

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: **ICC-01/14-01/18**

Date: **1 November 2022**

TRIAL CHAMBER V

**Before: Judge Bertram Schmitt, Presiding Judge
Judge Péter Kovács
Judge Chang-ho Chung**

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II
IN THE CASE OF *PROSECUTOR v. ALFRED YEKATOM AND PATRICE-
EDOUARD NGAÏSSONA***

Public

**Public redacted version of "Prosecution's Application for Submission of Yahoo
Email Evidence from the Bar Table Pursuant to Article 64(9)",
ICC-01/14-01/18-1450-Conf, 9 June 2022**

Source: Office of the Prosecutor

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

The Office of the Prosecutor

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

Counsel for Alfred Yekatom

Ms Mylène Dimitri
Mr Thomas Hannis
Ms Anta Guissé

Counsel for Patrice-Edouard Ngaïssona

Mr Geert-Jan Alexander Knoops
Mr Richard Landry Omissé-Namkeamaï
Ms Marie-Hélène Proulx

Legal Representatives of Victims

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

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

States Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Mr Nigel Verrill

Detention Section

**Victims Participation and Reparations
Section**

Other

I. INTRODUCTION

1. Pursuant to the Initial Decision on the Conduct of Proceedings¹ and in accordance with articles 64(9)(a) and 69(2)-(4), the Office of the Prosecutor (“Prosecution”) requests Trial Chamber V (“Chamber”) to recognise as formally submitted 306 items of evidence from the bar table. These items comprise material obtained primarily from six Yahoo email accounts (“Yahoo email evidence”).

2. The Yahoo email evidence *prima facie* satisfies the criteria for submission. It is relevant to material issues at trial, mutually corroborative of other Prosecution evidence, and bears sufficient indicia of reliability.

3. Recognising the formal submission of this evidence now will enable the Chamber to better understand and contextualise other evidence in the case, and ultimately assist in determining the truth. Moreover, it will also ensure an expeditious trial by streamlining the presentation of evidence, saving valuable Court resources and time.

4. For each of these 307 items, Confidential Annex A to this filing lists their: (i) evidence registration number (“ERN”); (ii) type;² (iii) title;³ (iv) main date;⁴ (v) relevance and probative value; and (vi) the date of disclosure.⁵ For the sake of coherence and completeness, Annex A includes an additional 76 items from the Yahoo email evidence collection that the Chamber has already deemed submitted, as well as

¹ ICC-01/14-01/18-631, paras. 61-62 (“Directions”).

² The ‘type’ is a metadata field populated by Prosecution staff when evidence is registered in Ringtail. This field is reproduced in Annex A as it appears in eCourt.

³ The ‘title’ is a metadata field populated by Prosecution staff when evidence is registered in Ringtail. It contains the information available on the face of the item. On occasion, when the title is not readily apparent, there is no information inserted into the ‘title’ field, resulting in a blank entry. This field is reproduced in Annex A as it appears in eCourt.

⁴ The ‘main date’ is a metadata field populated by Prosecution staff when evidence is registered in Ringtail. It is the date of creation or production of the item, the date on the item, or the date for which the item bears relevance. On occasion, when the main date is not readily apparent, there is no information inserted into the ‘main date’ field, resulting in a blank entry. This field is reproduced in Annex A as it appears in eCourt.

⁵ This column gives the date of disclosure in the form: date/month/year. It also includes the disclosure ‘package’ in which the item was disclosed to the Defence.

another six items for which a decision on submission is pending. These items are referenced in this motion to provide the Chamber with a complete narrative to evaluate the documents tendered. The “submission status” column in Annex A indicates whether an item is “submitted herein”, or has been “submitted in Court (decision pending),” or “deemed submitted.”

II. CONFIDENTIALITY

5. Pursuant to regulation 23*bis*(1) of the Regulations of the Court (“RoC”), the Prosecution files this submission as ‘*Confidential*’ because it contains confidential information regarding Prosecution evidence, and refers to confidential filings. A public redacted version will be filed as soon as practicable.

III. SUBMISSIONS

6. The Yahoo email evidence is relevant to the issues at trial, has significant probative value, and does not unfairly prejudice the Accused. The relevance and probative value of the six Yahoo email accounts is discussed in turn below. Per the Chamber’s Directions,⁶ the Prosecution has inquired whether the Defence consents or objects to the items in the Annex. Apart from the YEKATOM Defence’s objection to one NGO report attached to an email,⁷ neither Defence team otherwise objects to the submission of the Yahoo email evidence.

A. Background to the Yahoo email evidence

7. The Yahoo email evidence was obtained through official Requests for Assistance (“RFA”) made to the competent Irish authorities between 2018 and 2020.⁸ These were

⁶ ICC-01/14-01/18-631, para. 62.

⁷ CAR-OTP-2124-0605. Email communications available upon request.

⁸ CAR-OTP-2122-9516 (IRL-12); CAR-OTP-2122-9509 (IRL-11); CAR-OTP-2122-9494 and its annexes CAR-OTP-2080-1508 and CAR-OTP-2080-1529 (IRL-8); CAR-OTP-2127-8509 (IRL-14).

executed pursuant to the relevant domestic legal procedures,⁹ and provided by the Irish authorities accordingly.¹⁰ The 307 items comprising the Yahoo email evidence were included on the Prosecution's 9 November 2020 List of Evidence,¹¹ and/or subsequently added to the List of Evidence with the Chamber's permission.¹²

B. The Yahoo email evidence is relevant to the issues at trial

8. The Yahoo email evidence comes from six accounts belonging to NGAISSONA, Léopold Narcisse BARA ("BARA"), Joachim KOKATE ("KOKATE"), Charles NGREMANGOU ("NGREMANGOU"), [REDACTED], and an Anti-Balaka group account run by Alfred NGAYA ("NGAYA").

9. The Yahoo email evidence is directly relevant to issues at trial including NGAISSONA's individual criminal responsibility, and would assist the Chamber in determining the truth.¹³ The emails provide details of NGAISSONA's culpable contributions, including: (i) taking steps to structure the Anti-Balaka; (ii) financing the Anti-Balaka; (iii) issuing instructions to Anti-Balaka members; and (iv) liaising with Anti-Balaka members exercising key functions.¹⁴

a. Patrice-Edouard NGAISSONA: [REDACTED]

10. As detailed in the Prosecution's previous request to add six Yahoo email threads to the list of evidence ("Request for Leave")¹⁵, the emails from NGAISSONA's account are highly relevant. They show NGAISSONA's intention contribute to the crimes

⁹ See, e.g. CAR-OTP-2084-0022, CAR-OTP-2084-0023, CAR-OTP-2084-0024; CAR-OTP-2124-0083; CAR-OTP-2124-0084; CAR-OTP-2080-1500; CAR-OTP-2084-0022; CAR-OTP-2084-0023; CAR-OTP-2084-0024; CAR-OTP-2126-2378; CAR-OTP-2083-0748

¹⁰ CAR-OTP-2124-0076; CAR-OTP-2122-9508; CAR-OTP-2126-2375; CAR-OTP-2130-4259; CAR-OTP-2130-4260; CAR-OTP-2130-4263.

¹¹ ICC-01/14-01/18-724-Conf-AnxC.

¹² ICC-01/14-01/18-989-Conf; ICC-01/14-01/18-T-073-Red-ENG WT, p. 2, l. 22-p. 4, ln. 25.

¹³ See ICC-01/04-01/06-1398-Conf, para. 20.

¹⁴ ICC-01/14-01/18-723-Red at paras. 250-291.

¹⁵ ICC-01/14-01/18-958-Conf, paras. 8-26.

charged, and his communication with various Anti-Balaka members and supporters and the relevant time(s). Further, they contain information related to the crimes committed by the Anti-Balaka, their preparation, and their consequences.

11. Emails from NGAISSONA's and [REDACTED] accounts obtained pursuant to the RFA OTP/CAR2/IRL-14/TL/JCCD-cdpt ("IRL-14") bear on NGAISSONA's involvement in: (i) May 2013 planning meetings in CAMEROON with BOZIZE, KOKATE, Levi YAKETE ("YAKETE"), and others; (ii) a strategic plan in June 2013 to mobilise the youth in BANGUI; (iii) contacting former President François BOZIZE ("BOZIZE") in July 2013 to obtain money and resources for mobilising BOZIZE supporters on the ground in BANGUI; (iv) *le Front pour le Retour à l'Ordre Constitutionnel en Centrafrique* ("FROCCA"); (v) discussing and planning military operations in the Provinces and BANGUI; and (vi) financial transactions between BANGUI and DOUALA.¹⁶

(i) May 2013 Planning Meeting in CAMEROON

12. NGAISSONA's involvement in the CAMEROON planning meetings are discussed in emails from May 2013. In an email titled "BONNE COORDINATION" sent on 10 May 2013 from Thierry BONGOLO ("BONGOLO") to NGAISSONA, YAKETE, and KOKATE,¹⁷ BONGOLO refers to sending publication codes to YAKETE in YAOUNDE, and says he hopes to come to join them there on 13 May 2013 for a week "...*afin de travailler ensemble sur notre stratégie...*".¹⁸ BONGOLO confirms the youth of DOUALA are under his control, and refers to coordinating messaging with "the prophet" and "the VIP" (aliases for BOZIZE),¹⁹ as well as to NGAISSONA and

¹⁶ ICC-01/14-01/18-958-Conf, paras. 8-26; *See also* corroborating emails CAR-OTP-2124-0901 and CAR-OTP-2124-0903 at 0904.

¹⁷ CAR-OTP-2130-3466.

¹⁸ CAR-OTP-2130-3466 at 3466.

¹⁹ *See, e.g.*, CAR-OTP-2103-3293, at 3392; CAR-OTP-2103-3870, at 3873; CAR-OTP-2103-3964, at 3965.

KOKATE already being there.²⁰ NGAISSONA's continued presence in CAMEROON in June 2013 is corroborated by other email and witness evidence.²¹

(ii) June 2013 Plan to Rally the Youth in BANGUI

13. NGAISSONA corresponded with Dieudonné DOUNIA-NGABA ("DOUNIA-NGABA") in late June 2013 about a strategic action plan to rally the youth in BANGUI. On 21 June 2013, NGABA emailed NGAISSONA, addressing him "*Monsieur le Président*" and with the subject "*Liste et plan d'action (Ngaba, Nestor Samson et Majesté)*".²² The email attached a list of people²³ that NGAISSONA asked for and outlines a six point plan of action, including to: (1) identify leaders in BANGUI's eight arrondissements and putting in place a Coordination; (2) establish a committee to help, *inter alia*, draft leaflets; (3) organise three days of concerts; (4) prepare parents of students for the loss of one academic year; (5) "*[p]rovoquer une ville morte*"; and (6) create an uproar on media including RFI and BBC.²⁴ NGABA also requested the means to implement this plan of action.²⁵ NGAISSONA responded the next day, asking for the addition of two names to the list,²⁶ which NGABA promptly provided two days later on 24 June 2013.²⁷

14. Also on 24 June 2013, NGABA sent another email to NGAISSONA, attaching a "*plan strategique*"²⁸ including the action plan initially proposed with more detail on the strategies, techniques, and means to implement this plan, including: "*[c]réer une psychose parmi les élèves*", and using telephone, emails and SMS to do so.²⁹ On the same day, NGABA sent a separate email to NGAISSONA, asking him to confirm receipt of

²⁰ CAR-OTP-2130-3466 at 3466.

²¹ CAR-OTP-2130-3372; T-073-CONF-ENG ET, p. 28, l. 10 to p. 29, l. 4.

²² CAR-OTP-2130-3493 at 3493.

²³ CAR-OTP-2130-3490 (attaching CAR-OTP-2130-3406).

²⁴ CAR-OTP-2130-3493 at 3493.

²⁵ CAR-OTP-2130-3493 at 3493.

²⁶ CAR-OTP-2130-3493 at 3493.

²⁷ CAR-OTP-2130-3496 at 3496 (attaching CAR-OTP-2130-3407).

²⁸ CAR-OTP-2130-3497 at 3497 (attaching CAR-OTP-2130-3408).

²⁹ CAR-OTP-2130-3408 at 3408.

the documents.³⁰ NGAISSONA confirmed receipt on the same day, asking for time to reflect, and indicating that he will revert to NGABA.³¹ On the following day, 25 June 2013, NGABA informed NGAISSONA that these people (likely referencing the Seleka) are still killing on a daily basis. NGABA added that: “[n]ous vivons la loi du jungle et hier il a fait de 6 soldats Généraux” (likely referring to Michel DJOTODIA’s (“DJOTODIA”) promotion of military officials). NGABA further told NGAISSONA that they are waiting for means to engage in sabotage to grab the attention of the population who await a leader and instructions (“qui attend un leader et mot d’ordre”).³²

(iii) July – September 2013 strategy to return BOZIZE to power, including contacting BOZIZE to obtain money and resources for mobilising supporters

15. NGAISSONA’s involvement in strategising BOZIZE’s return to power is discussed in emails from July through September. Late on the evening of 16 July 2013, Alfred Legrand NGAYA (“NGAYA”) sends NGAISSONA an attachment “PV CNP-RBOZ.doc” (dated, 9 April 2013) addressing NGAISSONA “Bonsoir Excellence” and discussing the composition of the “Coordination National des patriotes pour le retour au pouvoir du président BOZIZE” (“CNP-RBOZ”),³³ put in place to mobilise the population in the face of the Seleka’s exactions, with the ultimate goal of returning BOZIZE to power.³⁴ Noting that the Coordination lacks resources, NGAYA asked NGAISSONA “...s’il est possible qu’on attende de votre côté ces moyens d’actions?”. NGAYA also noted that the population in BANGUI was ready to take to the streets to protest, and that NGAISSONA would be capable of presenting the situation to BOZIZE so that arrangements could be made.³⁵ NGAISSONA promptly forwarded this message and attachment to BOZIZE’s aide-de-camp Vincent WAPOUNABA,³⁶ and confirmed to

³⁰ CAR-OTP-2130-3501 at 3501.

³¹ CAR-OTP-2130-3501 at 3501.

³² CAR-OTP-2130-3505 at 3505.

³³ CAR-OTP-2130-3291 at 3292.

³⁴ CAR-OTP-2130-3291 at 3291.

³⁵ CAR-OTP-2130-3291 at 3291.

³⁶ CAR-OTP-2130-3291 at 3291.

NGAYA: "... Bien reçu les documents et j'ai transféré au BOSS pour toute fin utile..."³⁷
 Here, "BOSS" is a clear reference to BOZIZE. NGAISSONA forwards the body of this 16 July 2013 email to [REDACTED] (P-2625) on 13 August 2013.³⁸ It also forms part of an email chain from NGAYA to which NGAISSONA responded on 17 September 2013,³⁹ and to which NGAYA replied on the same day, asking for further instructions.⁴⁰

(iv) August - October 2013 financial transfers to NGAISSONA in CAMEROON

16. NGAISSONA's involvement in financial transactions related to the Anti-Balaka is supported by several emails. On 13 August 2013, Gastien Bertrand KOLIOS ("KOLIOS") emailed NGAISSONA, mentioning "*le combat quotidien*" and that "...c'est vraiment les Gbaya qui sont devenus les détracteurs des gbaya mais Dieu merci on ne déplore pas encore un cas de décès ou d'enlèvements dans nos rangs", and then mentioned his intention to go to ZONGO, DRC the following week.⁴¹ Two days later, KOLIOS emailed NGAISSONA to warn him about giving out the name of their person who should do the operation, for fear of exposure. KOLIOS stated that there were too many traitors among them.⁴² NGAISSONA replied on the same day:

"OUI je sais que les gens parlent beaucoup, mais qu'il [sic] faut nous envoyer les noms par ce que c'est vie [sic] de tout le monde - pour moi je sais qui j'appelle pas des inconnus".⁴³

In a 22 August 2013 email follow up addressing NGAISSONA as "*grand chef*", KOLIOS informed him that:

³⁷ CAR-OTP-2130-3294 at 3294.

³⁸ CAR-OTP-2124-0004 at 0005.

³⁹ CAR-OTP-2124-0788 at 0788.

⁴⁰ CAR-OTP-2124-0789 at 0789.

⁴¹ CAR-OTP-2130-3279 at 3281.

⁴² CAR-OTP-2130-3279 at 3279.

⁴³ CAR-OTP-2130-3279 at 3279.

“ ... de notre coté c’est très chaud après les derniers événements, suis maintenant sur le point de m’en aller j’attends juste mon guide pour partir.... suis très déçu de certains frères qui continuent de jouer avec la vie des autres.”⁴⁴

17. On 7 September 2013, NGAISSONA emailed Celestin YANINDJI, the First Vice President of the Central African Football Federation (“CAF”) and the Director General of Ecobank in BANGUI, with the subject “*urgence*”, asking him to transfer NGAISSONA 4,000,000 FCFA,⁴⁵ to which YANINDJI responded on 13 September 2013 by sending NGAISSONA 2.5 million FCFA from BANGUI to CAMEROON.⁴⁶ The transfer is made into the same account of “WEYA FILS Oscar Fabien” into which NGAISSONA had KOLIOS deposit funds in August 2013.⁴⁷ In additional responses to the same email thread, KOLIOS discusses his contacts in ZONGO and NGAISSONA provides him with an additional phone number.⁴⁸

18. In correspondence with FIFA in late September through early October 2013, NGAISSONA confirmed his presence in DOUALA on 21 September 2013, while FIFA indicated they could send NGAISSONA 20,000 USD for “personal support”.⁴⁹

(iv) July 2013 – September 2013 NGAISSONA’s involvement in FROCCA

19. Several emails confirm NGAISSONA’s involvement in FROCCA from the end of July 2013 onward.

20. On 31 July 2013, NGAYA wrote to NGAISSONA, addressing him “*Bonjour Excellence,*” and asked for a proposed date so that they can plan the popular insurrection action in BANGUI, while taking into account the start of the military

⁴⁴ CAR-OTP-2130-3282 at 3282.

⁴⁵ CAR-OTP-2124-0987 at 0987.

⁴⁶ CAR-OTP-2124-0724 at 0724; CAR-OTP-2124-0552 at 0552.

⁴⁷ See CAR-OTP-2130-3279 at 3280; CAR-OTP-2124-0552 at 0552.

⁴⁸ Compare CAR-OTP-2124-0785 with CAR-OTP-2130-3276; CAR-OTP-2130-3279; and CAR-OTP-2130-3282.

⁴⁹ CAR-OTP-2124-0886

operations that NGAISSONA and others will engage. NGAYA suggested that if the military operations start in the Provinces, they should wait on the insurrection in BANGUI until the military operations start in BANGUI too. He indicated that he is awaiting NGAISSONA's proposals: "*[n]ous attendons vos propositions afin de nous organiser en conséquence.*"⁵⁰ NGAISSONA replied on the same day saying he will revert soon with suggestions,⁵¹ which he did two days later, on 2 August 2013. In his reply, NGAISSONA informed NGAYA that he will soon have information on the operations, and that they should keep contact during the day.⁵² On 3 August 2013, NGAISSONA informed NGAYA of FROCCA's creation, and that steps had been taken to be able to act quickly. NGAISSONA asked NGAYA to urgently take up contact with the leaders of the associations with which they can collaborate.⁵³

21. On the next day, 4 August 2013, NGAYA replied to NGAISSONA, saying that the name "FROCCA" was in line with what he had suggested, and that he adopts FROCCA's name, which he will present to his teammates who will be obliged to do the same. NGAYA stated that he will contact the leaders of associations, as NGAISSONA wishes. NGAYA also asked NGAISSONA for money, so the process can go smoother, and indicated that he will keep NGAISSONA informed about their next consultation.⁵⁴ On 5 August 2013, NGAYA sent another message to NGAISSONA, titled "strategic questions", asking NGAISSONA to suggest some names of leaders of associations. NGAYA says he is contacting them, but added that: "*...c'est délicat tel que vous le savez, j'attends donc votre réaction.*"⁵⁵

⁵⁰ CAR-OTP-2130-3296 at 3296.

⁵¹ CAR-OTP-2130-3296 at 3296.

⁵² CAR-OTP-2130-3297 at 3297.

⁵³ CAR-OTP-2130-3299 at 3299.

⁵⁴ CAR-OTP-2130-3298 at 3298.

⁵⁵ CAR-OTP-2130-3300 at 3300.

22. On 17 September 2013, NGAISSONA followed up with NGAYA in this same email chain, asking for news.⁵⁶ NGAYA responded on the same day that he was awaiting indications from NGAISSONA concerning FROCCA action steps:

“Je reste encore préoccupé, notamment en ce qui concerne les lignes d’action du FROCCA, pour nous permettre d’envisager des actions au plan national, même si cela s’avère difficile. J’espère que vous pourriez me donner quelques indications, surtout en terme d’actions à proposer.”⁵⁷

This response shows NGAISSONA’s involvement in FROCCA.

23. Two days later, on 19 September 2013, NGAISSONA informed NGYA that they have men manoeuvring on the ground, asking him to increase the “*degradation*” of the situation in Bangui, and to contribute workers from both the public and private sector to that end.⁵⁸ In his 21 September 2013 reply, NGAYA indicated that living conditions are difficult and that he would examine NGAISSONA’s proposals to find appropriate actions to take. On the next day, NGAISSONA replied that time was short, and asked for the ‘*éléments de réponses*’ as soon as possible, as the “*Grand BOSS*” awaits, again referring to BOZIZE.⁵⁹

24. Within a few of days, on 24 September 2013, a yahoo user sent NGAISSONA an email titled “*projets pour examen*”.⁶⁰ It contains three attachments. The first, is the Protocol of Political Agreement for the Creation of FROCCA outlining its membership, purpose, objectives and strategy.⁶¹ The other attachments are lists of possible FROCCA activities in France and CAR, including: (i) a day of advocacy in Paris to emphasise Seleka crimes to the international community and support a rapid return to the so-called constitutional order,⁶² and (ii) a political action program for

⁵⁶ CAR-OTP-2124-0788 at 0788.

⁵⁷ CAR-OTP-2124-0823 at 0823; CAR-OTP-2124-0789 at 0789..

⁵⁸ CAR-OTP-2124-0823 at 0823.

⁵⁹ CAR-OTP-2124-0844 at 0844.

⁶⁰ CAR-OTP-2124-0851 at 0851.

⁶¹ CAR-OTP-2124-0852.

⁶² CAR-OTP-2124-0861.

CAR, including gaining control over the territory with the help of French and international forces, re-activating the public institutions such as hospitals, and setting up the political transition.⁶³ These documents show NGAISSONA's involvement in the planning and strategy of FROCCA, including an intention to gain control over the territory, months before the 5 December 2013 attacks on BANGUI and BOSSANGO.

(vi) October 2013 – July 2014 Anti-Balaka military operations and the armed conflict between the Seleka and the Anti-Balaka

25. Seven emails⁶⁴ dated 5 to 6 October 2013 include correspondence between NGAISSONA and [REDACTED], [REDACTED].⁶⁵ In particular, on 5 October 2013, [REDACTED] wrote to NGAISSONA addressing him as “*Président*”, requesting financial and material support for elements in ZONGO (“*...aux éléments qui sont de l’autre côté du fleuve...*”), and their coordination with elements from BANGUI and along the BOALI, BOGANGOLO, and BOZUM axis.⁶⁶ [REDACTED] complained that neither [REDACTED], who is in charge of BANGUI and PK 12, nor [REDACTED], who is in charge of the BOALI, BOGANGOLO, and BOZUM axis, have received support *as usual* (“*n’ont reçu aucun moyen comme d’habitude*”).⁶⁷ In the email, [REDACTED] explained that he was contacted to reach out to NGAISSONA, and that he could put NGAISSONA in touch with the lieutenants.⁶⁸ NGAISSONA responded the next day, 6 October 2013: “*Si ti peu [sic] m’envoyer leur numéros par sms pour une urgence ou sur adresse mail, merci bien de choses à toi*”.⁶⁹ Also on 6 October 2013,

⁶³ CAR-OTP-2124-0867.

⁶⁴ CAR-OTP-2130-3373; CAR-OTP-2130-3374; CAR-OTP-2130-3375; CAR-OTP-2130-3377; CAR-OTP-2130-3379; CAR-OTP-2130-3381; CAR-OTP-2130-3382. These seven items include several duplicates, with the only differences being a one hour difference in time stamps. For example, CAR-OTP-2130-3379 is the master in that it is the last reply on a chain containing CAR-OTP-2130-3377 and CAR-OTP-2130-3373. Similarly, CAR-OTP-2130-3381 is a reply to and contains the substance CAR-OTP-2130-3374, while CAR-OTP-2130-3382 is a reply to and contains the substance CAR-OTP-2130-3375. It is the Prosecution’s understanding that the one hour difference in time stamps is likely due to the sender and recipient being in adjacent time zones.

⁶⁵ [REDACTED].

⁶⁶ CAR-OTP-2130-3379 at 3379-3380.

⁶⁷ CAR-OTP-2130-3379 at 3379-3380.

⁶⁸ CAR-OTP-2130-3379 at 3380.

⁶⁹ CAR-OTP-2130-3379 at 3379.

[REDACTED] provided their phone numbers in several emails, and NGAISSONA confirms their receipt.⁷⁰

26. On the next day, 7 October 2013, [REDACTED] e-mailed NGAISSONA providing him the list of equipment, weapons, and ammunition [REDACTED].⁷¹ [REDACTED] discussed this list with [REDACTED] because they needed weapons to contribute to operations against the Seleka for the purpose of the final assault on BANGUI.⁷² On 12 October 2013, [REDACTED] e-mailed NGAISSONA with the list of equipment and weapons needed for the “*Zone Sud*” based in FATIMA-BIMBO-MONGOUMBA, and identifying [REDACTED] as the focal point of the group in *Zone Sud*.⁷³ On 13 October 2013, CDR show NGAISSONA called [REDACTED] on the number [REDACTED] provided.⁷⁴ On 15 October 2013, NGAISSONA forwarded this last email to [REDACTED],⁷⁵ who confirmed its receipt on 17 October 2013, and indicated that he will report on it immediately.⁷⁶ These emails are further corroborated by Call Detail Records (“CDR”), other emails, Facebook records, and witness testimony.⁷⁷

27. On 23 November 2013, DOUNIA-NGABA emailed NGAISSONA describing that the situation in the Central African Republic (“CAR”) is descending into hell, and that the situation in BOSSANGO is among the worst in the country. He states that Christians are still at the Catholic Church while the Muslims are living ‘happily’ in the BORO neighbourhood. DOUNIA-NGABA also says he will send NGAISSONA images from BOSSANGO if he would like them.⁷⁸

⁷⁰ CAR-OTP-2130-3379 at 3379; CAR-OTP-2130-3381 at 3381; CAR-OTP-2130-3382 at 3382.

⁷¹ CAR-OTP-2124-0899 at 0899.

⁷² [REDACTED].

⁷³ CAR-OTP-2124-0900 at 0900.

⁷⁴ Call from NGAISSONA [REDACTED] to [REDACTED], 13/10/2013, CAR-OTP-2112-1431, line 492.

⁷⁵ CAR-OTP-2124-0901 at 0901.

⁷⁶ CAR-OTP-2124-0903 at 0903; attachment at CAR-OTP-2124-0490.

⁷⁷ Request for Leave, paras. 19, 23-25, 28.

⁷⁸ CAR-OTP-2124-0938 at 0938.

28. On 4 December 2013, the eve of the attacks on BANGUI and BOSSANGO, addressing NGAISSONA as “*Excellence*”, DOUNIA-NGABA informed NGAISSONA of both Anti-Balaka and Seleka military operations and movements on the preceding day:

“...les anti-balaka ont tué quinze Séléka a Boali hier. Et les séléka de Bangui ont débarqué a Boali ou ils on récupéré les corps qu’ils sont allés présentés a la représentation de l’Union Européene a Bangui. Que nous preserve tous pour notre retrouvaille.”⁷⁹

This shows NGAISSONA was being kept up to date on Anti-Balaka military operations in the field in the lead up to the 5 December 2013 attacks.

29. The day after the 5 December 2013 attacks, a user from the account “[REDACTED]” forwarded NGAISSONA an email containing an attachment described as “*Très Très Très important de communiquer aujourd’hui*” with the title: “*Declaration du Port-Parole des FACA et des Nationalistes Anti-Balaka*”.⁸⁰ It is type-signed by “*Capitaine Charles NGREMANGOU, Porte-Parole*”. In sum, it comprises anti-Seleka and anti-Muslim propaganda, describing Seleka crimes and their imposing a “*guerre de religion*.” The declaration blames DJOTODIA as their leader, and complains about the lack of intervention from the international community. It requests the transfer of DJOTODIA and his lieutenants to the ICC,⁸¹ and speaks of the Seleka’s dissemination of powerful genocidal “*ingredients*” targeting Christians, as well as the nomination of foreign Muslims throughout the security infrastructure, the government, and the banks. Importantly, it goes on to describe how FACA members trained and supervised the Anti-Balaka, as well as their intent to kick out the criminal horde that came from DARFUR and TCHAD – coded words for Muslims:

“Notre honneur de soldats nous impose cette noble lutte pour laquelle nous nous sommes engagés. Rejoints par les nationalistes anti-balakas, que nous avons formés et encadrés,

⁷⁹ CAR-OTP-2124-0952 at 0952.

⁸⁰ CAR-OTP-2124-0955 at 0955 (attaching CAR-OTP-2124-0956).

⁸¹ CAR-OTP-2124-0956 at 0957.

nous sommes aujourd'hui à mesure de bouter hors de notre territoire cette horde de criminels venus du Darfour et du Tchad avec l'ambition de faire main basse sur les ressources minières de notre sous-sol et d'islamiser par la force le peuple centrafricain. De telles aventures n'ont jamais prospéré sur la terre de BOGANDA.”⁸²

30. The declaration further takes credit for the joint FACA-Anti-Balaka attack on BANGUI on 5 December 2013:

“Aujourd'hui avec de milliers de combattants, nous avons décidé de porter le combat dans la ville de Bangui pour accélérer la chute de ce régime illégitime criminel. Notre combat ne prendra fin que par la fin de ce régime criminel. Les combats du 5 Décembre 2013 dans la ville de Bangui ont visé essentiellement les bases et positions des Sélékas et leurs caches d'armes dans les mosquées.”⁸³

31. It ends with a request to France and the international community to recognise BOZIZE as the democratically elected President, and to facilitate his rapid return to CAR.⁸⁴

32. A few weeks later, on 28 December 2013, NGAYA emailed NGAISSONA addressing him, “Bonsoir Excellence”, with two declarations of the *Combattants de la Libération du Peuple Centrafricain* (“CLPC”) authored by Brice Emotion NAMSIO (“NAMSIO”), dated 27 December 2013: a press release and list of demands, specifying that NGAISSONA’s feedback is awaited on the latter.⁸⁵ In general, these documents decry Seleka abuses and seek international support in ending them and removing DJOTODIA, including by sending him to the ICC.

33. Between 1 and 2 January 2014, NGAISSONA exchanged emails with [REDACTED] using coded language to refer to gaining military support Anti-Balaka operations. On 1 January 2014, [REDACTED] wishes God is with NGAISSONA and

⁸² CAR-OTP-2124-0956 at 0956 (emphasis added).

⁸³ CAR-OTP-2124-0956 at 0956-0957.

⁸⁴ CAR-OTP-2124-0956 at 0957-0958.

⁸⁵ CAR-OTP-2124-0995 at 0995 (attaching CAR-OTP-2124-0996 and CAR-OTP-2124-0998).

his “team” and that his team will [REDACTED].⁸⁶ [REDACTED] indicated that he talked with the President of his club who said that NGAISSONA has [REDACTED].⁸⁷ NGAISSONA confirmed receipt of the message and asked for [REDACTED]⁸⁸ ‘[REDACTED].⁸⁹ NGAISSONA forwarded their exchange to [REDACTED] on the same day.⁹⁰ The exchange shows NGAISSONA’s intent in planning Anti-Balaka military operations, and his use of coded language to conceal the criminal nature of his activities.

34. In early January 2014, KOLIOS and NGAISSONA exchanged phone numbers, and KOLIOS mentioned being flabbergasted after listening to Adrien POUSSOU that morning. He also referred to BOZIZE and his sons, including a conversation had with Socrates BOZIZE.⁹¹

35. On 8 January 2014, NGAYA sent NGAISSONA “Communiqué de Presse No. 1” of *Coordination nationale pour la paix et la sécurité en République centrafricaine* (CNPS) denouncing Seleka crimes and requesting, *inter alia*, the resignation of DJOTODIA.⁹² In another email of the same day, NGAYA noted that they distributed 400 copies of the document in BANGUI and that the second communiqué would follow soon.⁹³ Shortly thereafter, on 13 January 2014, NGAYA sent NGAISSONA the second communiqué. However, this time the organisation issuing the communiqué is named “*Mouvement des Combattants Antibalaka*.”⁹⁴

36. On 10 January 2014, NGAYA sent NGAISSONA a report from an Anti-Balaka meeting held the previous day presided by “Cap. Charles GREMANGOU, Chief of

⁸⁶ CAR-OTP-2124-1005.

⁸⁷ CAR-OTP-2124-1005.

⁸⁸ CAR-OTP-2124-1005.

⁸⁹ *See, e.g.* [REDACTED] (last accessed 9 June 2022).

⁹⁰ CAR-OTP-2124-1007.

⁹¹ CAR-OTP-2124-1011 at 1011.

⁹² CAR-OTP-2124-0496 at 0496 (attaching CAR-OTP-2124-0497).

⁹³ CAR-OTP-2124-0495 at 0495.

⁹⁴ CAR-OTP-2124-0526 at 0526 (attaching CAR-OTP-2124-0527).

the General Staff of the Anti-Balaka”, and indicated that a copy was sent to SANGARIS that morning.⁹⁵ Those present at the meeting, including Sébastien WENEZOUÏ (“WENEZOUÏ”), called for the resignation of President DJOTODIA, Prime Minister Nicolas TIANGAYE (“TIANGAYE”), and President of the National Transition Council Alexandre-Ferdinand NGUENDET.⁹⁶ The next day, 11 January 2014, NGAISSONA forwarded the report to “franclin franclin”, the user of [REDACTED].⁹⁷

37. Importantly, the user of the ‘franclin franclin’ account had just recently, on 8 January 2014, sent NGAISSONA a request for weapons and other equipment, listing the type and quantity sought, including, *inter alia*, 2,500 x “AK 47 SMG 56”, 20,000 “AK 47 Magazines”, 150 x “RPG 7” 3,000 “hand grenades”, 40 x “Toyota pickups”, 30 x “Thuraya phones and airtime”, as well as clothing, sleeping bags, food, and medicine.⁹⁸ NGAISSONA responded to this request by telling “franclin franclin” to add more hunting rifles and financial needs to the list of demands for the Anti-Balaka.⁹⁹ NGAISSONA then forwarded the list on 10 January 2014 to [REDACTED] described above.¹⁰⁰ [REDACTED] followed up with NGAISSONA the next day, saying that his boss wants an update [REDACTED]. NGAISSONA responded the next day on 12 January 2014, that [REDACTED].¹⁰¹ Within a few weeks, [REDACTED] followed up with NGAISSONA asking for news, and NGAISSONA replied on 30 January 2014 indicating [REDACTED].¹⁰² [REDACTED] continued to send NGAISSONA emails, including on 27 July 2014 [REDACTED] when he emailed NGAISSONA wishing him courage and saying that one day NGAISSONA will be [REDACTED].¹⁰³

⁹⁵ CAR-OTP-2124-0511 at 0511 (attaching CAR-OTP-2124-0512).

⁹⁶ CAR-OTP-2124-0512 at 0513.

⁹⁷ CAR-OTP-2124-0515 at 0515 (attaching CAR-OTP-2124-0516).

⁹⁸ CAR-OTP-2124-0489 (attaching CAR-OTP-2124-0490).

⁹⁹ CAR-OTP-2124-0499 at 0499.

¹⁰⁰ CAR-OTP-2124-0506 (attaching CAR-OTP-2124-0507).

¹⁰¹ CAR-OTP-2124-0524 at 0524.

¹⁰² CAR-OTP-2124-0545 at 0545.

¹⁰³ CAR-OTP-2124-0702 at 0702.

38. On 28 June 2014, BOZIZE advisor Jean Paul SAMNICK forwarded NGAISSONA a June 2014 report from the International Federation for Human Rights (“FIDH”) detailing war crimes and crimes against humanity committed by the Seleka and Anti-Balaka in CAR since 2013.¹⁰⁴ It reports Anti-Balaka attacks on Muslims civilians in the provinces and BANGUI, including the 5 December 2013 attacks, and how these attacks caused Muslims to flee and resulted in enclaves. It describes the Anti-Balaka’s crimes including murder, destruction of mosques, and the enlistment of child soldiers. It describes both Seleka and Anti-Balaka chains of command, and goes into detail about the Anti-Balaka organisation, structure, and leadership, including BOZIZE, Maxime MOKOM (“MOKOM”), NGAISSONA, YEKATOM, Yvon KONATE, KOKATE, the shaman MODIBO based in BOEING, 12 PUISSANCES, YAKETE, Steve YAMBETE (“YAMBETE”), BARA, and others.¹⁰⁵ The report notes that FIDH interviewed NGAISSONA, among others,¹⁰⁶ and quotes him several times, including acknowledging he was chosen as the leader of the Anti-Balaka because he stood with the youth, confirming his influence control over Anti-Balaka elements in the provinces, and blaming "fake" Anti-Balaka for crimes committed.¹⁰⁷ It also mentions FROCCA, COCOR, and COAC, and that youth from these militia joined the Anti-Balaka on or about 4 December 2013 upon their arrival in BANGUI.¹⁰⁸ The document is relevant to NGAISSONA’s knowledge, actual *or constructive*, of these Anti-Balaka crimes and their continuing nature.

39. Additional emails submitted as part of this motion from OTP/CAR2/IRL-12/TL/JCCD-cdpt (“IRL-12”) also show NGAISSONA’s whereabouts during the relevant period(s), through their content,¹⁰⁹ hotel check-ins,¹¹⁰ travel itineraries and

¹⁰⁴ CAR-OTP-2124-0604 (attaching CAR-OTP-2124-0605).

¹⁰⁵ CAR-OTP-2124-0605 at 0664 to 0670.

¹⁰⁶ CAR-OTP-2124-0605 at 0690.

¹⁰⁷ CAR-OTP-2124-0605 at 0668 to 0669.

¹⁰⁸ CAR-OTP-2124-0605.

¹⁰⁹ See, e.g. CAR-OTP-2124-0935 ; CAR-OTP-2124-0936.

¹¹⁰ See, e.g. CAR-OTP-2124-0731.

flight tickets;¹¹¹ and they provide passport details,¹¹² bank account details,¹¹³ telephone number attributions,¹¹⁴ and an email contact list.¹¹⁵

b. Alfred NGAYA: [REDACTED]

40. This Yahoo account, managed by NGAYA, was used primarily in association with the Facebook account: “CLPC Anti Balaka.” NGAYA testified about operating this account, and described sending and receiving emails in the Yahoo email evidence collection, thereby authenticating the account and its contents.¹¹⁶ Nine days after NGAYA sent NGAISSONA two CLPC declarations,¹¹⁷ this Yahoo email account was created on 6 January 2014 at the same time and with the same IP address as the Facebook account “CLPC Anti Balaka”,¹¹⁸ just before NGAISSONA became the group’s National Coordinator. “[REDACTED]” was the declared user e-mail of the Facebook profile “CLPC Antibalaka” – further confirming that this email account was created, at least in part, for facilitating the use of this Anti-Balaka Facebook account.¹¹⁹ Furthermore, Alfred NGAYA admitted that he frequently published material on this CLPC Facebook page.¹²⁰

¹¹¹ See, e.g. CAR-OTP-2124-0479; CAR-OTP-2124-0484; CAR-OTP-2124-0906 ; CAR-OTP-2124-0927 ; CAR-OTP-2124-0931; CAR-OTP-2124-0933 ; CAR-OTP-2124-0509; CAR-OTP-2124-0559; CAR-OTP-2124-0565; CAR-OTP-2124-0585; CAR-OTP-2124-0579; CAR-OTP-2124-0581; CAR-OTP-2124-0583; CAR-OTP-2124-0585; CAR-OTP-2124-0733 ; CAR-OTP-2124-0736; CAR-OTP-2124-0737; R-OTP-2124-0738; CAR-OTP-2124-0743; CAR-OTP-2124-0745; CAR-OTP-2124-0762; CAR-OTP-2124-0764; CAR-OTP-2124-0774; CAR-OTP-2124-0777; CAR-OTP-2124-0779; CAR-OTP-2124-0781; CAR-OTP-2124-0747.

¹¹² See, e.g. CAR-OTP-2124-0479; CAR-OTP-2124-0484; .

¹¹³ See e.g. CAR-OTP-2124-0761; CAR-OTP-2124-0897, CAR-OTP-2124-0898; CAR-OTP-2124-0968, CAR-OTP-2124-1015; CAR-OTP-2124-1021; CAR-OTP-2124-1024.

¹¹⁴ See, e.g. CAR-OTP-2124-0550 ; CAR-OTP-2124-0908 ; CAR-OTP-2124-0936 ; CAR-OTP-2124-1008; CAR-OTP-2124-0982; CAR-OTP-2124-0985; CAR-OTP-2124-0522; CAR-OTP-2124-0546; CAR-OTP-2124-0547; CAR-OTP-2124-0708; CAR-OTP-2124-0710; CAR-OTP-2124-0714; CAR-OTP-2124-0758; CAR-OTP-2124-0766; CAR-OTP-2124-0811; CAR-OTP-2124-0813

¹¹⁵ CAR-OTP-2124-0188 ; CAR-OTP-2124-0194.

¹¹⁶ ICC-01/14-01/18-T-069-Red-ENG ET at p. 10, l. 25 to p. 27, l. 25.

¹¹⁷ See above, para. 32; CAR-OTP-2124-0995 at 0995 (attaching CAR-OTP-2124-0996 and CAR-OTP-2124-0998).

¹¹⁸ Compare CAR-OTP-2066-1510 at 1510 and CAR-OTP-2056-0371 at 0371 at ; see also CAR-OTP-2080-1838 at 1838.

¹¹⁹ CAR-OTP-2066-1510 at 1510.

¹²⁰ CAR-OTP-2025-0324 at 0337, para. 90.

41. Several Anti-Balaka leaders including NGAISSONA,¹²¹ Bienvenu NGAISSONA,¹²² Brice TOUABOY,¹²³ Christian Guenebem DEDIZOUM (President of Youth KNK),¹²⁴ and group accounts for Kwa Na Kwa and Bangui Balaka,¹²⁵ communicated with the CLPC Anti-Balaka Facebook account, such that many Facebook notifications or messages arrived in this email account.

42. In addition to emails NGAISSONA and NGAYA exchanged between July 2013 and January 2014 described above,¹²⁶ and the high frequency of NGAYA's telephone communications with NGAISSONA from 2 May 2013 – 12 January 2014,¹²⁷ the content of the messages and attachments from 6 January 2014 onwards show that NGAISSONA promoted the Anti-Balaka's public communications through NGAYA, who often type-signed his emails as the "*Conseiller Politique*."

43. NGAYA exchanges several messages between June and July 2014 with the Coordinator of the UN Group of Experts on CAR, Aurélien LLORCA ("LORCA"). Both NGAYA and LLORCA authenticated these emails in their testimony in that they confirmed NGAYA operated this account and sent and received emails at this address,¹²⁸ and that NGAYA was a political advisor who circulated these press releases to other entities in CAR.¹²⁹

44. In response to LLORCA's 20 May 2014 request,¹³⁰ NGAYA emailed LLORCA eight Anti-Balaka press releases on 30 June 2014.¹³¹ All were signed and stamped by

¹²¹ CAR-OTP-2080-2371; CAR-OTP-2080-2372; CAR-OTP-2080-2764 ; CAR-OTP-2080-2769 ; CAR-OTP-2080-2770 ; CAR-OTP-2080-2771.

¹²² CAR-OTP-2080-1837 ; CAR-OTP-2080-2846.

¹²³ CAR-OTP-2080-1844 ; CAR-OTP-2080-1845

¹²⁴ CAR-OTP-2080-1866

¹²⁵ CAR-OTP-2080-2354 ; CAR-OTP-2080-2678.

¹²⁶ *See supra* paras. 20-23.

¹²⁷ *See* Calls between NGAYA [REDACTED] and NGAISSONA [REDACTED] in CAR-OTP-2054-1479; CAR-OTP-2054-1480; CAR-OTP-2054-1481; CAR-OTP-2019-2839; CAR-OTP-2019-1364; CAR-OTP-2019-1362 ; *See also* DCC Annex J (Call Sequence Tables), section 4.1.

¹²⁸ T-020-CONF-ENG CT, p. 35, line 2 – p. 36, line 16.

¹²⁹ T-020-CONF-ENG CT, p. 35, line 2 – p. 36, line 16.

¹³⁰ CAR-OTP-2080-2147 at 2147.

¹³¹ CAR-OTP-2080-2806 and attachments.

NGAISSONA as “*Le Coordonnateur Général*”, dated 21 January 2014,¹³² 1 February 2014,¹³³ 11 February 2014,¹³⁴ 11 April 2014,¹³⁵ 5 May 2011,¹³⁶ 26 May 2014,¹³⁷ 29 May 2014,¹³⁸ and 28 June 2014.¹³⁹ Also attached was a 17 February 2014 declaration signed by many Anti-Balaka leaders, including MOKOM, Sylvestre YAGOZOU, Emotion NAMSIO, WENEZOU, Thierry LEBENE, and Richard BEJOUANE, titled “*Declaration des Combattants Antibalaka relative à la situation sécuritaire en République Centrafricaine.*”¹⁴⁰

45. On 2 July 2014, NGAYA emailed LLORCA two more Anti-Balaka documents signed and stamped by NGAISSONA as “*Le Coordonnateur Général*”, dated 24 June 2014: a press release and “DECISION N°001” removing BARA from the Anti-Balaka movement.¹⁴¹ NGAYA later informed LLORCA that WENEZOU had been expelled from the Anti-Balaka.¹⁴²

46. Between February and July 2014, NGAYA sent many messages attaching Anti-Balaka press releases, including those signed by NGAISSONA, to media outlets,¹⁴³ diplomatic representatives, and international organisations,¹⁴⁴ as well as French and American governmental institutions.¹⁴⁵ For example, on 18 June 2014, in an email titled

¹³² CAR-OTP-2084-0146.

¹³³ CAR-OTP-2084-0147.

¹³⁴ CAR-OTP-2084-0148.

¹³⁵ CAR-OTP-2084-0150.

¹³⁶ CAR-OTP-2084-0151.

¹³⁷ CAR-OTP-2084-0155.

¹³⁸ CAR-OTP-2084-0153.

¹³⁹ CAR-OTP-2084-0157.

¹⁴⁰ CAR-OTP-2084-0158.

¹⁴¹ CAR-OTP-2080-2491 and attachments CAR-OTP-2084-0164 and CAR-OTP-2084-0165. *See also* CAR-OTP-2080-2824.

¹⁴² CAR-OTP-2080-2826.

¹⁴³ *See, e.g.* CAR-OTP-2080-2394, attaching CAR-OTP-2084-0111; CAR-OTP-2080-1771; CAR-OTP-2080-2250, attaching CAR-OTP-2084-0179; CAR-OTP-2080-2258, attaching CAR-OTP-2084-0049; CAR-OTP-2080-2559, attaching CAR-OTP-2084-0185; CAR-OTP-2080-2519, attaching CAR-OTP-2084-0061; CAR-OTP-2080-2527, attaching CAR-OTP-2084-0067; CAR-OTP-2080-1763; CAR-OTP-2080-2543, attaching CAR-OTP-2084-0085; CAR-OTP-2080-2551, attaching CAR-OTP-2084-0091.

¹⁴⁴ *See, e.g.* CAR-OTP-2080-2495, attaching CAR-OTP-2084-0128; CAR-OTP-2080-1781, attaching CAR-OTP-2084-0079; CAR-OTP-2080-2503; CAR-OTP-2080-2487, attaching CAR-OTP-2084-0172, and CAR-OTP-2084-0173.

¹⁴⁵ *See, e.g.* CAR-OTP-2080-2511, attaching CAR-OTP-2084-0055; CAR-OTP-2080-2535, attaching CAR-OTP-2084-0073; CAR-OTP-2080-2503, attaching CAR-OTP-2084-0103; and CAR-OTP-2080-2487.

“Contribution du Mouvement des Patriotes Antibalaka”, NGAYA sent two documents to the UN Secretary General, and to the United States Mission to the UN:¹⁴⁶ (i) a 14 June 2014 letter to the UN Secretary General from NGAISSONA, *“Le Coordonnateur Général du Mouvement des Patriotes Antibalaka”* (with the Anti-Balaka’s *“Comité de Direction”* as a header),¹⁴⁷ enclosing the second document; and (ii) a report analysing the situation in CAR titled: *“Contribution du Mouvement des Patriotes Antibalaka pour la restauration de la Paix et de la Sécurité en République Centrafricaine.”*¹⁴⁸ The report traces the history of the Anti-Balaka movement, explains their uprising in the provinces in response to Seleka crimes, and their march to Bangui on 5 December 2013 lead to the fall of DJOTODIA’s regime.¹⁴⁹ On the same day, NGAYA also emailed copies of these documents to the of United States President and Secretary of State.¹⁵⁰

47. In July 2014, NGAYA and LLORCA exchanged emails discussing preparations for the BRAZZAVILLE Forum.¹⁵¹ On 17 July 2014, NGAYA transmitted to LLORCA a related 14 July 2014 press release signed and stamped by NGAISSONA as *“Coordonnateur Général”* of the *“Coordination Nationale des Patriotes Antibalaka”* with copies meant for, *inter alia*, the President and Prime Minister of the CAR Transitional Government, representatives of MINUSCA and MISCA, and ambassadors to CAR from France and the United States.¹⁵²

48. Lastly, two news articles sent to the account in February and May 2014, show that NGAYA was notified of the fact that thousands of Muslims had fled BANGUI.¹⁵³

¹⁴⁶ CAR-OTP-2080-2244 attaching CAR-OTP-2084-0134;

¹⁴⁷ CAR-OTP-2080-2244 at 2245.

¹⁴⁸ CAR-OTP-2084-0134.

¹⁴⁹ CAR-OTP-2084-0134 at 0136 to 0137.

¹⁵⁰ CAR-OTP-2080-2247 and attachment CAR-OTP-2084-0116.

¹⁵¹ CAR-OTP-2080-2822

¹⁵² CAR-OTP-2080-2800 at 2800, and attachment CAR-OTP-2084-0174 at 0175.

¹⁵³ CAR-OTP-2080-1869; CAR-OTP-2080-1872.

c. Leopold BARA: [REDACTED]

49. [REDACTED].¹⁵⁴ [REDACTED],¹⁵⁵ [REDACTED]. As a spokesperson of the Anti-Balaka, BARA's emails provide insight into the group's operations from September 2013 and into 2014.

50. BARA used this Yahoo account to ask Levy YAKETE, for example, in July 2013 to provide him with a phone number because he has privacy and security concerns in respect of communicating online.¹⁵⁶

51. On 14 September 2013, BARA sent an email with the subject "SOS" updating Antoinette MONTAIGNE, "Presidente du Conseil des Centrafricains de l'Etranger (CEE)" and future Minister in the transitional government, about the operation in BOALI, and their FACA elements numbering over 1,600, and asking for financial assistance and the distribution of SIM cards:

*"...le travail avance bien du cote de nos amis de l'opération boali; par contre du coté de nos éléments (faca) il nous faut doter en puce et crédits de communication; il sont au nombre de 1694 alors je suis pratiquement le seul à y donner corps car les gens ici sont complètement tétanisés et dépourvus."*¹⁵⁷

In the communication, BARA noted the FACA are relying on civilians in the diaspora for financial support, and gives the name "Botalo boris francis" to whom his interlocutor can transfer money for this purpose. BARA further refers to the "Muslims" and not just the Seleka, distributing weapons in BANGUI, and mentions that:

*"...les opérations sont prévues avant la fin de ce mois pour neutraliser Bangui en premier lieu car le congolais à donné son accord de principe."*¹⁵⁸

¹⁵⁴ [REDACTED].

¹⁵⁵ [REDACTED].

¹⁵⁶ CAR-OTP-2084-0605.

¹⁵⁷ CAR-OTP-2084-1046 at 1046.

¹⁵⁸ CAR-OTP-2084-1046 at 1046.

52. On 23 September 2013 BARA emailed MONTAIGNE again, with the subject: *“La situation est corsée.”*¹⁵⁹ BARA noted Seleka exactions in the past week, including the burning of BENZAMBE, and that he and his group are awaiting important reinforcements from BOALI. In asking for resources, he described how his elements (*“les enfants”*) expect that he gives them, for example, cell phone credit to communicate.¹⁶⁰ BARA stated that the FACA take his group very seriously, and are getting mobilized day and night for operations. He indicated his intention to keep it that way by having his elements provided with cell phone credit so they can relay intelligence in real time.¹⁶¹ BARA then proposed a way of obtaining weapons from the Seleka:

*“Sais tu que ce sont nos médecins militaires qui procèdent aux visites médicales pour l’enroulement des ex SELEKA? Ils sont en contacte quotidien avec tout leur arsenal.”*¹⁶²

53. On 22-23 October 2013, BARA exchanged emails with MONTAIGNE again, in which she indicated that she would send him evidence of Seleka crimes. BARA asked her to review a press statement¹⁶³ for the purpose of stimulating a feeling of revolt among the CAR population,¹⁶⁴ and forwarded a press article on MISCA’s autorisation to use force: *“...pour désarmer les éléments armés en Centrafrique”*.¹⁶⁵ Later in October and early November 2013, she and BARA sent each other multiple drafts of a speech criticising TIANGAYE and DJOTODIA for their inability to stop the Seleka violence in the country, and criticising the presence of foreign mercenaries.¹⁶⁶ On 6 November 2013, BARA emailed MONTAIGNE, describing the escalating conflict between the population and the Seleka: *“Je ne pouvais pas tenir la conférence sous les coups de tire opposant la population avec les éléments de SELEKA”*.¹⁶⁷ BARA also mentions an

¹⁵⁹ CAR-OTP-2084-0912 at 0912.

¹⁶⁰ CAR-OTP-2084-0912 at 0912.

¹⁶¹ CAR-OTP-2084-0912 at 0912.

¹⁶² CAR-OTP-2084-0912 at 0912.

¹⁶³ CAR-OTP-2084-1003 and attachment CAR-OTP-2084-1005 at 1005.

¹⁶⁴ CAR-OTP-2084-1000 at 1000.

¹⁶⁵ CAR-OTP-2084-1000 at 1000; CAR-OTP-2084-1003 at 1003.

¹⁶⁶ See, e.g. CAR-OTP-2084-1084 and attachments CAR-OTP-2084-1085 and CAR-OTP-2084-1096; CAR-OTP-2084-1103; CAR-OTP-2084-1107 and attachment CAR-OTP-2084-1108.

¹⁶⁷ CAR-OTP-2084-1045 at 1045.

upcoming meeting with youth due to many defections in their ranks.¹⁶⁸ On 16 November 2013, she responded that support may be forthcoming, reassuring him that things will change: "*Je ne veux pas que tu en déduises que rien ne vas se faire [...] Les choses avanceront vite je pense*".¹⁶⁹

54. After NGAISSONA's expulsion of BARA from the Anti-Balaka,¹⁷⁰ on 29 June 2014 BARA emailed SAMBA-PANZA about his position as a minister and the management of his ministerial department.¹⁷¹ A few weeks later, BARA requests a meeting with SAMBA-PANZA and indicates that the group which is "with him" supports the transition and is composed in majority of elements who were opposed to the BOZIZE loyalists and FROCCA (i.e. "*la branche politique des anti-balaka dits du nord*"). BARA indicated that he convinced [REDACTED] to make an official statement distancing himself from the Anti-Balaka movement "*qui n'avait pas vocation à s'institutionnaliser*".¹⁷² On 26 August 2014, BARA emailed SAMBA-PANZA again proposing a special ministerial role for himself, and mentioning :

*"...un réseau de déstabilisation des institutions tendant à vous fragiliser au mieux, sinon à obtenir votre départ pour ainsi favoriser la gestion du pouvoir par ceux qui bénéficient des soutiens extérieurs."*¹⁷³

[REDACTED].¹⁷⁴ In her response, SAMBA PANZA acknowledged the existence of these threats to her, even those contemplating her physical elimination.¹⁷⁵

55. BARA exchanged further emails with SAMBA-PANZA between 10 and 14 October 2014, alerting her that people are organising destabilising operations and that her advisors are complicit: "*[I]ls feront toujours faire le travail de déstabilisation par des*

¹⁶⁸ CAR-OTP-2084-1045 at 1045.

¹⁶⁹ CAR-OTP-2084-1008 at 1008.

¹⁷⁰ CAR-OTP-2084-0165 at 0165.

¹⁷¹ CAR-OTP-2084-1010 at 1010.

¹⁷² CAR-OTP-2084-0724 at 0724.

¹⁷³ CAR-OTP-2084-1025 at 1025.

¹⁷⁴ [REDACTED].

¹⁷⁵ CAR-OTP-2084-1025 at 1025.

sous-mains comme c'est le cas actuellement avec NGAISSONA."¹⁷⁶ At the same time, on 13 October 2014, BARA requested a meeting with SAMBA PANZA to discuss the use of officers and soldiers of the 7th *arrondissement*, willing to organise themselves to fight against "agitators" from BOY-RABE and secure the southern parts of BANGUI.¹⁷⁷ These exchanges underscore NGAISSONA's control of the Anti-Balaka, and the group's ability to organise destabilisation operations in BANGUI, including possible threats to SAMBA-PANZA.

56. On 29 October 2014, BARA emailed SAMBA-PANZA mentioning individuals sabotaging the transition, deploring the fact that there is no opponent to NGAISSONA, who he believes is illiterate and being manipulated by other politicians.¹⁷⁸

57. At the end of December 2014, BARA emailed SAMBA-PANZA, referencing a Human Rights Watch press release¹⁷⁹ published earlier that week denouncing the Anti-Balaka's enclaving of the Muslim population in YALOKÉ, CARNOT, BERBERATI, and BODA, as well as their driving Muslims out.¹⁸⁰ At the request of SAMBA-PANZA, BARA commented on the report on the displaced persons from BANGUI and around CAR.¹⁸¹

d. Joachim KOKATE: [REDACTED]

58. The content of this account shows that KOKATE used it to, *inter alia*: (i) organise FACA to support BOZIZE under the *Collectif des officiers libres*; (ii) communicate with other high-level Anti-Balaka officials such as Levy YAKETE; (iii) support the *Mouvement de Résistance Populaire pour la Refondation de Centrafrique* (MRPRC) with

¹⁷⁶ CAR-OTP-2084-1015 at 1015-1016.

¹⁷⁷ CAR-OTP-2084-1015 at 1015.

¹⁷⁸ CAR-OTP-2084-0936 at 0936.

¹⁷⁹ CAR-OTP-2084-1032 at 1032-1034 and its English translation at CAR-OTP-2002-0504.

¹⁸⁰ CAR-OTP-2084-0930 at 0930-0931; CAR-OTP-2084-0958 at 0958-0961.

¹⁸¹ CAR-OTP-2084-0930 at 0930-0931; CAR-OTP-2084-0958 at 0958-0961.

YAKETE, and in doing so, praise the popular self-defence force that fought against the Seleka; and (iv) coordinate participation in the 2014 BRAZAVILLE talks.

59. On 17 August 2013 an member of the *Collectif des officiers libres* sent KOKATE an attachment “APPEL A TOUS LES MILITAIRES CENTRAFRICAINS” calling upon all FACA elements to support President BOZIZE and work in favour of the return of the constitutional order. The declaration is dated 17 August 2013 and type-signed by KOKATE, who is listed as the spokesperson of the *Collectif*, acting in the name of the Executive Committee of the organisation.¹⁸²

60. On 25 December 2013, KOKATE emailed YAKETE regarding a “Declaration” they, with several other unidentified individuals, were to issue about a project to be kept under the group’s strict discretion until publication.¹⁸³ The next day, KOKATE and YAKETE signed the Declaration, an MRPRC document entitled “MEMORADNUM POUR UN RETOUR A LA PAIX ET A LA STABILITE EN REPUBLIQUE CENTRAFRICAINE.” It is addressed to, *inter alia*, the UN Secretary General, the presidents of the European Union and African Union. The document denounces Seleka crimes and compares situation the to the Nazi occupation of France, claims that the ‘population’ wants to bring DJOTODIA and his accomplices before the ICC, asks for an international commission of inquiry, and mentions the “*résistance populaire à DJOTODIA et à la Seleka sur l’ensemble du territoire national...*”¹⁸⁴ KOKATE’s signature appears as “*Le Coordonateur Militaire*” and YAKETE’s, as “*Le Coordonateur Politique*.”¹⁸⁵ A few days later, on 31 December 2013, KOKATE forwarded the Memorandum to a member of the French government.¹⁸⁶

¹⁸² See CAR-OTP-2084-1162 and attachment CAR-OTP-2084-1163 at 1163-1164.

¹⁸³ CAR-OTP-2084-1192 at 1192. The email does not contain the Declaration itself.

¹⁸⁴ CAR-OTP-2084-1222 at 1223-1225.

¹⁸⁵ CAR-OTP-2084-1222 at 1227.

¹⁸⁶ CAR-OTP-2084-1221 at 1221 and attachment CAR-OTP-2084-1222.

61. Soon thereafter on 8 January 2014, KOKATE forwarded a similar declaration to a member of the French government.¹⁸⁷ The declaration is another public MRPRC statement, type-signed by KOKATE as “*Coordonnateur Militaire, Porte-parole*”, about the N'DJAMENA Summit of 9 January 2014. The document denounces the crimes committed by the Seleka and DJOTODIA's regime and the behaviour of the Muslim population, praises the popular self-defence that fought against the Seleka, and calls for the resignation of DJOTODIA and the CAR Government.¹⁸⁸

62. On 11 July 2014, KOKATE forwarded an email to YAKETE summarising a meeting between the CAR President and representatives of political parties about the upcoming BRAZZAVILLE talks. It mentions the role of BOZIZE, DJOTODIA, NGAISSONA, and others, who are “...*très actifs dans le conflit centro...*”.¹⁸⁹

e. Charles NGREMANGO: [REDACTED]

63. FACA Captain and Anti-Balaka leader NGREMANGO's account shows correspondence between other Anti-Balaka leaders YAMBETE and Eugène NGAIKOSSET (“NGAIKOSSET”). The emails place Anti-Balaka elements in CATTIN; he links BOEING with YAMBETE, NGAIKOSSET and EMTENOU as early as May 2013. NGREMANGO also provided YAMBETE several drafts of the needs for his men, including, *inter alia*, heavy weapons, ammunition, and vehicles.

64. Email correspondence from this account in late May 2013 shows that NGREMANGO was in contact with YAMBETE and NGAIKOSSET and was providing them with requests for military material and intelligence from BANGUI. In particular, in late May 2013 NGREMANGO provided Simeon SAMBA, who later became an Anti-Balaka ComZone in BANGUI's 3rd *arrondissement*,¹⁹⁰ lists of over 220

¹⁸⁷ CAR-OTP-2084-1228 at 1228 and attachment CAR-OTP-2084-1229.

¹⁸⁸ CAR-OTP-2084-1229 at 1229-1231.

¹⁸⁹ CAR-OTP-2084-1205 at 1205.

¹⁹⁰ CAR-OTP-2045-1316, at 1325, l. 325 to 335.

FACA personnel in the areas of BOEING and CATTIN, including YEKATOM, NGREMANGOU, and Guy MOKPEM.¹⁹¹ In his testimony, [REDACTED] confirmed several names on this list of elements in BOEING.¹⁹² In these emails attaching the lists of FACA, NGREMANGOU mentions:

*“[p]our ce qui est de grade et des armes je vais informer la liste avant de mettre à ta disposition,”*¹⁹³ and in another asks: *“Comment peut-on avoir les matos?”*¹⁹⁴

suggesting that the purpose of these communications was to organise the provision of materials to these FACA. NGREMANGOU also sent various people including YAMBETE and NGAIKOSSET digital maps of BANGUI¹⁹⁵ and CAR, including of the six military regions.¹⁹⁶

65. On 24 June 2013, NGREMANGOU sent an email to FACA member Alain KENEFEI (“KENEFEI”) informing him that a counter-attack to the Seleka will happen because there are infiltrations in all prefectures, and that Angolans, Congolese, South Sudanese, Ugandans, and Rwandans mobilised for that campaign.¹⁹⁷ A few days later, KENEFEI responded: *“N’oublies surtout pas de me tenir informer de l’évolution des préparatifs de l’action en cours”*,¹⁹⁸ further supporting NGREMANGOU’s position as a high-level Anti-Balaka member and planner expected to provide accurate information on logistics and military operations.

66. On 19 July 2013, NGREMANGOU sent YAMBETE a document entitled *“Expressions de Besoins”*, which is similar to the shopping list seen in NGAISSONA’s

¹⁹¹ CAR-OTP-2126-2619 and attachment CAR-OTP-2126-2620 ; *see also* CAR-OTP-2126-2613 and attachment CAR-OTP-2126-2614 ; CAR-OTP-2126-2626 ; CAR-OTP-2126-2612 ; CAR-OTP-2126-2607 and attachment CAR-OTP-2126-2608

¹⁹² ICC-01/14-01/18-T-056-CONF-ENG CT, p. 43, ln. 11 –p. 45, ln. 14.

¹⁹³ CAR-OTP-2126-2613 at 2613.

¹⁹⁴ CAR-OTP-2126-2619 at 2619.

¹⁹⁵ CAR-OTP-2126-2709 and attachments CAR-OTP-2126-2710 and CAR-OTP-2126-2711 ; CAR-OTP-2126-2712 and attachment CAR-OTP-2126-2713.

¹⁹⁶ CAR-OTP-2126-2632 and attachment CAR-OTP-2126-2633; CAR-OTP-2126-2707 and attachment CAR-OTP-2126-2708.

¹⁹⁷ CAR-OTP-2126-2628 at 2628.

¹⁹⁸ CAR-OTP-2126-2628 at 2628.

account above, in which NGREMANGO lists his requirements: 1,200 men in four battalions throughout BANGUI (BOEING, BOY-RABE, COMBATTANT, FOUH et GOBONGO, PK 12, and BIMBO), weapons and ammunition (e.g. 1200 x AK47; 240 x RPG7; 120 RPD, DKM, or AA; 15 x Mortiers, 4 x Orgue de Stalline; 220 x Offensive Grenades; 220 x Defensive Grenades), accessories, phones, and money for soldiers' food and health care.¹⁹⁹ NGREMANGO mentions that he is awaiting instructions: "...nous sommes toujours dans l'attente d'une éventuelle Instruction de l'Autorité".²⁰⁰ YAMBETE's position as both the leader of COAC (a youth militia that NGAISSONA helped fund²⁰¹), and NGAISSONA's subordinate at the Ministry of Youth, Sports, Arts, and Culture,²⁰² show that NGREMANGO was awaiting instructions on these matters months before the 5 December 2013 attack. Notably, in early 2013, COAC proceeded to erect barricades and checkpoints throughout BANGUI and BIMBO, and in several instances detained, searched, and arrested Muslims, some of whom were never seen again.²⁰³

67. Two days later, NGREMANGO sent the same "*Expressions de Besoins*," list, along with maps of CAR, to EMTENOU, copying YAMBETE.²⁰⁴ In another email on the same day NGREMANGO again sent EMTENOU and YAMBETE the same list, and two maps of CAR, marked "*regions militaires demarque*" and "*zones de defense*," noting in his email that two Seleka vehicles in MARKOUNDA had been attacked and there were no survivors.²⁰⁵

68. On 26 July 2013, NGREMANGO sends YAMBETE an updated and significantly longer "*Expressions de Besoins*" list, requesting thousands more weapons

¹⁹⁹ CAR-OTP-2126-2629 at 2629 and attachment CAR-OTP-2126-2630 at 2630.

²⁰⁰ CAR-OTP-2126-2629 at 2629.

²⁰¹ Trial Brief, para. 53.

²⁰² CAR-OTP-2042-1783, from [00:01:15] to [00:02:36] and its transcript CAR-OTP-2107-1475, at 1476, *in particular* 1.13-16.

²⁰³ Trial Brief, para. 55.

²⁰⁴ CAR-OTP-2126-2634 and attachments CAR-OTP-2126-2635 and CAR-OTP-2126-2637 and CAR-OTP-2126-2638 and CAR-OTP-2126-2639.

²⁰⁵ CAR-OTP-2126-2640 and attachments CAR-OTP-2126-2641, CAR-OTP-2126-2643, and CAR-OTP-2126-2644; *see also* CAR-OTP-2126-2645.

and pieces of ammunition, airplanes, armoured vehicles, and heavy artillery.²⁰⁶ Two additional documents are attached. The first, "INFORMATIONS DEMANDEES", is a list which appears to be detailed intelligence requested about Seleka positions and weapons hidden around the big roads in CAR and in the different *arrondissements* of BANGUI.²⁰⁷ The second is a PowerPoint presentation for NGAIKOSSET²⁰⁸ about the history and structure of the FACA including the different "*Regions Militaires*" reflected in the maps of CAR previously sent.²⁰⁹ NGREMANGOUE sends YAMBETE versions of these documents again on 27 July 2013.²¹⁰

69. On 1 August 2013, NGREMANGOUE sent YAMBETE a list of the names, functions, and neighbourhoods where Seleka leaders reside in BANGUI, in addition to various Seleka positions (number of men and weapons) along various strategic axes in CAR,²¹¹ which NGREMANGOUE forwarded to Eugene NGAIKOSSET on 31 August 2013.²¹² On 3 September 2013, NGREMANOU sent YAMBETE a detailed memorandum on the socio-political situation in CAR, detailing Seleka crimes, and demonstrating the Anti-Balaka leadership's knowledge of the ICC Prosecutor's preliminary examination. The memorandum ends with a recommendation of regime change by force.²¹³

70. On 3 October 2013, NGAIKOSSET responded to NGREMANGOUE, requesting 60,000 FCFA to support troops travelling with him to ZONGO:

²⁰⁶ CAR-OTP-2126-2646 and attachments CAR-OTP-2126-2647, CAR-OTP-2126-2651, and CAR-OTP-2126-2655.

²⁰⁷ CAR-OTP-2126-2651.

²⁰⁸ CAR-OTP-2126-2646 at 2646.

²⁰⁹ CAR-OTP-2126-2655.

²¹⁰ CAR-OTP-2126-2697 and attachment CAR-OTP-2126-2698; CAR-OTP-2126-2702 and attachment CAR-OTP-2126-2703;

²¹¹ CAR-OTP-2126-2718 and attachment CAR-OTP-2126-2719.

²¹² CAR-OTP-2126-2722 and attachment CAR-OTP-2126-2723.

²¹³ CAR-OTP-2126-2726 and attachment CAR-OTP-2126-2727; CAR-OTP-2126-2740 and attachment CAR-OTP-2126-2741 ; CAR-OTP-2126-2754 and attachment CAR-OTP-2126-2755.

“bsr charles comment vas tu j ai reçu les documents merci et si tu peut m aidé avec une somme de 60,000 milles francs cfa ça me permettras a survivre en cour de route de gemena a zongo avec les elements qui serons avec moi merci encore.”²¹⁴

NGREMANGOUE replied a few weeks later that he did not have the money – and had called a ‘Minister’ to help: “...j’ai appelé même le minister de voler à mon secours et rien jusqu’à present.”²¹⁵

71. In February 2014, NGREMANGOUE was in email contact with a SANGARIS commander who sent NGREMANGOUE a document detailing the security measures implemented in CAR since 4 December 2013.²¹⁶ On 14 March 2014, the same commander sent NGREMANGOUE and Jean-Jacques DEMAFOUETH notes from a meeting on 11 March 2014 at the Presidency discussing the ex-Seleka, the Anti-Balaka, and the DDR preparations.²¹⁷ The notes indicate that Defence Minister TCHIMANGOUE described three types of Anti-Balaka: those nostalgic for the old [BOZIZE] regime, those who are anti-Seleka and who want to go home now that the rebel menace has dissipated, and “les bandit et voyous auxquels se sont agregés des soldats en déshérence.”²¹⁸ According to the Minister of Public Security Denis WANGAO, some 81 FACA under YEKATOM’s command are willing to put themselves at the disposition of the Ministry of Defence.²¹⁹

72. These emails and their respective attachments show that prospective members of the Anti-Balaka were organising an armed response against the Seleka as early as May 2013. They further show a progression from planning organised resistance, to its execution, and resolution.

²¹⁴ CAR-OTP-2126-2768 at 2768.

²¹⁵ CAR-OTP-2126-2769 at 2769.

²¹⁶ CAR-OTP-2126-2771 and attachment CAR-OTP-2126-2772.

²¹⁷ CAR-OTP-2126-2779 and attachment CAR-OTP-2126-2780.

²¹⁸ CAR-OTP-2126-2780 at 2781.

²¹⁹ CAR-OTP-2126-2780 at 2781.

f. [REDACTED]: [REDACTED]

73. [REDACTED].²²⁰ [REDACTED], a member of the (“CAF”), was in contact with the leader of a pro-BOZIZE youth group in BANGUI, since at least July 2013. As detailed above, [REDACTED] emails show that he discussed matters concerning structure of the Anti-Balaka with NGAISSONA, and requested from NGAISSONA military equipment and money needed by certain armed Anti-Balaka units in BANGUI and in ZONGO.

C. The Yahoo email evidence is reliable and authentic

74. The Yahoo email evidence is reliable and authentic. To assess *prima facie* reliability of evidentiary material, the Chamber may evaluate the factors affecting its authenticity, such as: its origin, the context in which it was created, the method with which the information contained therein was compiled, and the nature and availability of corroborative evidence.²²¹

75. As a whole, the Yahoo email evidence is self-authenticating. The compilation and maintenance of contemporaneous and complete records is undertaken in the regular course of business and regulated in accordance with domestic laws. As noted, the Yahoo email evidence was obtained from an objective primary source, the email service provider Oath EMEA Ltd. / Verizon Media (previously Yahoo! EMEA Ltd.), pursuant to RFAs to the competent authorities in Ireland sent in 2018, 2019, and 2020.²²²

²²⁰ [REDACTED].

²²¹ ICC-01/04-01/06-1399, paras. 36-40; *see also* ICC-01/04-01/07-1665-Corr, para.98.

²²² CAR-OTP-2122-9516 (IRL-12); CAR-OTP-2122-9509 (IRL-11); CAR-OTP-2122-9494 and its annexes CAR-OTP-2080-1508 and CAR-OTP-2080-1529 (IRL-8); CAR-OTP-2127-8509 (IRL-14)

76. The names of the accounts, their content detailed above, and the associated material produced by Yahoo, including account management tools,²²³ subscriber details,²²⁴ and contact lists, provide further indicia of reliability and authenticity. Contact lists from two of the above accounts, [REDACTED],²²⁵ [REDACTED],²²⁶ as well as other Anti-Balaka related accounts for which there is no additional relevant content to submit, [REDACTED],²²⁷ [REDACTED],²²⁸ [REDACTED],²²⁹ [REDACTED],²³⁰ [REDACTED],²³¹ corroborate Anti-Balaka members being in contact with each other.

77. With respect to the chain of custody of the Yahoo email evidence, Yahoo produced the content of these email accounts to local law enforcement in Ireland,²³² which passed this on to the competent authorities,²³³ who then provided, the materials to the Prosecution.²³⁴ Further, CDR, email, Facebook records, and witness evidence corroborate this material.²³⁵

78. Furthermore, as detailed above, [REDACTED] authenticated the accounts under their control and the contents of emails – thereby authenticating a good portion of the Yahoo evidence collection.

²²³ CAR-OTP-2080-1753 (BARA); CAR-OTP-2056-0371 (NGAYA); CAR-OTP-2056-0380 (KOKATE); and CAR-OTP-2126-2571 (NGREMANGOU).

²²⁴ CAR-OTP-2126-2573.

²²⁵ CAR-OTP-2124-0188; CAR-OTP-2124-0194 ; *see also* CAR-OTP-2130-3677.

²²⁶ CAR-OTP-2126-2572.

²²⁷ CAR-OTP-2124-0184; CAR-OTP-2124-0190.

²²⁸ CAR-OTP-2124-0185; CAR-OTP-2124-0191.

²²⁹ CAR-OTP-2124-0186; CAR-OTP-2124-0192.

²³⁰ CAR-OTP-2124-0187; CAR-OTP-2124-0193.

²³¹ CAR-OTP-2124-0189; CAR-OTP-2124-0195.

²³² *See, e.g.*, CAR-OTP-2124-0083; CAR-OTP-2124-0084; CAR-OTP-2080-1500; CAR-OTP-2084-0022; CAR-OTP-2084-0023; CAR-OTP-2084-0024; CAR-OTP-2126-2378.

²³³ CAR-OTP-2124-0077; CAR-OTP-2080-1499; CAR-OTP-2126-2376.

²³⁴ CAR-OTP-2124-0076; CAR-OTP-2122-9508; CAR-OTP-2126-2375; CAR-OTP-2130-4259 ; CAR-OTP-2130-4260; CAR-OTP-2130-4263.

²³⁵ Request for Leave, paras. 19, 23-25, 28; *see, e.g.* T-020-CONF-ENG CT, p. 35, line 2 – p. 36, line 16 ; T-029-CONF-ENG ET, p. 47, l.24 to p. 48, l. 20 and p. 54, l.19 to p. 55, l. 4.

D. The probative value of the Yahoo email evidence outweighs any prejudicial effect

79. In addition to the Prosecution's itemised assessment of relevance and probative value (*see* Annex A), the Prosecution's Trial Brief,²³⁶ Request for Leave, and this Motion, provide adequate notice as to which parts of the Yahoo email evidence are of particular importance to the charges.

80. The submission of the Yahoo email evidence does not cause any unfair prejudice. *First*, both NGAISSONA and YEKATOM will continue to have ample opportunity to address this evidence during the course of the trial. *Second*, in the case of NGAISSONA, the emails from his own Yahoo account or that of [REDACTED] include him as a participant, such that he has known about them and their content since 2013. Emails from the other four accounts belonged to high-level Anti-Balaka members, such as KOKATE, NGAYA , BARA, and NGREMANGOU. Given the substance and timing of these exchanges from these accounts and their relevance to Anti-Balaka planning, operations, and activities, their use as evidence against a leader of the same organisation cannot in itself be *unfairly* prejudicial.

²³⁶ ICC-01/14-01/18-723-Red.

IV. RELIEF SOUGHT

81. For the above reasons and the analysis set out at Annex A, the Prosecution requests that the Chamber recognise the formal submission of the Yahoo email evidence.

A handwritten signature in blue ink, consisting of a stylized 'K' followed by a horizontal line and a period.

Karim A. A. Khan KC, Prosecutor

Dated this 1st day of November 2022
At The Hague, The Netherlands