, with little access to food and healthcare.¹¹⁸ Between April 2014 and April 2015, over 42 people, many of them children, died of severe malnutrition and respiratory and other diseases.¹¹⁹

In the light of the foregoing, the Chamber finds reasonable grounds to believe that the acts described above amount to crimes against humanity, committed as part of a widespread and systematic attack against the civilian population, namely murder (article 7(1)(a) of the Statute), extermination (article 7(1)(b) of the Statute), imprisonment or other severe deprivation of physical liberty (article 7(1)(e) of the

¹¹⁶ CAR-OTP-2055-1938 at 1940; CAR-OTP-2007-0925 at 1004.

¹¹⁷ CAR-OTP-2055-1987 at 2158; CAR-OTP-2001-1057 at 1057-1058, para. 3; CAR-OTP-2069-0241; *similarly* CAR-OTP-2002-0504 at 0505, 0507; *but see* CAR-OTP-2081-0769 at 0823-0824.

¹¹⁸ CAR-OTP-2069-0241.

¹¹⁹ CAR-OTP-2055-1987 at 2158.

Statute), persecution (article 7(1)(h) of the Statute) and other inhumane acts insofar as Muslims in the enclave resided in deplorable circumstances (article 7(1)(k) of the Statute); and war crimes, committed in the context of and associated with an armed conflict not of an international character, namely murder (article 8(2)(c)(i) of the Statute).

The Chamber is satisfied that the supporting evidence, which includes ICC witness statements, public UN reports and news reports, is sufficient to establish reasonable grounds to believe that the above-mentioned crimes were committed.

Gaga

[REDACTED].¹²⁰

- a. On or about 17 January 2014, the Anti-Balaka attacked Gaga,¹²¹ a village situated 35 km from Yaloké.¹²² [REDACTED] Anti-Balaka group first targeted the Seleka base in the village,¹²³ and then went on to attack the civilian population, killing several Muslim civilians.¹²⁴ In the course of the attack on Gaga, the Anti-Balaka group also set houses on fire and broke into the homes of Muslim inhabitants and looted them.¹²⁵ They further took the roofs of two mosques and partially destroyed their walls.¹²⁶ The attack forced Muslims in Gaga to run away.¹²⁷ Fear of being killed by the Anti-Balaka led them to flee all the way to Cameroon, on foot.¹²⁸

In the light of the foregoing, the Chamber finds reasonable grounds to believe that the acts described above amount to crimes against humanity, committed as part of a widespread and systematic attack

¹²⁰ CAR-OTP-2053-0645; CAR-OTP-2087-9894 at 9900, paras 37-38.

¹²¹ CAR-OTP-2001-7017 at 7093, para. 323.

¹²² CAR-OTP-2001-4059.

¹²³ CAR-OTP-2001-7017 at 7093, para. 323; CAR-OTP-2087-9894 at 9906-9907, paras 69-71, 74.

¹²⁴ CAR-OTP-2001-7017 at 7093, para. 323; CAR-OTP-2088-1179 at 1193; CAR-OTP-2087-9894 at 9906, para. 73.

¹²⁵ CAR-OTP-2087-9894 at 9906, paras 69, 71.

¹²⁶ CAR-OTP-2087-9894 at 9907-9908, para. 78.

¹²⁷ CAR-OTP-2087-9894 at 9906, paras 71-72.

¹²⁸ CAR-OTP-2087-9894 at 9908-9911, paras 81-103.

against the civilian population, namely murder (article 7(1)(a) of the Statute), deportation or forcible transfer of population (article 7(1)(d) of the Statute) and persecution (article 7(1)(h) of the Statute); and war crimes, committed in the context of and associated with an armed conflict not of an international character, namely murder (article 8(2)(c)(i) of the Statute), intentionally directing an attack against the civilian population (article 8(2)(e)(i) of the Statute), intentionally directing an attack against buildings dedicated to religion (article 8(2)(e)(iv) of the Statute), pillaging (article 8(2)(e)(v) of the Statute), displacement of the civilian population (article 8(2)(e)(viii) of the Statute) and destroying or seizing the property of an adversary (article 8(2)(e)(xii) of the Statute).

The Chamber is satisfied that the supporting evidence, which includes ICC witness statements and public UN reports, is sufficient to establish reasonable grounds to believe that the above-mentioned crimes were committed.

Bossemptélé

[REDACTED].¹²⁹

- a. On 18 January 2014, following the Seleka's withdrawal, [REDACTED] Anti-Balaka group attacked the town of Bossemptélé, in Ombella-M'Poko Prefecture of western CAR.¹³⁰ While some of the townspeople were armed, most of them were not.¹³¹ In the course of the attack, the Anti-Balaka group killed dozens of Muslims, including a family of five who were attempting to run away, a man who was shot in the mouth and a disabled woman.¹³² Further, they cut off the hands of a man and two women, all Muslim.¹³³ Others were burnt to death, as

¹²⁹ CAR-OTP-2025-0003 at 0013, para. 59; CAR-OTP-2030-0232 at 0237.

¹³⁰ CAR-OTP-2001-7017 at 7092, para. 316; CAR-OTP-2055-1987 at 2163; CAR-OTP-2025-0003 at 0013, para. 62.

¹³¹ CAR-OTP-2055-1987 at 2163; *see also* CAR-OTP-2025-0003 at 0014, paras 64-68.

¹³² CAR-OTP-2001-7017 at 7092, paras 317-318; CAR-OTP-2088-0782 at 0795-0797, paras 77-87; *see, in particular*, para. 84.

¹³³ CAR-OTP-2088-0782 at 0796, para. 317.

the Anti-Balaka group set houses and shops on fire.¹³⁴ Houses and shops belonging to Muslims were further looted and destroyed, as Anti-Balaka elements removed their roofs.¹³⁵ Two mosques were destroyed as well, as the Anti-Balaka members set them on fire or removed the roofs, doors and destroyed the brick walls.¹³⁶

In the light of the foregoing, the Chamber finds reasonable grounds to believe that the acts described above amount to crimes against humanity, committed as part of a widespread and systematic attack against the civilian population, namely murder (article 7(1)(a) of the Statute), persecution (article 7(1)(h) of the Statute) and other inhumane acts (article 7(1)(k) of the Statute); and war crimes, committed in the context of and associated with an armed conflict not of an international character, namely murder (article 8(2)(c)(i) of the Statute), mutilation (article 8(2)(c)(i) and/or 8(2)(e)(xi) of the Statute), intentionally directing an attack against the civilian population (article 8(2)(e)(i) of the Statute), intentionally directing an attack against buildings dedicated to religion (article 8(2)(e)(iv) of the Statute), pillaging (article 8(2)(e)(v) of the Statute) and destroying or seizing the property of an adversary (article 8(2)(e)(xii) of the Statute).

The Chamber is satisfied that the supporting evidence, which includes ICC and non-ICC witness statements and public UN reports, is sufficient to establish reasonable grounds to believe that the above-mentioned crimes were committed.

- b. As a result of the attack carried out by [REDACTED] Anti-Balaka group, Muslims were forced to flee *en masse* to the bush or to neighbouring villages.¹³⁷ Those who fled to the bush were tracked down by Anti-Balaka members in the days that followed.¹³⁸ While

¹³⁴ CAR-OTP-2088-0782 at 0796-0797, paras 80, 89; CAR-OTP-2048-0109.

¹³⁵ CAR-OTP-2088-0782 at 0797, paras 88, 90; CAR-OTP-2025-0003 at 0015, para. 74; CAR-OTP-2045-0561.

¹³⁶ CAR-OTP-2088-0782 at 0798, para. 91; CAR-OTP-2025-0003 at 0015, para. 74; CAR-OTP-2045-0561.

¹³⁷ CAR-OTP-2048-0109; CAR-OTP-2045-0561; CAR-OTP-2024-0288 at 0293, para. 28.

¹³⁸ CAR-OTP-2055-1987 at 2165; CAR-OTP-2048-0109.

some managed to escape and eventually made it to Cameroon, others were killed, including old men, women and children.¹³⁹ Those who did not manage to flee from Bossemptélé sought refuge at the Catholic Mission.¹⁴⁰ One day, the Anti-Balaka group abducted three persons from the Mission, took them to their camp and demanded a ransom for their release. The three were released a few hours later, following the intervention of a nun.¹⁴¹ Under constant threat from the Anti-Balaka group, those who had sought refuge at Catholic Mission progressively left on convoys headed for Cameroon. By the end of May 2014, only the disabled, sick and weak remained¹⁴² and eventually almost all of Bossemptélé's Muslims were expelled.¹⁴³

In the light of the foregoing, the Chamber finds reasonable grounds to believe that the acts described above amount to crimes against humanity, committed as part of a widespread and systematic attack against the civilian population, namely murder (article 7(1)(a) of the Statute), deportation or forcible transfer of population (article 7(1)(d) of the Statute) imprisonment or other severe deprivation of physical liberty (article 7(1)(e) of the Statute) and persecution (article 7(1)(h) of the Statute); and war crimes, committed in the context of and associated with an armed conflict not of an international character, namely murder (article 8(2)(c)(i) of the Statute), intentionally directing an attack against the civilian population (article 8(2)(e)(i) of the Statute) and displacement of the civilian population (article 8(2)(e)(viii) of the Statute). As regards the capture of the three persons from the Catholic Mission and the related request for ransom, the Chamber finds that the evidence presented by the Prosecutor at this stage of the proceedings does not clearly establish reasonable grounds

¹³⁹ CAR-OTP-2048-0109; CAR-OTP-2045-0561.

¹⁴⁰ CAR-OTP-2025-0003 at 0014, para. 69; CAR-OTP-2001-2308 at 2315-2316.

¹⁴¹ CAR-OTP-2045-0563; CAR-OTP-2001-5326.

¹⁴² CAR-OTP-2088-0782 at 0805, paras 135-137; CAR-OTP-2001-2308 at 2315-2316; CAR-OTP-2001-5305 at 5326-5328.

¹⁴³ CAR-OTP-2048-0109 at 0110; CAR-OTP-2025-0003 at 0015, para. 73.

to believe that the acts amount to the war crime of pillaging (article 8(2)(e)(v) of the Statute).

The Chamber is satisfied that the supporting evidence, which includes ICC and non-ICC witness statements, public UN reports, public NGO reports and news reports, is sufficient to establish reasonable grounds to believe that the above-mentioned crimes were committed.

Boda

[REDACTED].¹⁴⁴

- a. On or about 29 January 2014, following the Seleka's withdrawal,¹⁴⁵ an Anti-Balaka group, [REDACTED], attacked Boda.¹⁴⁶ Over the next few days, the Anti-Balaka group killed at least 17 Muslims, set the Muslim market on fire, and pillaged and destroyed Muslim shops and houses.¹⁴⁷

In the light of the foregoing, the Chamber finds reasonable grounds to believe that the acts described above amount to crimes against humanity, committed as part of a widespread and systematic attack against the civilian population, namely murder (article 7(1)(a) of the Statute) and persecution (article 7(1)(h) of the Statute); and war crimes, committed in the context of and associated with an armed conflict not of an international character, namely murder (article 8(2)(c)(i) of the Statute), intentionally directing an attack against the civilian population (article 8(2)(e)(i) of the Statute),

¹⁴⁴ CAR-OTP-2068-0037 at 0044, paras 31-32, at 0046, paras 39-40, at 0047, para. 43, at 0054, paras 80-81, at 0057, paras 99-100; CAR-OTP-2041-0741 at 0750, para. 59.

¹⁴⁵ CAR-OTP-2064-0063 at 0069, paras 32-33; CAR-OTP-2068-0037 at 0042, para. 15; CAR-OTP-2001-0835 at 0954; CAR-OTP-2065-0167 at 0167.

¹⁴⁶ CAR-OTP-2068-0037 at 0044, paras 31-32, at 0046, para. 39, at 0047, para. 43, at 0048-0049, paras 49-53, at 0054, paras 80-81; CAR-OTP-2064-0063 at 0067, para. 26; CAR-OTP-2050-0654 at 0661, para.49.

¹⁴⁷ CAR-OTP-2064-0063 at 0070, paras 41-42, at 0071, para. 45, at 0073, paras 55-56; CAR-OTP-2064-0036 at 0043, para. 41, at 0046, para. 60, at 0047, para. 65; CAR-OTP-2068-0037 at 0042, para. 19, at 0050, para. 60, at 0053, para. 76, at 0055, para. 90; CAR-OTP-2081-0769 at 0817, para. 60; CAR-OTP-2064-0063 at 0070, paras 38, 40, at 0080, para. 98; CAR-OTP-2001-0835 at 0955, 0956; CAR-OTP-2001-2308 at 2343.

pillaging (article 8(2)(e)(v) of the Statute) and destroying or seizing the property of an adversary (article 8(2)(e)(xii) of the Statute).

The Chamber is satisfied that the supporting evidence, which includes ICC witness statements, public UN documents, public NGO reports and news reports, is sufficient to establish reasonable grounds to believe that the above-mentioned crimes were committed.

- b. Anti-Balaka leaders, [REDACTED] also expressed their intention to expel the entire Muslim population from Boda, which led Muslims to flee by their own means or escorted by international forces.¹⁴⁸ Furthermore, a number of Muslims sought refuge in the town's Ali and Arabe mosques.¹⁴⁹ Other Muslims were forced to remain in Muslim neighbourhoods and persons attempting to leave were killed by Anti-Balaka members.¹⁵⁰ Between 11,000 and 16,000 Muslims resided in this enclave.¹⁵¹ Until at least September 2014, the Muslims suffered from limited access to basic health care and food shortages as the Anti-Balaka attacked NGOs providing aid, threatened to kill non-Muslims for selling food to Muslims, and killed people leaving the enclave in search of food.¹⁵²

In the light of the foregoing, the Chamber finds reasonable grounds to believe that the acts described above amount to crimes against humanity, committed as part of a widespread and systematic attack against the civilian population, namely murder (article 7(1)(a) of the Statute), deportation or forcible transfer of population (article 7(1)(d) of the Statute), imprisonment or other severe deprivation of physical liberty (article 7(1)(e) of the Statute), persecution (article 7(1)(h) of the

¹⁴⁸ CAR-OTP-2068-0037 at 0045, para. 33, at 0047, para. 42; CAR-OTP-2001-2769 at 2791; CAR-OTP-2001-4633 at 4633; CAR-OTP-2064-0036 at 0048, para. 71.

¹⁴⁹ CAR-OTP-2064-0063 at 0071, para. 48.

¹⁵⁰ CAR-OTP-2064-0063 at 0073-0074, paras 59-61; CAR-OTP-2060-0280 at 0286, para. 35; CAR-OTP-2001-5386 at 5566-5568; CAR-OTP-2001-5138 at 5141; CAR-OTP-2055-1987 at 2160.

¹⁵¹ CAR-OTP-2064-0063 at 0072, para. 49; CAR-OTP-2001-2885 at 2885; CAR-OTP-2060-0801 at 0801.

¹⁵² CAR-OTP-2064-0063 at 0074, paras 64-65; CAR-OTP-2068-0037 at 0063, para. 125; CAR-OTP-2064-0036 at 0048, paras 72-73; CAR-OTP-2001-5386 at 5568; CAR-OTP-2055-1987 at 2159-2161; CAR-OTP-2001-2769 at 2791.

Statute) and other inhumane acts insofar as Muslims in the enclave resided in deplorable circumstances (article 7(1)(k) of the Statute); and war crimes, committed in the context of and associated with an armed conflict not of an international character, namely murder (article 8(2)(c)(i) of the Statute), intentionally directing an attack against the civilian population (article 8(2)(e)(i) of the Statute), intentionally directing an attack against personnel, installations, material, units or vehicles involved in a humanitarian assistance (article 8(2)(e)(iii) of the Statute) and displacement of the civilian population (article 8(2)(e)(viii) of the Statute).

The Chamber is satisfied that the supporting evidence, which includes ICC witness statements, public UN documents, public NGO reports and news reports, is sufficient to establish reasonable grounds to believe that the above-mentioned crimes were committed.

Carnot

[REDACTED].¹⁵³

- a. Following the departure of the Seleka from Carnot at the end of January 2014, [REDACTED] Anti-Balaka group, consisting of approximately 200 to 300 persons from Carnot and other towns, attacked Carnot in late January 2014 or early February 2014.¹⁵⁴ Some members of this group wore identification badges issued by the National Coordination.¹⁵⁵ The Anti-Balaka group killed a substantial number of Muslims,¹⁵⁶ pillaged and destroyed Muslim houses and

¹⁵³ CAR-OTP-2024-0288 at 0300, para. 65; CAR-OTP-2080-0884 at 0893, para. 50; CAR-OTP-2025-0324 at 0349; CAR-OTP-2001-5386 at 5422, para. 147.

¹⁵⁴ CAR-OTP-2024-0288 at 0293, para. 31, at 0294, para. 36; CAR-OTP-2080-0884 at 0894, paras 54-55, at 0896, para. 66, at 0898, para. 71; CAR-OTP-2001-4249 at 4249; CAR-OTP-2058-0571 from [00:22:18] to [00:22:32].

¹⁵⁵ CAR-OTP-2001-0835 at 0851-0852, para. 64; CAR-OTP-2083-0345 from [00:00:28] to [00:01:00].

¹⁵⁶ CAR-OTP-2024-0288 at 0296-0297, paras 44, 49-51, 54; CAR-OTP-2001-2306 at 2306; CAR-OTP-2001-2247 at 2247; CAR-OTP-2055-1987 at 2167.

shops,¹⁵⁷ and destroyed several mosques.¹⁵⁸ Muslims were targeted until at least November 2014.¹⁵⁹

In the light of the foregoing, the Chamber finds reasonable grounds to believe that the acts described above amount to crimes against humanity, committed as part of a widespread and systematic attack against the civilian population, namely murder (article 7(1)(a) of the Statute) and persecution (article 7(1)(h) of the Statute); and war crimes, committed in the context of and associated with an armed conflict not of an international character, namely murder (article 8(2)(c)(i) of the Statute), intentionally directing an attack against the civilian population (article 8(2)(e)(i) of the Statute), intentionally directing an attack against buildings dedicated to religion (article 8(2)(e)(iv) of the Statute), pillaging (article 8(2)(e)(v) of the Statute) and destroying or seizing the property of an adversary (article 8(2)(e)(xii) of the Statute).

The Chamber is satisfied that the supporting evidence, which includes ICC witness statements, public UN documents, public NGO reports and news reports, is sufficient to establish reasonable grounds to believe that the above-mentioned crimes were committed.

- b. Due to the above-mentioned attack, many of Carnot's Muslim inhabitants were forced to flee to other places in the CAR or to Cameroon or Chad.¹⁶⁰ Other Muslims sought refuge [REDACTED]. By the end of February 2014, approximately 1,500 to 2,000 Muslims from Carnot and surrounding villages, mainly women and children, were present in this location.¹⁶¹ [REDACTED] Anti-Balaka group

¹⁵⁷ CAR-OTP-2024-0288 at 0294, para. 34, at 0296, paras 46-48; CAR-OTP-2080-0884 at 0898, para. 72.

¹⁵⁸ CAR-OTP-2080-0884 at 0898, para. 72; CAR-OTP-2067-1476 at 1492.

¹⁵⁹ CAR-OTP-2002-0504 at 0505; CAR-OTP-2055-1987 at 2167.

¹⁶⁰ CAR-OTP-2080-0884 at 0901, paras 85-87; CAR-OTP-2079-0842 at 0844; CAR-OTP-2069-0136; CAR-OTP-2069-0152; CAR-OTP-2069-0138.

¹⁶¹ CAR-OTP-2024-0288 at 0293-0294, paras 31-34, at 0296, para. 44; CAR-OTP-2080-0884 at 0898, para. 73, at 0899, para. 78, at 0899-0900, para. 81; CAR-OTP-2001-7012 from [00:07:48] to [00:08:28]; CAR-OTP-2012-0477 from [00:00:08] to [00:03:30]; CAR-OTP-2015-0493 at 0497.

blocked the gates trapping the persons inside and attacked persons trying to leave.¹⁶² [REDACTED].¹⁶³ The persons [REDACTED] lived in appalling conditions and were dependent on NGOs for food, clothing and medical care.¹⁶⁴ The enclave [REDACTED] remained in place for at least two years.¹⁶⁵

In the light of the foregoing, the Chamber finds reasonable grounds to believe that the acts described above amount to crimes against humanity, committed as part of a widespread and systematic attack against the civilian population, namely deportation or forcible transfer of population (article 7(1)(d) of the Statute), imprisonment or other severe deprivation of physical liberty (article 7(1)(e) of the Statute), persecution (article 7(1)(h) of the Statute) and other inhumane acts insofar as Muslims in the enclave resided in deplorable circumstances (article 7(1)(k) of the Statute); and war crimes, committed in the context of and associated with an armed conflict not of an international character, namely displacement of the civilian population (article 8(2)(e)(viii) of the Statute).

The Chamber is satisfied that the supporting evidence, which includes ICC witness statements and news reports, is sufficient to establish reasonable grounds to believe that the above-mentioned crimes were committed.

Berberati

[REDACTED].¹⁶⁶

- a. Soon after the Seleka's withdrawal, a group of Anti-Balaka took control of Berberati on 8 February 2014.¹⁶⁷ In the following days,

¹⁶² CAR-OTP-2019-1359 from [00:05:47] to [00:06:44]; CAR-OTP-2079-0861 at 0864.

¹⁶³ CAR-OTP-2024-0288 at 0296, para. 44, at 0298-0299, paras 57-60; CAR-OTP-2012-0477 from [00:01:46] to [00:02:36].

¹⁶⁴ CAR-OTP-2024-0288 at 0302, para. 78; CAR-OTP-2015-0493 at 0497.

¹⁶⁵ CAR-OTP-2024-0288 at 0302, para. 79; CAR-OTP-2083-0349 at 0349.

¹⁶⁶ CAR-OTP-2019-3469 at 3478, para. 54, at 3479, paras 59, 61; CAR-OTP-2062-0039 at 0051, para. 77, at 0053, para. 88; CAR-OTP-2001-5739 at 5785.

¹⁶⁷ CAR-OTP-2019-3469 at 3477, para. 49; CAR-OTP-2062-0039 at 0050, para. 67; CAR-OTP-2001-7017 at 7095, para. 340; CAR-OTP-2001-4257 at 4257.

hundreds of Anti-Balaka members from Bangui, Bossangoa, Carnot and Bouar, including FACA members, joined this group.¹⁶⁸ During the operation in Berberati, the Anti-Balaka group [REDACTED] killed several Muslims, including one or more children,¹⁶⁹ and looted and destroyed the homes, shops and mosques of Muslims.¹⁷⁰ The Christian inhabitants, who had marked their homes with distinctive signs, were spared.¹⁷¹

In the light of the foregoing, the Chamber finds reasonable grounds to believe that the acts described above amount to crimes against humanity, committed as part of a widespread and systematic attack against the civilian population, namely murder (article 7(1)(a) of the Statute) and persecution (article 7(1)(h) of the Statute); and war crimes, committed in the context of and associated with an armed conflict not of an international character, namely murder (article 8(2)(c)(i) of the Statute), intentionally directing an attack against the civilian population (article 8(2)(e)(i) of the Statute), intentionally directing an attack against buildings dedicated to religion (article 8(2)(e)(iv) of the Statute), pillaging (article 8(2)(e)(v) of the Statute) and destroying or seizing the property of an adversary (article 8(2)(e)(xii) of the Statute).

The Chamber is satisfied that the supporting evidence, which includes ICC witness statements, public UN documents, public NGO reports and news reports, is sufficient to establish reasonable grounds to believe that the above-mentioned crimes were committed.

¹⁶⁸ CAR-OTP-2019-3469 at 3478, para. 54, at 3481, para. 73; CAR-OTP-2046-0603 at 0616, para. 83; CAR-OTP-2001-2769 at 2790; CAR-OTP-2055-1987 at 2166; CAR-OTP-2001-4257 at 4257.

¹⁶⁹ CAR-OTP-2019-3469 at 3478, para. 54, at 3482, para. 84, at 3484, paras 95-96; CAR-OTP-2001-7017 at 7095, paras 340-341; CAR-OTP-2055-1987 at 2166; CAR-OTP-2001-4257 at 4257; CAR-OTP-2001-2647 at 2666; CAR-OTP-2001-2769 at 2790.

¹⁷⁰ CAR-OTP-2019-3469 at 3480, para. 68, at 3481, para. 77, at 3482, paras 84, 86; CAR-OTP-2062-0039 at 0053, para. 85, at 0054, para. 94; CAR-OTP-2079-0882 from [00:06:20] to [00:06:54]; CAR-OTP-2001-2769 at 2790; CAR-OTP-2001-2647 at 2666; CAR-OTP-2079-0610 at 0612.

¹⁷¹ CAR-OTP-2019-3469 at 3477, paras 49-50, at 3482, para. 84.

- b. The leaders of the Anti-Balaka group attacking Berberati [REDACTED] also expressed their intention to expel the Muslim population from the CAR.¹⁷² The events forced many of Berberati's Muslim inhabitants to flee, many of whom were escorted in convoys to Cameroon.¹⁷³ In addition, several hundred Muslims took refuge inside the Catholic Mission where they lived without adequate sanitary facilities, access to food, and any possibility to leave the enclave without risking their lives.¹⁷⁴ By the end of June 2014 until well into 2015, over 300 Muslims were still living at the Catholic Mission.¹⁷⁵

In the light of the foregoing, the Chamber finds reasonable grounds to believe that the acts described above amount to crimes against humanity, committed as part of a widespread and systematic attack against the civilian population, namely deportation or forcible transfer of population (article 7(1)(d) of the Statute), imprisonment or other severe deprivation of physical liberty (article 7(1)(e) of the Statute), persecution (article 7(1)(h) of the Statute) and other inhumane acts insofar as Muslims in the enclave resided in deplorable circumstances (article 7(1)(k) of the Statute); and war crimes, committed in the context of and associated with an armed conflict not of an international character, namely displacement of the civilian population (article 8(2)(e)(viii) of the Statute).

The Chamber is satisfied that the supporting evidence, which includes ICC witness statements, public NGO reports and news reports, is sufficient to establish reasonable grounds to believe that the above-mentioned crimes were committed.

¹⁷² CAR-OTP-2062-0039 at 0050, para. 71; CAR-OTP-2019-3469 at 3479, para. 62; CAR-OTP-2030-2280 from [00:00:00] to [00:00:17].

¹⁷³ CAR-OTP-2079-0790 at 0792; CAR-OTP-2069-0138; CAR-OTP-2069-0150.

¹⁷⁴ CAR-OTP-2062-0039 at 0053, para. 85, at 0054, para. 95; CAR-OTP-2055-1987 at 2166-2167; CAR-OTP-2001-2769 at 2790; CAR-OTP-2001-4257 at 4258; CAR-OTP-2079-0799 at 0800; CAR-OTP-2079-0790 at 0792; CAR-OTP-2079-0803 at 0803; CAR-OTP-2079-0882 from [00:07:29] to [00:07:50].

¹⁷⁵ CAR-OTP-2079-0799 at 0799; CAR-OTP-2079-0882 from [00:07:29] to [00:07:37]; CAR-OTP-2055-1987 at 2167.

17. **The Conduct of Ngaïssona.** Following François Bozizé’s removal from power, a series of meetings took place in Cameroon and in France between François Bozizé, Ngaïssona and others loyal to the former President, during which the decision was taken to organise pro-Bozizé elements to defend against and oust the Seleka from power.¹⁷⁶ Following these meetings, Ngaïssona (i) rallied support by providing money to elements which later came to form the Anti-Balaka;¹⁷⁷ (ii) provided or otherwise transferred money from François Bozizé to the Anti-Balaka for the preparation of attacks, including for the purchase of weapons;¹⁷⁸ (iii) procured ammunition; and (iv) gave orders (e.g. to attack Seleka positions).¹⁷⁹

18. In January 2014, Ngaïssona was designated National General Coordinator of the Anti-Balaka.¹⁸⁰ In this role, Ngaïssona exercised authority to: (i) appoint members in the Anti-Balaka national and provincial leadership, which included the members of the National Coordination Committee and Anti-Balaka ComZones;¹⁸¹ (ii) replace or exclude from the movement Anti-Balaka members who did not follow his instructions or failed to comport with his decisions;¹⁸² (iii) issue orders to ComZones to execute missions and operations,¹⁸³ erect roadblocks, or create “disorder”;¹⁸⁴ (iv) convene meetings with all ComZones in Bangui and the provinces;¹⁸⁵ and (v) discipline ComZones.¹⁸⁶ [REDACTED].¹⁸⁷ The evidence shows that (i) no significant operations would be carried out without his knowledge and approval;¹⁸⁸ (ii) [REDACTED];¹⁸⁹ (iii) ComZones reported to him directly [REDACTED];¹⁹⁰ and (iv) he could issue orders to all the Anti-Balaka in the CAR territory to, for example, “leave the Muslims

¹⁷⁶ CAR-OTP-2074-2021 at 2053-2059, 2061-2063; CAR-OTP-2061-1534 at 1540, paras 34-35; at 1546-1547, paras 84-87.

¹⁷⁷ CAR-OTP-2062-0039 at 0042-0045, paras 23-37.

¹⁷⁸ CAR-OTP-2061-1534 at 1549-1550, paras 101-104; at 1552, paras 115-116.

¹⁷⁹ CAR-OTP-2072-1715 at 1728-1729; CAR-OTP-2061-1534 at 1551, para. 112.

¹⁸⁰ CAR-OTP-2001-3372.

¹⁸¹ CAR-OTP-2072-1739 at 1753; CAR-OTP-2001-5386 at 5470.

¹⁸² CAR-OTP-2074-2335 at 2355-2356; CAR-OTP-2034-0463 at 0475-0477, paras 64, 68 and 83; CAR-OTP-2063-0050 at 0067, para. 107.

¹⁸³ CAR-OTP-2072-1739 at 1756-1757; CAR-OTP-2031-0241 at 0256-0257, paras 88-89; CAR-OTP-2063-0050 at 0068 para. 112; CAR-OTP-2039-0020; CAR-OTP-2025-0356.

¹⁸⁴ CAR-OTP-2048-0171 at 0183, para. 70; CAR-OTP-2072-1913 at 1921.

¹⁸⁵ CAR-OTP-2072-1739 at 1757; CAR-OTP-2031-0241 at 02570258, paras 90-91.

¹⁸⁶ CAR-OTP-2063-0050 at 0068, para. 109.

¹⁸⁷ CAR-OTP-2076-0146 at 0159-0160.

¹⁸⁸ CAR-OTP-2025-0324 at 0338, para. 93; CAR-OTP-2063-0050 at 0067, para. 106.

¹⁸⁹ CAR-OTP-2046-0603 at 0616, para. 80.

¹⁹⁰ CAR-OTP-2025-0324 at 0338, para. 93.

in peace” during Ramadan, “immediately cease all hostilities” and “cease all abuses”.¹⁹¹ In April 2014, Ngaïssona claimed that: “*Les anti-balaka que je coordonne sont un seul et même mouvement qui est réparti sur toute l’étendue du territoire. Quand je donne l’ordre à ces enfants, je pense que c’est immédiatement suivi d’effet*”.¹⁹²

19. More specifically, Ngaïssona communicated with Anti-Balaka ComZones and other Anti-Balaka leaders directly implicated in the crimes allegedly committed in some of the above-mentioned locations, including Bossangoa,¹⁹³ Yaloké and Gaga,¹⁹⁴ Bossemptélé¹⁹⁵ and Boda,¹⁹⁶ during the timeframe relevant to the above-mentioned crimes. He would summon and meet Anti-Balaka ComZones from the provinces in Bangui as early as January 2014¹⁹⁷ and would send missions to several provinces including the locations where the above-mentioned crimes were committed, such as Bossangoa and Berberati.¹⁹⁸ Ngaïssona maintained in leadership positions and officially recognised as ComZones or local Coordinators individuals who were personally involved in the crimes allegedly committed in Bossangoa, Yaloké and Gaga, Bossemptélé,¹⁹⁹ Boda,²⁰⁰ Carnot and Berberati.²⁰¹ He allowed some of them to use his home as an operational base.²⁰² He assigned others to represent the Anti-Balaka at summits.²⁰³

¹⁹¹ CAR-OTP-2025-0428; CAR-OTP-2006-1215; CAR-OTP-2066-2102; CAR-OTP-2031-0190 at 0198, para. 43.

¹⁹² CAR-OTP-2001-4818 at 4819.

¹⁹³ CAR-OTP-2031-0241 at 0251, para. 61; CAR-OTP-2010-2505 at 2540; CAR-OTP-2030-0280 at 0280; CAR-OTP-2068-0034 (e.g. at row 43591, 43592, 44804, 44805, 44891, 44892, 44906, 44907, 44925, 44926, 44943, 44944, 127384, 127385).

¹⁹⁴ CAR-OTP-2061-1534 at 1569, para. 222; CAR-OTP-2072-1881 at 1905-1907; CAR-OTP-2087-9894 at 9900-9901, paras 38 and 41; CAR-OTP-2068-0034 (e.g. at row 305618); CAR-OTP-2091-0119.

¹⁹⁵ CAR-OTP-2025-0003 at 0013, para. 59; CAR-OTP-2019-2839 (at row 188242); CAR-OTP-2092-3080; CAR-OTP-2008-0483.

¹⁹⁶ CAR-OTP-2068-0037 at 0046, para. 40; CAR-OTP-2041-0741 at 0758, para. 114; CAR-OTP-2008-0483; CAR-OTP-2068-0034 (at row 305458).

¹⁹⁷ CAR-OTP-2025-0324 at 0336, para. 82; CAR-OTP-2059-1586 at 1600-1601; CAR-OTP-2076-0288 at 0290.

¹⁹⁸ CAR-OTP-2063-0050 at 0068, para. 112.

¹⁹⁹ CAR-OTP-2030-0445 at 0446, 0447; CAR-OTP-2072-1881 at 1905-1907.

²⁰⁰ CAR-OTP-2068-0037 at 0054, para. 81; CAR-OTP-2030-0445 at 0452.

²⁰¹ CAR-OTP-2030-0445 at 0453.

²⁰² CAR-OTP-2001-4441 at 4442.

²⁰³ CAR-OTP-2030-0267.

20. Taking into account the totality of the evidence, Ngaïssona enabled the Anti-Balaka to commit crimes by improving the group's operational capacity, providing financial and logistical support (such as ammunitions) and appointing or formally recognising Anti-Balaka ComZones who were involved in crimes. On this basis, the Chamber finds reasonable grounds to believe that Ngaïssona committed the above-mentioned crimes jointly with others and/or through others in furtherance of the policy [REDACTED], to target the Muslim population and others perceived to support the Seleka or to be "foreigners" in Bangui and in western CAR (article 25(3)(a) of the Statute²⁰⁴); or aided, abetted or otherwise assisted (article 25(3)(c) of the Statute²⁰⁵) in the commission or attempted commission of these crimes. The Chamber is satisfied that Ngaïssona acted with the required intent and knowledge for the specific crimes set forth in this warrant of arrest. In addition, the Chamber is satisfied that Ngaïssona (i) knew that the crimes were or intended the crimes to be part of a widespread and systematic attack against the civilian population,²⁰⁶ and (ii) was aware of the factual circumstances that established the existence of the non-international armed conflict.²⁰⁷

21. The Chamber is satisfied that the overall supporting evidence is sufficient to establish reasonable grounds to believe that Ngaïssona bears criminal responsibility.

2. *Whether the arrest of Ngaïssona appears necessary (Article 58(1)(b) of the Statute)*

22. The Chamber is satisfied, in conformity with article 58(1)(b) of the Statute, that the arrest of Ngaïssona appears necessary to ensure that he (i) appears at trial and (ii) does not obstruct or endanger the Prosecutor's ongoing investigation. The Chamber notes that he publicly denounced and opposed the arrest of Anti-Balaka

²⁰⁴ See Trial Chamber VII, *Prosecutor v Jean-Pierre Bemba Gombo et al*, Judgment pursuant to Article 74 of the Statute, 19 October 2016, ICC-01/05-01/13-1989-Red, paras 64-71; Katanga Judgment, paras 1398-1416; Pre-Trial Chamber II, *Prosecutor v Germain Katanga and Mathieu Ngudjolo Chui*, Decision on the confirmation of charges, 30 September 2008, ICC-01/04-01/07-717, paras 487-539.

²⁰⁵ See Appeals Chamber, *Prosecutor v Jean-Pierre Bemba Gombo et al*, Judgment on the appeals of Mr Jean-Pierre Bemba Gombo, Mr Aimé Kilolo Musamba, Mr Jean-Jacques Mangenda Kabongo, Mr Fidèle Babala Wandu and Mr Narcisse Arido against the decision of Trial Chamber VII entitled "Judgment pursuant to Article 74 of the Statute", 8 March 2018, ICC-01/05-01/13-2275-Red, paras 18-21.

²⁰⁶ See paragraph 2 of the Introduction to Crimes against Humanity (Article 7) in the Elements of Crimes.

²⁰⁷ See paragraph 3 of the Introduction to War Crimes (Article 8) in the Elements of Crimes.

members.²⁰⁸ Ngaïssona even organised demonstrations when a notorious Anti-Balaka member was arrested in January 2015 and was involved in planning kidnappings to bargain for the latter's release.²⁰⁹ The Chamber takes also heed of the fact that nearly 80% of the territory of the CAR is still under the control of armed groups, including the Anti-Balaka.²¹⁰ Furthermore, Ngaïssona remains a key Anti-Balaka figure, in addition to being a former minister, founder and President of a political party and successful businessman.²¹¹ This information renders Ngaïssona's voluntary surrender implausible and establishes that he could be in a position to reach, intimidate, or harm (potential) witnesses, their families or other individuals cooperating with the Court. It also demonstrates Ngaïssona's willingness to continue committing related crimes within the jurisdiction of the Court arising from the circumstances described in this warrant of arrest and, therefore, there is a need to prevent him from doing so. In light of the foregoing, the Chamber deems the issuance of a warrant of arrest necessary.

IV. Classification and Other Requests

23. For the reasons provided in the Application, the Chamber is satisfied that making it public at this stage could prevent or significantly impede the execution of the present warrant of arrest. Therefore, the Chamber accepts the classification proposed by the Prosecutor for the Application and also retains the classification of the present warrant of arrest, as under seal, *ex parte* Prosecutor only, pursuant to regulation 23*bis* of the Regulations of the Court. The Chamber authorises the Prosecutor and the Registry to communicate this warrant of arrest to any State or international organisation, or, as the case may be, to reveal its existence, for the purposes of its execution. However, the Chamber is of the view that once Ngaïssona is transferred to the Court, this warrant of arrest will have to be made public, with the necessary redactions, as the case may be.

24. [REDACTED],²¹² [REDACTED].

²⁰⁸ CAR-OTP-2074-2335 at 2352-2353, lines 580-584; CAR-OTP-2023-2935 from [00:00:00] to [00:07:55]; CAR-OTP-2032-0071 at 0071.

²⁰⁹ CAR-OTP-2072-1814 at 1818-1819, lines 126-180; CAR-OTP-2030-0460 at 0461-0462.

²¹⁰ CAR-OTP-2084-1827 at 1827.

²¹¹ CAR-OTP-2072-1715 at 1733, lines 613-634; CAR-OTP-2027-2290 at 2299, 2304, paras 55, 86; CAR-OTP-2046-0603 at 0615, paras 72-73; CAR-OTP-2023-2920 from [00:00:39] to [00:01:04].

²¹² ICC-01/14-18-US-Exp, para. 356.

FOR THESE REASONS, THE CHAMBER HEREBY

ISSUES a warrant of arrest for Patrice-Edouard Ngaissona, a national of the CAR (passport number D00001388), born on 30 June 1967 in Begoua, the CAR, for his alleged criminal responsibility pursuant to article 25(3)(a) and (c) of the Statute for: (attempted) murder (articles 7(1)(a) and 25(3)(f) of the Statute), extermination (article 7(1)(b) of the Statute), deportation or forcible transfer of population (article 7(1)(d) of the Statute), imprisonment or other severe deprivation of physical liberty (article 7(1)(e) of the Statute), torture (article 7(1)(f) of the Statute), persecution (article 7(1)(h) of the Statute), enforced disappearance (article 7(1)(i) of the Statute) and other inhumane acts (article 7(1)(k) of the Statute) as crimes against humanity; and (attempted) murder (articles 8(2)(c)(i) and 25(3)(f) of the Statute), torture (article 8(2)(c)(i) of the Statute), cruel treatment (article 8(2)(c)(i) of the Statute), mutilation (articles 8(2)(c)(i) and/or 8(2)(e)(xi) of the Statute), intentionally directing an attack against the civilian population (article 8(2)(e)(i) of the Statute), intentionally directing an attack against personnel, installations, material, units or vehicles involved in a humanitarian assistance (article 8(2)(e)(iii) of the Statute), intentionally directing an attack against buildings dedicated to religion (article 8(2)(e)(iv) of the Statute), pillaging (article 8(2)(e)(v) of the Statute), enlistment of children under the age of 15 years and their use to participate actively in hostilities (article 8(2)(e)(vii) of the Statute), displacement of the civilian population (article 8(2)(e)(viii) of the Statute) and destroying or seizing the property of an adversary (article 8(2)(e)(xii) of the Statute) as war crimes, committed in various locations in the CAR, including Bangui, Bossangoa, the Lobaye Prefecture, Yaloké, Gaga, Bossemptélé, Boda, Carnot and Berberati, between at least 5 December 2013 and at least December 2014,²¹³ as set forth in this warrant of arrest;

DECIDES that the warrant of arrest, currently classified under seal, *ex parte* Prosecutor only, may be communicated, or its existence be revealed, to any State or

²¹³ The Chamber notes that the evidence indicates that some of the crimes described in this warrant of arrest appear to extend beyond the relevant time period for the contextual elements of crimes against humanity and war crimes as indicated by the Prosecutor, namely December 2014. Should the Office of the Prosecutor wish to do so, it may present further evidence demonstrating that crimes continuing after December 2014 still fall within that context.

international organisation for the purposes of its execution and the existence of the Prosecutor's Application be mentioned;

DECIDES that, as soon as practicable, the Registrar shall: (i) prepare a request for cooperation seeking the arrest and surrender of Ngaïssona and containing the information and documents required by articles 89(1) and 91 of the Statute and rule 187 of the Rules of Procedure and Evidence; and (ii) transmit, in consultation and coordination with the Prosecutor, the request to the competent authorities of any relevant State, or to any international organisation, in accordance with article 87 of the Statute, to cooperate with the Court for the purpose of executing the request for arrest and surrender of Ngaïssona;

DECIDES that, when transmitting the request for arrest and surrender to the relevant national authorities, the Registrar shall request them, in accordance with articles 93(1) and 99(1) of the Statute, to restrict, as far as possible under their national law, the contacts of Ngaïssona while detained on their territory, pending his surrender to the Court;

DIRECTS the Registrar to prepare and transmit to any relevant State any request for transit pursuant to article 89(3) of the Statute or any request for provisional arrest pursuant to article 92 of the Statute which may be necessary for the surrender of Ngaïssona to the Court;

ORDERS the Office of the Prosecutor to transmit to the Registry all information available to it that may be of assistance in the execution of the request for arrest and surrender as well as any information of relevance to assessing any risks to victims and witnesses associated with the transmission of the request for arrest and surrender;

DIRECTS the Registrar to prepare and transmit to the relevant national authorities of the arresting State a request for cooperation [REDACTED];

ORDERS the Registrar to prepare, as soon as practicable, a French translation of the present warrant of arrest for the purpose of transmitting it to the relevant national authorities;

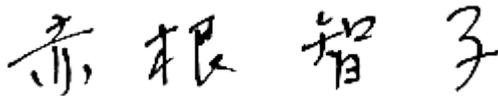
ORDERS the Registrar to register the warrant of arrest in the record of the situation and to open a case record and transfer first the Prosecutor's application (ICC-01/14-18-US-Exp) from the situation record into the case record once the suspect has been arrested and surrendered to the Court; and

ORDERS the Prosecutor, within three days of the issuance of the present warrant of arrest, to inform the Chamber whether this warrant may be made public without redactions or, alternatively, which redactions, according to the Prosecutor, should be applied to the warrant when it is made public.

Done in both English and French, the English version being authoritative.



**Judge Antoine Kesia-Mbe Mindua,
Presiding Judge**



Judge Tomoko Akane



Judge Rosario Salvatore Aitala

Dated this Thursday, 13 December 2018

At The Hague, The Netherlands