

**NON-AUTHORITATIVE SUMMARY OF THE DECISION ON THE
CONFIRMATION OF CHARGES**

The Prosecutor v. Alfred Rombhot Yekatom and Patrice-Edouard Ngaïssona

This summary of the ‘Decision on the confirmation of charges against Alfred Yekatom and Patrice-Edouard Ngaïssona’ is not part of the written decision, which is the only authoritative account of the Pre-Trial Chamber’s ruling and reasons.

1. Today, 11 December 2019, Pre-Trial Chamber II of the International Criminal Court – composed of Judge Antoine Kesia-Mbe Mindua, Presiding; Judge Tomoko Akane; and Judge Rosario Salvatore Aitala – unanimously issued a decision pursuant to article 61(7) of the Rome Statute partially confirming the charges of war crimes and crimes against humanity brought by the Prosecutor against Alfred Rombhot Yekatom and Patrice-Edouard Ngaïssona and committed them for trial before a Trial Chamber. In view of ensuring the publicity of the Court’s proceedings, without endangering victims and witnesses, the Chamber has temporarily released its decision in confidential form and will publish a public redacted version shortly.

2. Both suspects are nationals of the Central African Republic (‘CAR’) and are currently detained at the seat of the Court; Yekatom was surrendered to the Court by the authorities of the CAR on 17 November 2018 and Ngaïssona by the French authorities on 23 January 2019.

3. The Prosecutor has charged Yekatom and Ngaïssona with crimes against humanity and war crimes, allegedly committed between September 2013 and December 2014 on the western territory of the CAR. Yekatom was charged with crimes against humanity and war crimes allegedly committed in the following locations: (i) Bangui (including Cattin) and Boeing; (ii) Yamwara School (Boeing); and (iii) PK9-Mbaïki Axis (Lobaye Prefecture). Ngaïssona was charged with crimes against humanity and war crimes allegedly committed in the following locations: (i) Bangui (including Cattin) and Boeing; (ii) Yamwara School (Boeing); (iii) PK9-Mbaïki Axis (Lobaye Prefecture); (iv) Boeing Muslim Cemetery; (v) Bossangoa; (vi) Yaloké, Gaga and Zawa; (vii) Bossemtélé; (viii) Boda; (ix) Carnot; (x) Berbérati; (xi) Guen and one other location which remains confidential for reasons of protection of the witnesses and victims. Both were charged with the war crime of enlisting

children under the age of 15 years and using them in hostilities, allegedly committed in various locations in the CAR from at least December 2013 through August 2014.

4. The Chamber rendered its decision based on the evidence submitted by the parties, the observations presented by the parties and legal representatives of victims during the hearing on the confirmation of charges (held from 19 September 2019 to 11 October 2019), as well as their written submissions.

5. While the Prosecutor's case was based on the allegation that Ngaïssona and Yekatom committed the alleged crimes as members of two common plans, the Chamber has addressed the individual criminal responsibility of the suspects by looking at their alleged contribution to each of the charged incidents. The Chamber has assessed whether the evidence establishes a link between the factual allegations as charged by the Prosecutor and the suspects and therefore determined whether there are substantial grounds to believe that the suspects committed the crimes charged. Whenever the evidence did not allow for the establishment of such link, the Chamber declined to confirm the charges and did not enter any factual findings in respect of the corresponding incidents.

6. The Chamber has decided that the evidence submitted is sufficient to establish substantial grounds to believe that between September 2013 and December 2014 an armed conflict not of an international character was ongoing in the territory of the CAR between the Seleka and the Anti-Balaka, both constituting at the time organised armed groups; and that the Anti-Balaka carried out a widespread attack against the Muslim civilian population, perceived – on the basis of their religious or ethnic affiliation – as complicit with, or supportive of the Seleka and therefore collectively responsible for the crimes allegedly committed by them.

7. Based on the evidence submitted, the Chamber has made the following findings, confirming the corresponding charges:

- ***Bangui (including Cattin) and Boeing.*** In the early morning hours of 5 December 2013, Anti-Balaka elements led by Yekatom attacked the Boeing market in Bangui, specifically targeting the shops owned by Muslims and killing between five and thirteen Muslim shop owners, as well as a woman. They then proceeded to Cattin, where they killed four Muslims. By 20 December 2013, they had also destroyed the Boeing Mosque, upon Yekatom's orders. Following the 5 December 2013 attack, nearly all the Muslim residents of Boeing and Cattin fled, whether to other neighbourhoods in Bangui, other parts of the CAR or neighbouring

countries. The Chamber therefore found that there are substantial grounds to believe that the crimes against humanity and the war crimes of intentionally directing an attack against the civilian population, murder, intentionally directing an attack against a building dedicated to religion, deportation or forcible transfer of population and displacement of the civilian population and persecution were committed. The Chamber also found that there are substantial grounds to believe that Yekatom has committed the crimes in these locations jointly with others or through other persons or, in the alternative, has ordered the commission of these crimes; and that Ngaïssona aided, abetted or otherwise assisted in their commission or, in the alternative, has contributed in any other way to their commission by a group of persons acting with a common purpose.

- **Bossangoa.** On 5 December 2013, two Anti-Balaka groups carried out an attack on Bossangoa, targeting Muslim civilians and killing 28 persons who were unarmed or not taking part in hostilities; one woman was also raped in the course of the attack. In the days following these events, the Anti-Balaka pillaged, looted and eventually destroyed the houses of Muslims as well as Bossangoa's central mosque. As a result, the local Muslims fled and sought shelter at the *École de la Liberté*, where – in the days following the attack – their number rose into the thousands and where they remained until their evacuation, mainly to Chad, in February and April 2014. The Chamber therefore found that there are substantial grounds to believe that the crimes against humanity and the war crimes of intentionally directing an attack against the civilian population, murder, rape, intentionally destroying or seizing the property of an adversary, pillaging, intentionally directing an attack against a building dedicated to religion, deportation or forcible transfer of population and displacement of the civilian population, severe deprivation of physical liberty and persecution, were committed. The Chamber found that there are substantial grounds to believe that Ngaïssona committed these crimes, according to the above modes of liability.

- **Yamwara School.** The facts and crimes that took place in the Yamwara School must remain confidential for reasons of protection of the witnesses and the victims. The Chamber found that there are substantial grounds to believe that the crimes charged by the Prosecutor in connection with this incident were committed; and that Yekatom and Ngaïssona have committed these crimes, according to the above modes of liability.

- ***PK9-Mbaïki Axis.*** Following the 5 December 2013 attack on Bangui, Yekatom's Anti-Balaka group advanced through and took over numerous villages in the Lobaye Prefecture on or around early to mid-January 2014, setting up various checkpoints in the region and establishing a base at PK9. Fearing attacks by the Anti-Balaka, Muslims from the Lobaye Prefecture fled their villages, primarily to Mbaïki. Around early February 2014, the Anti-Balaka reached Mbaïki, where they harassed, insulted and threatened the Muslims, forcing them to leave the area. The Muslims from Mbaïki were thereafter evacuated to Chad or other locations in the CAR. Following the evacuation, a number of individuals including Anti-Balaka elements chased and killed one of the few remaining Muslim men. The Chamber therefore found that there are substantial grounds to believe that the crimes against humanity and the war crimes of murder, deportation or forcible transfer of population and displacement of the civilian population and persecution were committed; and that Yekatom and Ngaïssona have committed these crimes, according to the above modes of liability.

- ***Conscription, enlistment and use of children under the age of 15.*** Between December 2013 and August 2014, children under the age of 15 were present within the ranks of the Anti-Balaka, including in Yekatom's group, in several locations including the Yamwara School base, the Sekia base, and Pissa. Children who had joined the Anti-Balaka, voluntarily or forcibly, were given the roles of messengers or spies; sent to operate checkpoints; and mobilised to participate in attacks. The children were also subjected to physical and mental violence by Anti-Balaka elements and were given drugs. In light of the above, the Chamber found substantial grounds to believe that the war crimes of conscripting, enlisting, and using children under the age of 15 years to participate actively in hostilities were committed; and that Yekatom has committed these crimes, according to the above modes of liability. To the contrary, the Chamber has concluded that the evidence adduced by the Prosecutor is insufficient to establish a link between the facts and Ngaïssona and therefore has not committed him for trial for these charges.

8. As to the remaining incidents, the Chamber found that the evidence submitted by the Prosecutor neither allowed to establish a link between Ngaïssona and the Anti-Balaka elements present and active in the concerned locations, nor to conclude that those Anti-Balaka groups, operating in areas distant from Bangui, were under the effective control of Ngaïssona. The available evidence rather shows that, while these groups were formally and politically under the umbrella of the National Coordination, they retained a high degree of

operational autonomy and Ngaïssona had limited, if any, knowledge and control over their criminal actions. Accordingly, the Chamber found that the evidence is insufficient to establish substantial grounds to believe that Ngaïssona has committed the crimes allegedly committed in (i) Boeing Muslim Cemetery; (ii) Yaloké, Gaga and Zawa; (iii) Bossemtélé; (iv) Boda; (v) Carnot; (vi) Berbérati; (vii) Guen and one other location which remains confidential for reasons of protection of the witnesses and victims; and subsequently declined to confirm the charges relating to these locations.

9. The Chamber has decided to suspend *motu proprio* the time limit for filing an application for leave to appeal until the decision's translation into French is submitted by the Registry in the record of the case.

10. The Chamber recalls that the decision on the confirmation of the charges only serves to determine whether the Prosecutor's case should proceed to trial, that it does not establish the guilt of the accused and that everyone shall be presumed innocent until proved guilty beyond reasonable doubt before the Court. Subject to the exercise by the parties of their right to request leave to appeal this decision, the Presidency of the ICC will constitute a Trial Chamber in due course.